

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 296

Short Title: Insurance Technical Changes/AB.

(Public)

Sponsors: Representatives Hurley; Gibson and Melton.

Referred to: Insurance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE OR UNNECESSARY LAWS AND MAKE TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS INSURANCE STATUTES.

The General Assembly of North Carolina enacts:

PART I. REPEALS OF OBSOLETE OR UNNECESSARY PROVISIONS.

Section 1.1. G.S. 58-3-125, 58-6-10, 58-7-150, and 58-71-90 are repealed.

Section 1.2. G.S. 58-87-10(e) reads as rewritten:

"(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from appropriations made to the Department of Insurance for this purpose. In addition, every eligible unit that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as a per capita fixed dollar amount for each member of the roster of the eligible unit.

The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund. ~~If the Commission does not receive an annual payment from an eligible unit by July 1, then that unit shall not receive workers' compensation coverage from the Fund for the fiscal year that begins that July 1.~~"

1 Section 1.3. G.S. 58-3-115 reads as rewritten:

2 **"§ 58-3-115. Twisting with respect to insurance policies; penalties.**

3 No insurer shall make or issue, or cause to be issued, any written or oral statement  
4 that willfully misrepresents or willfully makes an incomplete comparison as to the terms,  
5 conditions, or benefits contained in any policy of insurance for the purpose of inducing or  
6 attempting to induce a policyholder in any way to terminate or surrender, exchange, or  
7 convert any insurance policy. Any person who violates this section is subject to the  
8 provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125.~~ G.S. 58-2-70 or G.S.  
9 58-3-100."

10 Section 1.4. G.S. 58-30-75(7) reads as rewritten:

11 "(7) Without first obtaining the written consent of the ~~Commissioner pursuant~~  
12 ~~to G.S. 58-7-150,~~ Commissioner, the insurer has (i) transferred, or  
13 attempted to transfer, in a manner contrary to Article 19 of this Chapter,  
14 substantially its entire property or business, or (ii) has entered into any  
15 transaction, the effect of which is to merge, consolidate, or reinsure  
16 substantially its entire property or business in or with the property or  
17 business of any other person."  
18

19 **PART II. CONTINUING CARE RETIREMENT COMMUNITY NAME**  
20 **CORRECTION.**

21 Section 2.1. G.S. 58-30-10(14) reads as rewritten:

22 "(14) 'Insurer' means any entity licensed under Articles 7, 16, 26, 49, 65, or 67  
23 of this Chapter and any employer that has furnished to the  
24 Commissioner satisfactory proof of its financial responsibility under  
25 G.S. 97-93(a)(2). For purposes of this Article, 'insurer' also includes  
26 continuing care retirement ~~centers~~ communities licensed under Article  
27 64 of this Chapter."

28 Section 2.2. The title of Article 64 of Chapter 58 of the General Statutes reads  
29 as rewritten:

30 **"ARTICLE 64.**

31 ~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~  
32 ~~Continuing Care Facilities.~~ Retirement Communities."

33 Section 2.3. G.S. 58-64-1 reads as rewritten:

34 **"§ 58-64-1. Definitions.**

35 As used in this Article, unless otherwise specified:

36 (1) 'Continuing care' means the furnishing to an individual other than an  
37 individual related by blood, marriage, or adoption to the person  
38 furnishing the care, of lodging together with nursing services, medical  
39 services, or other health related services, ~~pursuant to~~ under an agreement  
40 effective for the life of the individual or for a period ~~in excess of~~ longer  
41 than one year.

42 (2) 'Entrance fee' means a payment that assures a resident a place in a  
43 facility for a term of years or for life.

- 1 (3) 'Facility' means the ~~place or places~~ retirement community or  
2 communities in which a provider undertakes to provide continuing care  
3 to an individual.
- 4 (4) 'Health related services' means, at a minimum, nursing home admission  
5 or assistance in the activities of daily living, exclusive of the provision  
6 of meals or cleaning services.
- 7 (5) 'Living unit' means a room, apartment, cottage, or other area within a  
8 facility set aside for the exclusive use or control of one or more  
9 identified residents.
- 10 (6) 'Provider' means the promoter, developer, or owner of a ~~continuing care~~  
11 facility, whether a natural person, partnership, or other unincorporated  
12 association, however organized, trust, or corporation, of an institution,  
13 building, residence, or other place, whether operated for profit or not, or  
14 any other person, that solicits or undertakes to provide continuing care  
15 under a continuing care facility contract, or that represents ~~himself~~  
16 himself, herself, or itself as providing continuing care or 'life care.'
- 17 (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to, a  
18 continuing care contract.
- 19 (8) 'Hazardous financial condition' means a provider is insolvent or in  
20 eminent danger of becoming insolvent."

21 Section 2.4. G.S. 58-64-40(b) reads as rewritten:

22 "(b) The board of directors or other governing body of a ~~continuing care~~ facility or  
23 its designated representative shall hold annual meetings with the residents of the  
24 ~~continuing care~~ facility for free discussions of subjects including, but not limited to,  
25 income, expenditures, and financial trends and problems as they apply to the facility and  
26 discussions of proposed changes in policies, programs, and services. Residents shall be  
27 entitled to at least seven days advance notice of each meeting. An agenda and any  
28 materials that will be distributed by the governing body at the meetings shall remain  
29 available upon request to residents."

30 Section 2.5. G.S. 58-64-80 reads as rewritten:

31 "**§ 58-64-80. Advisory Committee.**

32 There shall be a nine member Continuing Care Advisory Committee appointed by the  
33 Commissioner. The Committee shall consist of at least two residents of ~~continuing care~~  
34 ~~communities, facilities,~~ two representatives of the North Carolina Association of  
35 Nonprofit Homes for the Aging, one individual who is a certified public accountant and  
36 is licensed to practice in this State, one individual skilled in the field of architecture or  
37 engineering, and one individual who is a health care professional."  
38

39 **PART III. WORKERS' COMPENSATION LOSS COSTS CONFORMING**  
40 **CHANGES.**

41 Section 3.1. G.S. 58-36-1(2) reads as rewritten:

- 42 "(2) The Bureau shall provide reasonable means to be approved by the  
43 Commissioner whereby any person affected by a rate or loss costs made

1 by it may be heard in person or by ~~his~~ the person's authorized  
2 representative before the governing committee or other proper executive  
3 of the Bureau."

4 Section 3.2. G.S. 58-36-1(5)c. reads as rewritten:

5 "c. Failure or refusal by any assigned employer risk to make full  
6 disclosure to the Bureau, servicing carrier, or insurer writing a  
7 policy of information regarding the employer's true ownership,  
8 change of ownership, operations, or payroll, or any other failure  
9 to disclose fully any records pertaining to workers' compensation  
10 insurance shall be sufficient grounds for ~~the Bureau to authorize~~  
11 the termination of the policy of that employer."

12 Section 3.3. G.S. 58-36-10 reads as rewritten:

13 **"§ 58-36-10. Method of rate making; factors considered.**

14 The following standards shall apply to the making and use of rates:

- 15 (1) Rates or loss costs shall not be excessive, inadequate or unfairly  
16 discriminatory.
- 17 (2) Due consideration shall be given to actual loss and expense experience  
18 within this State for the most recent three-year period for which ~~such~~  
19 that information is available; to prospective loss and expense experience  
20 within this State; to the hazards of conflagration and catastrophe; to a  
21 reasonable margin for underwriting profit and to contingencies; to  
22 dividends, savings, or unabsorbed premium deposits allowed or returned  
23 by insurers to their policyholders, members, or subscribers; to  
24 investment income earned or realized by insurers from their unearned  
25 premium, loss, and loss expense reserve funds generated from business  
26 within this State; to past and prospective expenses specially applicable  
27 to this State; and to all other relevant factors within this State: Provided,  
28 however, that countrywide expense and loss experience and other  
29 countrywide data may be considered only where credible North  
30 Carolina experience or data is not available.
- 31 (3) In the case of fire insurance rates, as are subject to the ratemaking  
32 authority of the Bureau, consideration may be given to the experience of  
33 such fire insurance business during the most recent five-year period for  
34 which ~~such~~ that experience is available. In the case of fire insurance  
35 rates that are subject to the ratemaking authority of the Bureau,  
36 consideration shall be given to the insurance public protection  
37 classifications of rural fire districts based upon standards established by  
38 the Commissioner. To the extent credits are provided for proximity to  
39 fire hydrants, the Bureau may also provide appropriate credits in public  
40 protection classifications for optional water sources, such as ponds,  
41 lakes, or other bodies of water, in accordance with standards and  
42 procedures filed with and approved by the Commissioner.

1 (4) Risks may be grouped by classifications and lines of insurance for  
2 establishment of ~~rates—~~rates, loss costs, and base premiums.  
3 Classification rates may be modified to produce rates for individual  
4 risks in accordance with rating plans ~~which—that~~ establish standards for  
5 measuring variations in hazards or expense provisions or both. ~~Such~~  
6 Those standards may measure any differences among risks that can be  
7 demonstrated to have a probable effect upon losses or expenses. The  
8 Bureau ~~is directed to—~~shall establish and implement a comprehensive  
9 classification rating plan for motor vehicle insurance under its  
10 ~~jurisdiction within 90 days of September 1, 1977.~~ jurisdiction. No such  
11 classification plans shall base any standard or rating plan for private  
12 passenger (nonfleet) motor vehicles, in whole or in part, directly or  
13 indirectly, upon the age or ~~sex—~~gender of the persons insured. The  
14 Bureau shall at least once every three years make a complete review of  
15 the filed classification rates to determine whether they are proper and  
16 supported by statistical evidence, and shall at least once every 10 years  
17 make a complete review of the territories for nonfleet private passenger  
18 motor vehicle insurance to determine whether they are proper and  
19 reasonable.

20 (5) In the case of workers' compensation insurance and employers' liability  
21 insurance written in connection therewith, due consideration shall be  
22 given to the past and prospective effects of changes in compensation  
23 benefits and in legal and medical fees that are provided for in General  
24 Statutes Chapter 97."

25 Section 3.4. G.S. 58-36-15(a) reads as rewritten:

26 "(a) The Bureau shall file with the Commissioner copies of the rates, loss costs,  
27 classification plans, rating plans and rating systems used by its members. Each rate or  
28 loss costs filing shall become effective on the date specified in the filing, but not earlier  
29 than 105 days from the date the filing is received by the Commissioner: Provided that (1)  
30 rate or loss costs filings for workers' compensation insurance and employers' liability  
31 insurance written in connection therewith shall not become effective earlier than 120 days  
32 from the date the filing is received by the Commissioner or on the date as provided ~~under~~  
33 in G.S. 58-36-100, whichever is earlier; and (2) any filing may become effective on a  
34 date earlier than that specified in this subsection upon agreement between the  
35 Commissioner and the Bureau."

36 Section 3.5. G.S. 58-36-15(f) reads as rewritten:

37 "(f) On or before September 1 of each calendar ~~year—~~year, or later with the approval  
38 of the Commissioner, the Bureau shall submit to the Commissioner the experience, data,  
39 statistics, and information referred to in subsection (c) of this section and required under  
40 G.S. 58-36-100 and a residual market rate or prospective loss costs review based on ~~such~~  
41 those data for workers' compensation insurance and employers' liability insurance written  
42 in connection therewith. Any rate or loss costs increase for ~~such—that~~ insurance that is  
43 implemented ~~pursuant to—~~under this Article shall become effective solely to ~~such insurance~~

1 as is written having insurance with an inception date on or after the effective date of the  
2 rate or loss costs increase."

3 Section 3.6. G.S. 58-36-15(g) reads as rewritten:

4 "(g) The following information must be included in policy form, rule, and rate or  
5 loss costs filings under this Article and under Article 37 of this Chapter:

- 6 (1) A detailed list of the rates, loss costs, rules, and policy forms filed,  
7 accompanied by a list of those superseded; and  
8 (2) A detailed description, properly referenced, of all changes in policy  
9 forms, rules, prospective loss costs, and rates, including the effect of  
10 each change."

11 Section 3.7. G.S. 58-36-30(a) reads as rewritten:

12 "(a) ~~No insurer, officer, agent or representative thereof~~ Except as permitted by G.S. 58-  
13 36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or  
14 representative of an insurer shall knowingly issue or deliver or knowingly permit the  
15 issuance or delivery of any policy of insurance in this State which that does not conform  
16 to the rates, rating plans, classifications, schedules, rules and standards made and filed by  
17 the Bureau. ~~However, an~~ An insurer may deviate from the rates promulgated by the  
18 Bureau ~~provided if~~ the insurer has filed the proposed deviation to be applied both with the  
19 Bureau and the Commissioner, and ~~provided the deviation is uniform in its application to all~~  
20 ~~risks in the State of the class to which the deviation is to apply; and provided such deviation is~~  
21 ~~approved by the Commissioner.~~ if the proposed deviation is based on sound actuarial  
22 principles, and if the proposed deviation is approved by the Commissioner. The  
23 Commissioner shall approve proposed deviations if they do not render the rates excessive,  
24 inadequate or unfairly discriminatory. If approved, the deviation may thereafter be amended,  
25 subject to the provisions of this subsection. ~~Amendments to deviations are subject to the~~  
26 ~~same requirements as initial filings. The deviation may be terminated~~ An insurer may  
27 terminate a deviation only if the deviation has been in effect for a period of six months  
28 before the effective date of the termination and the insurer notifies the Commissioner of  
29 the termination no later than 15 days before the effective date of the termination."

30 Section 3.8. G.S. 58-36-30(c) reads as rewritten:

31 "(c) ~~Any deviation with respect to workers' compensation and employers' liability~~  
32 ~~insurance written in connection therewith as filed under subsection (a) of this section~~  
33 ~~shall apply uniformly to all classifications.~~ Any approved rate under subsection (b) of this  
34 section with respect to workers' compensation and employers' liability insurance written  
35 in connection therewith shall be furnished to the Bureau."

36 Section 3.9. G.S. 58-36-100(a) reads as rewritten:

37 "(a) ~~Nothing in this section requires the Bureau or its member insurers to refile~~  
38 ~~rates previously implemented before two years after the effective date of this section.~~  
39 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed and~~  
40 ~~approved for its use until disapproved, or the insurer makes its own filing to change its~~  
41 ~~rates, either by making an independent filing or by filing a reference filing adoption form~~  
42 ~~adopting the Bureau's prospective loss costs, or modification thereof.~~ Except as provided  
43 in subsection subsections (k) and (m) of this section, with the initial prospective loss

1 ~~costs reference filing~~, the Bureau shall no longer develop or file any minimum premiums,  
2 minimum premium formulas, or expense constants. If an insurer wishes to amend  
3 minimum premium ~~formulas~~, formulas or expense constants, it must file the minimum  
4 premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted  
5 to the Commissioner under subsections (e) and (g) of this section shall also be sent to the  
6 Bureau."

7 Section 3.10. G.S. 58-36-100(b)(1) reads as rewritten:

8 "(1) 'Expenses'. – That portion of a rate attributable to acquisition, field  
9 supervision, collection expenses, any tax levied by the State or by any  
10 political subdivision of the State, licensing costs, fees, and general  
11 expenses, as determined by the insurer."

12 Section 3.11. G.S. 58-36-100(c) reads as rewritten:

13 "(c) Except as provided in subsection (m) of this section, for workers' compensation  
14 and employers' liability insurance written in connection with workers' compensation  
15 insurance, the Bureau shall no longer develop or file advisory final rates that contain  
16 provisions for expenses (other than loss adjustment expenses) and profit. The Bureau  
17 shall instead develop and file for approval with the Commissioner, in accordance with  
18 this section, reference filings containing advisory prospective loss costs and the  
19 underlying loss data and other supporting statistical and actuarial information for any  
20 calculations or assumptions underlying these loss costs. ~~Loss-based assessments, any tax~~  
21 ~~levied by the State or any political subdivision of the State, licensing costs, and fees~~  
22 assessments will be included in prospective loss costs."

23 Section 3.12. G.S. 58-36-100(k) reads as rewritten:

24 "(k) The Bureau shall file with the Commissioner, for approval, filings containing a  
25 revision of rules and supplementary rating information. This includes policy-writing  
26 rules, rating plans, classification codes and descriptions, and rules that include factors or  
27 relativities, such as ~~employers' liability-increased limits factors~~, factors and related  
28 minimum premiums classification relativities, or similar factors, but excludes minimum  
29 premiums—factors. The Bureau may print and distribute manuals of rules and  
30 supplementary rating ~~information, excluding minimum premiums information.~~"

#### 31 **PART IV. HEALTH INSURANCE CLARIFYING CHANGES.**

32 Section 4.1. G.S. 58-50-130(a) is amended by adding a new subdivision to  
33 read:

34  
35 "(4b) Late enrollees may only be excluded from coverage for the greater  
36 of 18 months or an 18-month preexisting-condition exclusion;  
37 however, if both a period of exclusion from coverage and a  
38 preexisting-condition exclusion are applicable to a late enrollee, the  
39 combined period shall not exceed 18 months. If a period of  
40 exclusion from coverage is applied, a late enrollee shall be enrolled  
41 at the end of that period in the health benefit plan held at the time by  
42 the small employer."

43 Section 4.2. G.S. 58-51-55(d) reads as rewritten:

1       "(d) Applicability. – Subsection (b1) of this section applies only to group health  
2 insurance ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25,  
3 covering more than 50 employees. The remainder of this section applies only to group  
4 health insurance contracts covering 20 or more employees. For purposes of this section,  
5 'group health insurance contracts' include MEWAs, as defined in G.S. 58-49-30(a)."

6           Section 4.3. G.S. 58-65-90(d) reads as rewritten:

7       "(d) Applicability. – Subsection (b1) of this section applies only to subscriber  
8 ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering  
9 more than 50 employees. The remainder of this section applies only to group contracts  
10 covering 20 or more employees."

11           Section 4.4. G.S. 58-67-75(d) reads as rewritten:

12       "(d) Applicability. – Subsection (b1) of this section applies only to group ~~contracts~~  
13 contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than  
14 50 employees. The remainder of this section applies only to group contracts covering 20  
15 or more employees."

16           Section 4.5. G.S. 58-51-15(h) reads as rewritten:

17       "(h) Preexisting Condition Exclusion Clarification. – Sub-subdivision (a)(2)b. of  
18 this section does not apply to:

- 19           (1) Policies issued to eligible individuals under G.S. 58-68-60.
- 20           (2) Excepted benefits as described in ~~G.S. 58-68-25(b).~~ G.S. 58-68-  
21 25(b)(1)."

22           Section 4.6. G.S. 58-68-40(e) reads as rewritten:

23       "~~(e) Exception for Coverage Offered Only to Bona Fide Association~~  
24 Members.Coverage. – Subsection (a) of this section does not apply to:

- 25           (1) Health insurance coverage offered by a health insurer if the coverage  
26 is made available in the small group market only through one or  
27 more bona fide associations.
- 28           (2) A self-employed individual as defined in ~~G.S. 58-50-110(21a).~~ G.S.  
29 58-50-110(21a), except as otherwise provided for the basic and  
30 standard health care plans under the North Carolina Small Employer  
31 Group Health Coverage Reform Act."

32           Section 4.7. G.S. 58-68-60(b)(2) reads as rewritten:

- 33           "(2) Who is not eligible for coverage under (i) ~~an ERISA~~ a group health  
34 plan, (ii) part A or part B of title XVIII of the Social Security Act, or  
35 (iii) a State plan under title XIX of the Act (or any successor  
36 program), and does not have other health insurance coverage;".

37           Section 4.8. Section 3.19 of Session Law 1997-519 reads as rewritten:

38       "Section 3.19. Except as modified by G.S. 58-50-56(i), as enacted in this Part, any  
39 administrative rules that were adopted by the Commissioner under the authority of ~~G.S.~~  
40 ~~58-50-50 or G.S. 58-50-55~~ G.S. 58-65-140, 58-50-50, or 58-50-55 and that were effective  
41 before January 1, 1998, are not affected by the repeals in Section 3.16 or Section 3.17 of  
42 this act."  
43

**PART V. BAIL BONDS.**

Section 5. G.S. 58-71-82 reads as rewritten:

**"§ 58-71-82. Dual license holding.**

If an individual holds a professional bondsman's license or a runner's license and a surety bondsman's license simultaneously, they are considered one license for the purpose of disciplinary actions involving suspension, revocation, or renewal-nonrenewal under this Article. Separate renewal fees must be paid for each license, however."

**PART VI. AGENT ASSOCIATIONS MERGER.**

Section 6.1. G.S. 58-32-1 reads as rewritten:

**"§ 58-32-1. Commission created; membership.**

There is hereby created within the Department a Public Officers and Employees Liability Insurance Commission. The Commission shall consist of 11 members who shall be appointed as follows: the Commissioner shall appoint six members as follows: two members who are members of the insurance industry who may be chosen from a list of ~~three~~ six nominees submitted to the Commissioner by the Independent Insurance Agents of North Carolina, ~~Inc., and a list of three nominees submitted by the Carolinas Association of Professional Insurance Agents, North Carolina Division, Inc.;~~ one member who is employed by a police department who may be chosen from a list of three nominees submitted to the Commissioner jointly by the North Carolina Police Chiefs Association and North Carolina Police Executives Association, and one member who is employed by a sheriff's department who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Sheriff's Association; one member representing city government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina League of Municipalities; and one member representing county government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Association of County Commissioners; and the General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President Pro Tempore of the Senate. The Commissioner or ~~his~~ the Commissioner's designate shall be an ex officio member. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. The Secretary of the Department of Crime Control and Public Safety or ~~his~~ the Secretary's designate shall be an ex officio member. The Attorney General or ~~his~~ the Attorney General's designate shall be an ex officio member. One insurance industry member appointed by the Commissioner shall be appointed to a term of two years and one insurance industry member shall be appointed to a term of four years. The police department member shall be appointed to a term of two years and the sheriff's department member shall be appointed to a term of four years. The representative of county government shall be appointed to a term of two years and the representative of city government to a term of four years. Beginning July 1, 1983, the appointment made by the General Assembly upon

1 the recommendation of the Speaker shall be for two years, and the appointment made by  
2 the General Assembly upon the recommendation of the President Pro Tempore of the  
3 Senate shall be for four years. Except as provided in this section, if any vacancy occurs in  
4 the membership of the Commission, the appointing authority shall appoint another person  
5 to fill the unexpired term of the vacating member. After the initial terms established  
6 herein have expired, all appointees to the Commission shall be appointed to terms of four  
7 years.

8 The Commission members shall elect the ~~chairman and vice chairman~~ chair and vice-  
9 chair of the Commission. The Commission may, by majority vote, remove any member  
10 of the Commission for chronic absenteeism, misfeasance, malfeasance or other good  
11 cause."

12 Section 6.2. G.S. 58-37-35(d) reads as rewritten:

13 "(d) The Facility shall be administered by a Board of Governors. The Board of  
14 Governors shall consist of 12 members having one vote each from the classifications  
15 hereinafter enumerated plus the Commissioner who shall serve ex officio without vote.  
16 Each Facility insurance company member serving on the Board shall be represented by a  
17 senior officer of the company. Not more than one company in a group under the same  
18 ownership or management shall be represented on the Board at the same time. Five  
19 members of the Board shall be selected by the member insurers, which members shall be  
20 fairly representative of the industry. To insure representative member insurers, one each  
21 shall be selected from the following groups: the American Insurance Association (or its  
22 successors), the Alliance of American Insurers (or its successors), the National  
23 Association of Independent Insurers (or its successors), all other stock insurers not  
24 affiliated with the above groups, and all other nonstock insurers not affiliated with the  
25 above groups. The Commissioner shall appoint two members of the Board who shall be  
26 Facility insurance company members domiciled in this State. The Commissioner shall  
27 appoint one member of the Board who shall be selected from a list of two nominees  
28 submitted by the Auto Insurance Agents of North Carolina, Inc. The Commissioner shall  
29 appoint four members of the Board who shall be fire and casualty insurance agents  
30 licensed in this State and actively engaged in writing motor vehicle insurance in this  
31 State. The Commissioner shall select ~~one agent~~ two agents from among a list of ~~two~~ four  
32 nominees submitted by the Independent Insurance Agents of North Carolina, Inc., and one  
33 agent from among a list of two nominees submitted by the Carolinas Association of Professional  
34 Insurance Agents, Inc., (or its successors). The initial term of office of said Board  
35 members shall be two years. Following completion of initial terms, successors to the  
36 members of the original Board of Governors shall be selected to serve three years. All  
37 members of the Board of Governors shall serve until their successors are selected and  
38 qualified and the Commissioner may fill any vacancy on the Board from any of the  
39 aforementioned classifications until such vacancies are filled in accordance with the  
40 provisions of this Article. The Board of Governors of the Facility shall also have as  
41 nonvoting members two persons who are not employed by or affiliated with any  
42 insurance company or the Department and who are appointed by the Governor to serve at  
43 ~~his~~ the Governor's pleasure."

1 Section 6.3. G.S. 58-33-135(b) reads as rewritten:

- 2 "(b) The ~~fire and casualty property and liability~~ advisory committee shall comprise:
- 3 (1) Two employees of the Department of Insurance;
- 4 (2) ~~One representative~~ Two representatives from a list of ~~two~~ four
- 5 nominees submitted by the Independent Insurance Agents of North
- 6 Carolina;
- 7 (3) ~~One representative from a list of two nominees submitted by the~~
- 8 ~~Carolinas Association of Professional Insurance Agents (North~~
- 9 ~~Carolina Division);~~
- 10 (4) One representative of a licensed property and ~~casualty~~ liability
- 11 insurance company writing business in this State that operates
- 12 through an exclusive agency force;
- 13 (5) One representative from a list of two nominees submitted by the
- 14 North Carolina Adjusters Association;
- 15 (6) One representative of ~~fire property and casualty~~ liability insurers
- 16 from a list of two nominees submitted by the Association of North
- 17 Carolina Property and Casualty Insurance Companies; and
- 18 (7) One representative from a list of two nominees submitted by the
- 19 Department of Community Colleges."
- 20

## 21 PART VII. MISCELLANEOUS CORRECTIONS.

22 Section 7.1. G.S. 58-3-15 reads as rewritten:

### 23 "§ 58-3-15. Additional or coinsurance clause.

24 No insurance company or agent licensed to do business in this State may issue any

25 policy or contract of insurance covering property in this State ~~which shall contain that~~

26 contains any clause or provision requiring the insured to take or maintain a larger amount

27 of insurance than that expressed in ~~such the~~ policy, nor in any way provide that the

28 insured shall be liable as a coinsurer with the company issuing the policy for any part of

29 the loss or damage to the property described in ~~such the~~ policy, and any such clause or

30 provision shall be null and void, and of no effect: Provided, the coinsurance clause or

31 provision may be written in or attached to a policy or policies issued when there is

32 printed or stamped on the ~~filing face declarations page of such the~~ policy or on the form

33 containing ~~such the~~ clause the words 'coinsurance contract,' and the Commissioner may,

34 in ~~his the~~ Commissioner's discretion, determine the location of the words 'coinsurance

35 contract' and the size of the type to be used. If there ~~be is~~ is a difference in the rate for the

36 insurance with and without the coinsurance clause, the rates for each shall be furnished

37 the insured upon request."

38 Section 7.2. G.S. 58-30-5 reads as rewritten:

### 39 "§ 58-30-5. Persons covered.

40 The proceedings authorized by this Article may be applied to:

- 41 (1) All insurers ~~who that~~ are doing, or have done, an insurance business
- 42 in this State, and against whom claims arising from that business
- 43 may exist now or in the future.

- 1 (2) All insurers ~~who~~ that purport to do an insurance business in this  
2 State.
- 3 (3) All insurers ~~who~~ that have insureds resident in this State.
- 4 (4) All persons organized or in the process of organizing with the intent  
5 to do an insurance business in this State.
- 6 (5) All persons subject to Articles 64, 65 and 66, or 67 of this Chapter;  
7 except to the extent there is a conflict between the provisions of this  
8 Article and the provisions of those Articles, in which case those  
9 Articles will govern.
- 10 (6) Self-insured group workers' compensation funds ~~organized under G.S.~~  
11 ~~97-93(a)(2).~~ subject to Article 47 of this Chapter."

12 Section 7.3. G.S. 58-30-10(14) reads as rewritten:

- 13 "(14) 'Insurer' means any entity that is or should be licensed under Articles  
14 7, 16, 26, 47, 49, 65, or 67 of this Chapter and any employer that has  
15 furnished to the Commissioner satisfactory proof of its financial  
16 responsibility under G.S. 97-93(a)(2). or under Article 5 of Chapter  
17 97 of the General Statutes. For the purposes of this Article, 'insurer'  
18 also includes continuing care retirement centers that are or should be  
19 licensed under Article 64 of this Chapter."
- 20

## 21 PART VIII. AUTOMOBILE INSURANCE.

22 Section 8.1. G.S. 58-36-75(c) is repealed.

23 Section 8.2. G.S. 58-37-1(7) reads as rewritten:

- 24 "(7) 'Motor vehicle insurance' means direct insurance against liability arising  
25 out of the ownership, operation, maintenance or use of a motor vehicle  
26 for bodily injury including death and property damage and includes  
27 medical payments and uninsured and underinsured motorist coverages.
- 28 With respect to motor carriers who are subject to the financial  
29 responsibility requirements established under the Motor Carrier Act of  
30 1980, the term, 'motor vehicle insurance' includes coverage with respect  
31 to environmental restoration. As used in this subsection the term,  
32 'environmental restoration' means restitution for the loss, damage, or  
33 destruction of natural resources arising out of the accidental discharge,  
34 dispersal, release, or escape into or upon the land, atmosphere, water  
35 course, or body of water of any commodity transported by a motor  
36 carrier. Environmental restoration includes the cost of removal and the  
37 cost of necessary measures taken to minimize or mitigate damage to  
38 human health, the natural environment, fish, shellfish, and wildlife."

39 Section 8.3. G.S. 58-37-35(b)(2) reads as rewritten:

- 40 "(2) Additional ceding privileges for motor vehicle insurance shall be  
41 provided by the Board of Governors if there is a substantial public  
42 demand for a coverage or coverage limit of any component of motor  
43 vehicle insurance up to the following:

1 Bodily injury liability: one hundred thousand dollars (\$100,000) each  
2 person, three hundred thousand dollars (\$300,000) each accident;  
3 Property damage liability: fifty thousand dollars (\$50,000) each  
4 accident;  
5 Medical payments: two thousand dollars (\$2,000) each person;  
6 Underinsured motorist: ~~one hundred thousand dollars (\$100,000)~~ one  
7 million dollars (\$1,000,000) each person and ~~three hundred thousand~~  
8 ~~dollars (\$300,000)~~ each accident for bodily injury liability;  
9 Uninsured motorist: ~~one hundred thousand dollars (\$100,000)~~ one million  
10 dollars (\$1,000,000) each person and each accident for bodily injury and  
11 ~~fifteen thousand dollars (\$15,000)~~ fifty thousand dollars (\$50,000) for  
12 property damage (one hundred dollars (\$100.00) deductible)."

13 Section 8.4. G.S. 58-37-35(e) reads as rewritten:

14 "(e) The Commissioner and member companies shall provide for a Board of  
15 ~~Governors within 30 days after May 24, 1973. If any member seat on the initial Board of~~  
16 ~~Governors is not filled in accordance with this Article within such time, then, in that~~  
17 ~~event the Commissioner shall appoint natural persons from any of the classifications~~  
18 ~~specified in subsection (d) of this section to serve the initial term on the Board of~~  
19 ~~Governors. As soon as possible after its selection, the Commissioner shall call for the~~  
20 ~~initial meeting of the Board. Governors. After the The Board of Governors have been~~  
21 ~~selected it shall then elect from its membership a chairman chair and shall then meet~~  
22 ~~thereafter as often as at the call of the chairman shall require chair or at the request of~~  
23 ~~three four members of the Board of Governors. The chairman chair shall retain the right~~  
24 ~~to vote on all issues. Five Seven members of the Board of Governors shall constitute a~~  
25 ~~quorum. The same member may not serve as chairman chair for more than two~~  
26 ~~consecutive years. years; provided, however, that a member may continue to serve as~~  
27 ~~chair until a successor chair is elected and qualified."~~

28 Section 8.5. G.S. 58-37-40(e) reads as rewritten:

29 "(e) Upon approval of the Commissioner of the plan so submitted or promulgation  
30 of a plan deemed approved by the Commissioner, all insurance companies licensed to  
31 write motor vehicle insurance in this State or any component thereof as a prerequisite to  
32 further engaging in writing the insurance shall formally subscribe to and participate in the  
33 plan so approved.

34 The plan of operation shall provide for, among other matters, (i) the establishment of  
35 necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment  
36 of all members for initial expenses necessary to commence operations; (iv) the  
37 assessment of members if necessary to defray losses and expenses; (v) the distribution of  
38 gains to defray ~~losses incurred since September 1, 1977;~~ losses; (vi) the distribution of gains  
39 by credit or reduction of recoupment ~~or allocation~~ surcharges to policies subject to  
40 recoupment ~~or allocation~~ surcharges pursuant to this Article (the Facility may apportion  
41 the distribution of gains among the coverages eligible for cession pursuant to this  
42 Article); (vii) the recoupment ~~or allocation~~ of losses sustained by the Facility ~~since~~  
43 ~~September 1, 1977,~~ pursuant to this Article, which losses may be recouped by equitable

1 pro rata assessment of ~~member companies;~~ companies or by way of a surcharge on motor  
2 vehicle policies issued by member companies or through the Facility; (viii) the standard  
3 amount (one hundred percent (100%) or any equitable lesser amount) of coverage  
4 afforded on eligible risks which a member company may cede to the Facility; and (ix) the  
5 procedure by which reinsurance shall be accepted by the Facility. The plan shall further  
6 provide that:

7 (1) Members of the Board of Governors shall receive reimbursement from  
8 the Facility for their actual and necessary expenses incurred on Facility  
9 business, en route to perform Facility business, and while returning  
10 from Facility business plus a per diem allowance of twenty-five dollars  
11 (\$25.00) a day which may be waived.

12 (2) In order to obtain a transfer of business to the Facility effective when  
13 the binder or policy or renewal thereof first becomes effective, the  
14 company must within 30 days of the binding or policy effective date  
15 notify the Facility of the identification of the insured, the coverage and  
16 limits afforded, classification data, and premium. The Facility shall  
17 accept risks at other times on receipt of necessary information, but  
18 acceptance shall not be retroactive. The Facility shall accept renewal  
19 business after the member on underwriting review elects to again cede  
20 the business."

21 Section 8.6. G.S. 58-37-40(f) reads as rewritten:

22 "(f) The plan of operation shall provide that every member shall, following  
23 payment of any pro rata assessment, ~~commence~~ begin recoupment of that assessment by  
24 way of a surcharge on motor vehicle insurance policies issued by the member or through  
25 the Facility until the assessment has been recouped. ~~Such~~ Any surcharge under this  
26 subsection or under subsection (e) of this section shall be a percentage of premium  
27 adopted by the Board of Governors of the Facility; and the charges determined on the  
28 basis of the surcharge shall be combined with and displayed as a part of the applicable  
29 premium charges. ~~Provided, however, that recoupment~~ Recoupment of losses sustained by  
30 the Facility ~~since September 1, 1977,~~ with respect to nonfleet private passenger motor  
31 vehicles may be ~~recouped~~ made only by surcharging nonfleet private passenger motor  
32 vehicle insurance policies. ~~policies (i) that are subject to the classification plan promulgated~~  
33 ~~pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have been assigned~~  
34 ~~pursuant to said plan, subject to the provisions of G.S. 58-36-75.~~ If the amount collected  
35 during the period of surcharge exceeds assessments paid by the member to the Facility,  
36 the member shall pay over the excess to the Facility on a date specified by the Board of  
37 Governors. If the amount collected during the period of surcharge is less than the  
38 assessments paid by the member to the Facility, the Facility shall pay the difference to the  
39 member. Except as ~~hereinafter provided,~~ otherwise provided in this Article, the amount of  
40 recoupment shall not be considered or treated as a rate or premium for any purpose. The  
41 Board of Governors shall adopt and implement a plan for compensation of agents of  
42 Facility members when recoupment surcharges are imposed; ~~such that~~ compensation shall  
43 not exceed the compensation or commission rate normally paid to the agent for the

1 issuance or renewal of the automobile liability policy issued through the North Carolina  
2 Reinsurance Facility affected by ~~such surcharge; provided, however, that the surcharge.~~  
3 However, the surcharge ~~provided for in this section~~ shall include an amount necessary to  
4 recover the amount of the assessment to member companies and the compensation paid  
5 by each member, ~~pursuant to~~ under this section, to agents."

6 Section 8.7. G.S. 58-37-35(g)(8) reads as rewritten:

7 "(8) To establish fair and reasonable procedures for the sharing among  
8 members of any loss on Facility business ~~which that~~ cannot be recouped  
9 ~~pursuant to~~ under ~~G.S. 58-37-40(f)~~ G.S. 58-37-40(e) ~~or which cannot be~~  
10 ~~recouped or allocated under G.S. 58-37-75,~~ and other costs, charges,  
11 expenses, liabilities, income, property and other assets of the Facility  
12 and for assessing or distributing to members their appropriate shares.  
13 ~~Such~~ The shares may be based on the member's premiums for voluntary  
14 business for the appropriate category of motor vehicle insurance or by  
15 any other fair and reasonable method."

16 Section 8.8. G.S. 58-37-35(l) reads as rewritten:

17 "(l) The classifications, rules, rates, rating plans and policy forms used on motor  
18 vehicle insurance policies reinsured by the Facility may be made by the Facility or by any  
19 licensed or statutory rating organization or bureau on its behalf and shall be filed with the  
20 Commissioner. The Board of Governors shall establish a separate subclassification  
21 within the Facility for '~~clean risks' as herein defined, risks'.~~ For the purpose of this Article,  
22 a 'clean risk' ~~shall be~~ is any owner of a nonfleet private passenger motor vehicle as defined  
23 in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the  
24 owner's household have two years' driving experience as licensed drivers and if none of  
25 the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of  
26 this Chapter during the three-year period immediately preceding either (i) the date of  
27 application for a motor vehicle insurance policy or (ii) the date of preparation of a  
28 renewal of a motor vehicle insurance policy. ~~Such~~ The filings may incorporate by  
29 reference any other material on file with the Commissioner. Rates shall be neither  
30 excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a  
31 hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he the~~  
32 Commissioner shall issue an order specifying in what respect it is deficient and stating  
33 when, within a reasonable period thereafter, ~~such rate shall be deemed the rate is~~ no longer  
34 effective. ~~Said~~ The order is subject to judicial review as set out in Article 2 of this  
35 Chapter. Pending judicial review of said order, the filed classification plan and the filed  
36 rates may be used, charged and collected in the same manner as set out in G.S. 58-40-45  
37 of this Chapter. ~~Said~~ The order shall not affect any contract or policy made or issued ~~prior~~  
38 ~~to~~ before the expiration of the period set forth in the order. All rates shall be on an  
39 actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a  
40 profit nor a loss. However, the rates made by or on behalf of the Facility with respect to  
41 '~~clean risks', as defined above, risks'~~ shall not exceed the rates charged 'clean risks' who are  
42 not reinsured in the Facility. The difference between the actual rate charged and the  
43 actuarially sound and self-supporting rates for 'clean risks' reinsured in the Facility may

1 be recouped in similar manner as assessments ~~pursuant to G.S. 58-37-40(f) or allocated~~  
2 ~~pursuant to G.S. 58-37-75.~~ under G.S. 58-37-40(f). Rates shall not include any factor for  
3 underwriting profit on Facility business, but shall provide an allowance for contingencies.  
4 There shall be a strong presumption that the rates and premiums for the business of the  
5 Facility are neither unreasonable nor excessive."

6 Section 8.9. G.S. 58-37-75 is repealed.

#### 7 8 **PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.**

9 Section 9. The phrase "certificate of authority" is deleted and replaced by the  
10 word "license" wherever it occurs in each of the following sections of the General  
11 Statutes:

12 G.S. 58-4-15. Revocation of certificate of authority.

13 G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.

14 G.S. 58-7-70. Effects of redomestication.

15 G.S. 58-15-5. Definitions.

16 G.S. 58-16-35. Unauthorized Insurers Process Act.

17 G.S. 58-24-45. Organization.

18 G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic  
19 society.

20 G.S. 58-28-5. Transacting business without certificate of authority  
21 prohibited; exceptions.

22 G.S. 58-28-15. Validity of acts or contracts of unauthorized company  
23 shall not impair obligation of contract as to the company;  
24 maintenance of suits; right to defend.

25 G.S. 58-28-45. Uniform Unauthorized Insurers Act.

26 G.S. 58-30-10. Definitions.

27 G.S. 58-30-55. Condition on release from delinquency proceedings.

28 G.S. 58-30-260. Conservation of property of foreign or alien insurers  
29 found in this State.

30 G.S. 58-33-132. Qualifications of instructors.

31 G.S. 58-41-55. Penalties; restitution.

32 G.S. 58-48-35. Powers and duties of the Association.

33 G.S. 58-48-45. Duties and powers of the Commissioner.

34 G.S. 58-57-80. Penalties.

#### 35 36 **PART X. RECODIFICATION CORRECTIONS.**

37 Section 10. The phrase "Articles 1 through 64 of this Chapter" is deleted and  
38 replaced by the words "this Chapter" wherever it occurs in each of the following sections  
39 of the General Statutes:

40 G.S. 58-1-1. Title of the Chapter.

41 G.S. 58-1-15. Warranties by manufacturers, distributors, or sellers of  
42 goods or services.

43 G.S. 58-2-40. Powers and duties of Commissioner.

- 1 G.S. 58-2-45. Orders of Commissioner; when writing required.  
2 G.S. 58-2-90. Extent of review under § 58-2-80.  
3 G.S. 58-2-150. Oath required for compliance with law.  
4 G.S. 58-2-155. Investigation of charges.  
5 G.S. 58-2-200. Books and papers required to be exhibited.  
6 G.S. 58-3-5. No insurance contracts except under Articles 1 through  
7 64 of this Chapter.  
8 G.S. 58-3-30. Meaning of terms "accidental injury", and "accidental  
9 means".  
10 G.S. 58-3-35. Stipulations as to jurisdiction and limitation of actions.  
11 G.S. 58-3-85. Corporation or association maintaining office in State  
12 required to qualify and secure license.  
13 G.S. 58-3-105. Limitation of risk.  
14 G.S. 58-3-130. Agent, adjuster, etc., acting without a license or  
15 violating insurance law.  
16 G.S. 58-3-145. Solicitation, negotiation, or payment of premiums on  
17 insurance policies through credit card facilities prohibited;  
18 exceptions.  
19 G.S. 58-5-50. Deposits of foreign life insurance companies.  
20 G.S. 58-5-55. Deposits of capital and surplus by domestic insurance  
21 companies.  
22 G.S. 58-5-90. Deposits held in trust by Commissioner or Treasurer.  
23 G.S. 58-5-100. Deposits by alien companies required and regulated.  
24 G.S. 58-6-5. Schedule of fees and charges.  
25 G.S. 58-6-15. Licenses run from July 1.  
26 G.S. 58-7-1. Application of Articles 1 through 64 of this Chapter  
27 and general laws.  
28 G.S. 58-7-15. Kinds of insurance authorized.  
29 G.S. 58-7-75. Amount of capital and/or surplus required; impairment  
30 of capital or surplus.  
31 G.S. 58-7-115. Increase of capital stock.  
32 G.S. 58-8-20. Mutual companies with a guaranty capital.  
33 G.S. 58-13-15. Definitions.  
34 G.S. 58-13-20. Exception.  
35 G.S. 58-15-15. Risk limitations.  
36 G.S. 58-15-30. License, surplus, and deposit requirements.  
37 G.S. 58-15-35. Continuation of business under prior requirements.  
38 G.S. 58-15-45. Attorney's domicile.  
39 G.S. 58-16-1. Admitted to do business.  
40 G.S. 58-16-5. Conditions of admission.  
41 G.S. 58-16-15. Foreign companies; requirements for admission.  
42 G.S. 58-16-40. Alternative service of process on insurers.  
43 G.S. 58-16-50. Action to enforce compliance with this Chapter.

- 1 G.S. 58-19-10. Subsidiaries of insurers.  
2 G.S. 58-19-35. Examination.  
3 G.S. 58-20-10. Commercial Fishermen Hull Insurance, and Protection  
4 and Indemnity Clubs authorized.  
5 G.S. 58-22-30. Countersignature not required.  
6 G.S. 58-22-50. Administrative and procedural authority regarding risk  
7 retention groups and purchasing groups.  
8 G.S. 58-24-130. Annual license.  
9 G.S. 58-24-140. Foreign or alien society admission.  
10 G.S. 58-25-25. Conditions precedent to doing business.  
11 G.S. 58-28-1. Purpose of Article.  
12 G.S. 58-30-75. Grounds for rehabilitation.  
13 G.S. 58-33-120. Agent, adjuster, etc., acting without a license or  
14 violating insurance law.  
15 G.S. 58-34-5. Retrospective compensation agreements.  
16 G.S. 58-40-65. Insurers authorized to act in concert.  
17 G.S. 58-40-130. Financial disclosure; rate modifications; reporting  
18 requirements.  
19 G.S. 58-41-10. Scope.  
20 G.S. 58-43-1. Performance of contracts as to devices not prohibited.  
21 G.S. 58-43-35. Punishment for issuing fire policies contrary to law.  
22 G.S. 58-50-25. Nurses' services.  
23 G.S. 58-50-30. [Note: Effective until July 1, 1999.] Discrimination  
24 forbidden; right to choose services of optometrist, podiatrist,  
25 certified clinical social worker, dentist, chiropractor,  
26 psychologist, pharmacist, or advanced practice registered nurse.  
27 G.S. 58-51-20. Renewability of individual and blanket hospitalization  
28 and accident and health insurance policies.  
29 G.S. 58-51-35. Insurers and others to afford coverage to mentally  
30 retarded and physically handicapped children.  
31 G.S. 58-51-40. Insurers and others to afford coverage for active  
32 medical treatment in tax-supported institutions.  
33 G.S. 58-51-45. Policies to be issued to any person possessing the  
34 sickle cell trait or hemoglobin C trait.  
35 G.S. 58-52-1. Definitions.  
36 G.S. 58-52-5. Joint action to insure persons 65 years of age or over  
37 and their spouses permitted; associations of insurers; individual  
38 and group policies.  
39 G.S. 58-52-15. Forms and rate manuals subject to § 58-51-1;  
40 disapproval of rates.  
41 G.S. 58-54-1. Definitions.  
42 G.S. 58-57-1. Application of Article.

1 G.S. 58-58-25. Policies to be issued to any person possessing the  
2 sickle cell trait or hemoglobin C trait.

3 G.S. 58-58-55. Standard nonforfeiture provisions.

4 G.S. 58-58-160. Voting power under policies of group life insurance.

5 G.S. 58-60-1. Purpose of Article.

6 G.S. 58-65-130. Amendments to certificate of incorporation.

7 G.S. 58-69-45. Insurance licensing provisions not affected.  
8

## 9 PART XI. EXAMINATION LAW – CROSS REFERENCE CORRECTIONS.

10 Section 11.1. G.S. 58-3-155(c) reads as rewritten:

11 "(c) No licensed property or casualty insurer that has control of a broker may  
12 accept insurance from the broker in any transaction in which the broker, when the  
13 insurance is placed, is acting as such on behalf of the insured for any compensation,  
14 commission, or thing of value unless the broker, before the effective date of the coverage,  
15 delivers written notice to the prospective insured disclosing the relationship between the  
16 insurer and broker. The disclosure must be signed by the insured and must be retained in  
17 the insurer's underwriting file until the completion and release of the examination report  
18 under ~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 for the  
19 period in which the coverage is in effect. If the insurance is placed through a subbroker  
20 that is not a controlled broker, the controlling insurer shall retain in its records a signed  
21 commitment from the subbroker that the subbroker is aware of the relationship between  
22 the insurer and the broker and that the subbroker has notified or will notify the insured."

23 Section 11.2. G.S. 58-20-30 reads as rewritten:

### 24 "§ 58-20-30. Financial monitoring and evaluation of clubs.

25 Each club shall be audited annually, at the Club's expense, by a certified public  
26 accounting firm. A copy of the audit report shall be furnished to each member, and to the  
27 Commissioner. The trustees shall obtain an appropriate actuarial evaluation of the loss  
28 and loss adjustment expenses reserves of the Club, including estimate of losses and loss  
29 adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131 through  
30 ~~G.S. 58-2-133~~, G.S. 58-2-134, G.S. 58-2-150, 58-2-160, 58-2-165, 58-2-180, 58-2-185,  
31 58-2-190, 58-2-200, and G.S. 58-6-5 apply to each Club and to persons that administer  
32 the Clubs."

33 Section 11.3. G.S. 58-21-40(c) reads as rewritten:

34 "(c) The Commissioner may, at times deemed appropriate, make or cause to be  
35 made an examination of each advisory organization; in which case the provisions of G.S.  
36 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185, 58-2-  
37 190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the advisory  
38 organization or any member thereof to be in violation of this Article, the Commissioner  
39 may issue an order requiring the discontinuance of the violation."

40 Section 11.4. G.S. 58-23-26(c) reads as rewritten:

41 "(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, G.S. 58-2-134, 58-  
42 2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-75,  
43 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-31, 58-7-50, 58-7-55, 58-7-

1 140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172,  
2 58-7-173, 58-7-175, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-  
3 188, 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200, and Articles 13, 19, and 34 of  
4 this Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by  
5 each pool within 60 days after the end of the pool's fiscal year, subject to extension by the  
6 Commissioner."

7 Section 11.5. G.S. 58-26-10 reads as rewritten:

8 **"§ 58-26-10. Financial statements and licenses required.**

9 Title insurance companies are subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-  
10 134, 58-2-165, 58-2-180, and 58-6-5. The Commissioner may require title insurance  
11 companies to separately report their experience in insuring titles and in insuring closing  
12 services. The Commissioner shall annually license such companies and their agents."

13 Section 11.6. G.S. 58-34-2(m) reads as rewritten:

14 "(m) The acts of an MGA are considered to be the acts of the insurer on whose  
15 behalf it is acting. An MGA may be examined by the Commissioner under ~~G.S. 58-2-131,~~  
16 ~~58-2-132, or 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 as if it were an insurer."

17 Section 11.7. G.S. 58-47-100 reads as rewritten:

18 **"§ 58-47-100. Examinations.**

19 ~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 apply to  
20 groups."

21 Section 11.8. G.S. 58-47-195 reads as rewritten:

22 **"§ 58-47-195. Examinations.**

23 TPAs and service companies may be examined under ~~G.S. 58-2-131, 58-2-132, and 58-~~  
24 ~~2-133~~ G.S. 58-2-131 through G.S. 58-2-134."

25 Section 11.9. G.S. 58-64-55 reads as rewritten:

26 **"§ 58-64-55. Examinations; financial statements.**

27 The Commissioner or the Commissioner's designee may, in the Commissioner's  
28 discretion, visit a facility offering continuing care in this State to examine its books and  
29 records. Expenses incurred by the Commissioner in conducting examinations under this  
30 section shall be paid by the facility examined. The provisions of G.S. 58-2-131, 58-2-132,  
31 58-2-133, 58-2-134, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, and 58-6-5 apply  
32 to this Article and are hereby incorporated by reference."

33 Section 11.10. G.S. 58-67-100(a) reads as rewritten:

34 "(a) The Commissioner may make an examination of the affairs of any health  
35 maintenance organization and the contracts, agreements or other arrangements pursuant  
36 to its health care plan as often as the Commissioner deems it necessary for the protection  
37 of the interests of the people of this State but not less frequently than once every three  
38 years. Examinations shall otherwise be conducted under ~~G.S. 58-2-131, 58-2-132, and 58-~~  
39 ~~2-133~~ G.S. 58-2-131 through G.S. 58-2-134."

40 Section 11.11. G.S. 143-215.94I(g) reads as rewritten:

41 "(g) Each pool shall be audited annually at the expense of the pool by a certified  
42 public accounting firm, with a copy of the report available to the governing body or chief  
43 executive officer of each member of the pool and to the Commissioner. The board of

1 trustees of the pool shall obtain an appropriate actuarial evaluation of the loss and loss  
2 adjustment expense reserves of the pool, including an estimate of losses and loss  
3 adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131, 58-2-  
4 132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190,  
5 58-2-200, and 58-6-5 apply to each pool and to persons that administer the pools. Annual  
6 financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days  
7 after the end of the pool's fiscal year. All financial statements required by this section  
8 shall be prepared in accordance with generally accepted statutory accounting principles."

## 10 PART XII. MOTOR CLUBS.

11 Section 12.1. G.S. 58-69-1, 58-77-1, and 58-77-5 are repealed.

12 Section 12.2. Article 69 of Chapter 58 of the General Statutes is amended by  
13 adding a new section to read:

### 14 "§ 58-69-2. Definitions.

15 As used in this Article:

- 16 (1) 'Branch or district office' means any physical location, other than a  
17 motor club's home office, where the motor club or its representatives  
18 conduct any type of business authorized under this Article.
- 19 (2) 'Motor club' means any person, whether or not residing, domiciled, or  
20 chartered in this State, that, in consideration of dues, assessments, or  
21 periodic payments of money, promises its members to assist them in  
22 matters relating to the ownership, operation, use, or maintenance of  
23 motor vehicles by rendering three or more of the following services:
- 24 a. Automobile theft reward service. – A reward payable to any  
25 person, law enforcement agency, or officer for information  
26 leading to the recovery of a member's stolen vehicle and to the  
27 apprehension and conviction of the person or person's unlawfully  
28 taking the vehicle.
- 29 b. Bail or cash appearance bond service. – The furnishing of cash or  
30 a surety bond for a member accused of a violation of the motor  
31 vehicle law, or of any law of this State by reason of an  
32 automobile accident to secure the member's release and  
33 subsequent appearance in court.
- 34 c. Emergency road service. – Roadside adjustment of a motor  
35 vehicle so that the vehicle may be operated under its own power.
- 36 d. Legal service. – Providing for reimbursement to a member for  
37 attorneys' fees if criminal proceedings are instituted against the  
38 member as a result of the operation of a motor vehicle.
- 39 e. Map service. – The furnishing of road maps to members without  
40 cost.
- 41 f. Personal travel and accident insurance service. – Making  
42 available to members a personal travel and accident insurance  
43 policy issued by a duly licensed insurance company in this State.

1 g. Touring service. – The furnishing of touring information to  
2 members without cost.

3 h. Towing service. – Furnishing means to move a motor vehicle  
4 from one place to another under power other than its own.

5 (3) 'Licensee' means a motor club to which a license has been issued under  
6 this Article."

7 Section 12.3. Article 69 of Chapter 58 of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 58-69-50. Authority for qualified surety companies to guarantee certain arrest**  
10 **bond certificates.**

11 (a) Any domestic or foreign surety company that is authorized to do business in  
12 this State may become a surety, by filing with the Department an undertaking to become  
13 a surety, in an amount not to exceed one thousand five hundred dollars (\$1,500) with  
14 respect to each guaranteed arrest bond certificate issued by a motor club.

15 (b) The undertaking shall be in a form to be prescribed by the Department and  
16 shall state:

17 (1) The name and address of the motor club or clubs with respect to which  
18 the surety company undertakes to guarantee the arrest bond certificates.

19 (2) The unqualified obligation of the surety company to pay the fine or  
20 forfeiture, in an amount not to exceed one thousand five hundred dollars  
21 (\$1,500) of any person who, after posting a guaranteed arrest bond  
22 certificate which the surety has undertaken to guarantee, fails to make  
23 the appearance for which the guaranteed arrest bond certificate was  
24 posted."

25 Section 12.4. Article 69 of Chapter 58 of the General Statutes is amended by  
26 adding a new section to read:

27 **"§ 58-69-55. Guaranteed arrest bond certificates accepted.**

28 (a) Any guaranteed arrest bond certificate guaranteed by a surety company under  
29 G.S. 58-69-50 shall be accepted in lieu of cash bail or other bond in an amount not to  
30 exceed one thousand five hundred dollars (\$1,500) as a bail bond, when signed by the  
31 person whose signature appears on the certificate, to guarantee the appearance of that  
32 person in any court in this State at the time set by the court when the person is arrested  
33 for the violation of any motor vehicle law of this State or any motor vehicle ordinance of  
34 any municipality of this State. The guaranteed arrest bond certificate shall not apply to,  
35 and shall not be accepted in lieu of, cash bail or bond when the person has been arrested  
36 for any impaired driving offense or for any felony.

37 (b) A guaranteed arrest bond certificate that is posted as a bail bond in any court  
38 shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in  
39 criminal cases as provided by law."

### 40 **PART XIII. WORKERS' COMPENSATION SELF-INSURANCE.**

41 Section 13.1. G.S. 58-47-65(f)(3) reads as rewritten:  
42

1           "(3) An individual application, under G.S. 58-47-125, of each member  
2           applying for coverage in the proposed group on the inception date of the  
3           proposed group, with a current GAAP financial statement of ~~the each~~  
4           member. The financial statements are confidential, but the  
5           Commissioner may use them in any judicial or administrative  
6           proceeding."

7           Section 13.2. G.S. 58-47-85(2)c. reads as rewritten:

8           "c. Adopt a policy whereby every member:

- 9           1. Pays a deposit to the group of twenty-five percent (25%)  
10           of the member's estimated annual earned premium, or  
11           another amount that the Commissioner prescribes based  
12           on, but not limited to, the financial condition of the group  
13           and the risk retained by the group; or
- 14           2. Once every year files with the group the member's most  
15           recent year-end balance sheet, which, at a minimum, is  
16           compiled by an independent certified public accountant.  
17           The balance sheet shall demonstrate that the member's  
18           financial position does not show a deficit equity and is  
19           appropriate for membership in the group. At the request  
20           of the Commissioner, the group shall make these filings  
21           available for review. These filings shall be kept  
22           confidential; provided that the Commissioner may use that  
23           information in any judicial or administrative proceeding."

24           Section 13.3. G.S. 58-47-120(f)(11) reads as rewritten:

25           "(11) Qualifications for group membership, including underwriting guidelines  
26           and procedures to identify ~~members~~ any member that are ~~is~~ in a  
27           hazardous financial ~~conditions~~ condition."

28           Section 13.4. G.S. 97-133 reads as rewritten:

29           "**§ 97-133. Powers and duties of the Association.**

30           (a) The Association shall:

31           ~~(1) Obtain from each member self insurer and file with the Commissioner~~  
32           ~~individual reports specifying the aggregate benefits each member paid~~  
33           ~~during the previous calendar year, and the annual standard premium that~~  
34           ~~would have been paid by the individual member self insurer during the~~  
35           ~~previous calendar year, pursuant to manual rates established by the~~  
36           ~~North Carolina Rate Bureau and using the experience rating procedure~~  
37           ~~approved by the Commissioner for that member self insurer or the~~  
38           ~~annual premium collected by each group member self insurer during the~~  
39           ~~prior calendar year. These reports shall be due on or before July 15~~  
40           ~~following the close of that calendar year, except that this deadline may~~  
41           ~~be extended by the Commissioner for up to three additional months for~~  
42           ~~good cause shown.~~

43           (2) Assess each member of the Association as follows:

- 1 a. Each individual member self-insurer shall be annually assessed  
2 an amount equal to one-quarter of one percent (0.25%) of the  
3 annual ~~standard premium gross premiums~~, as determined under  
4 G.S. 105-228.5(b), (b1), and (c), that would have been paid by  
5 that member self-insurer for workers' compensation insurance  
6 during the prior calendar year; and payment to the Association  
7 shall be made no later than September 15 following the close of  
8 that calendar year. Where any such assessment is paid based in  
9 whole or in part upon estimates of annual ~~standard premium gross~~  
10 premiums for the prior calendar year, there shall be made in the  
11 next year's assessment an adjustment of the assessment of such  
12 prior year based on actual audited annual ~~standard premium gross~~  
13 premiums. Each group member self-insurer shall be annually  
14 assessed an amount equal to one-quarter of one percent (0.25%)  
15 of the annual ~~premium collected by gross premiums~~, as  
16 determined under G.S. 105-228.5(b), (b1), and (c), of the group  
17 member self-insurer during the prior calendar year; and payment  
18 to the Association shall be made no later than September 15  
19 following the close of that calendar year. Regardless of the size  
20 of the Fund, during its first 12 months of membership, no  
21 member self-insurer may discount or reduce this one-quarter of  
22 one percent (0.25%) assessment. Assessments paid by members  
23 pursuant to this subdivision shall be credited toward the tax paid  
24 by self-insurers under Article 8B of Chapter 105 of the General  
25 Statutes. For the purpose of making the assessments authorized  
26 by this subsection and subsections (c) and (d) of this section, the  
27 Secretary of Revenue shall provide to the Association the self-  
28 insurer premium and payroll information as determined under  
29 G.S. 105-228.5(b), (b1), and (c), and the Commissioner shall  
30 provide to the Association the group self-insurer premium  
31 information reported to the Commissioner under G.S. 58-47-75  
32 and G.S. 58-2-165.
- 33 b. Each member self-insurer shall be notified of the assessment no  
34 later than 30 days before it is due.
- 35 c. If a self-insurer is a member of the Association for less than a full  
36 calendar year, the annual ~~standard premium gross premiums~~ shall  
37 be adjusted by that portion of the year the self-insurer is not a  
38 member of the Association.
- 39 d. If application of the contribution rates referenced in ~~sub-~~  
40 ~~subdivisions a. and b.~~ sub-subdivision a. of this subdivision would  
41 produce an amount in excess of the five million dollar  
42 (\$5,000,000) limits of the fund, an equitable proration may be  
43 made; provided that every self-insurer that becomes a member of

1                   the Association shall pay an initial assessment, in an amount  
2                   established by the Board, regardless of the size of the fund at the  
3                   time the member joins the Association.

- 4           (3)   Administer a fund, to be known as the North Carolina Self-Insurance  
5           Guaranty Fund, which shall receive the assessments required in  
6           subdivision (2) of this subsection. Once the Fund reaches five million  
7           dollars (\$5,000,000), no further assessments shall be made except initial  
8           assessments of new member self-insurers that are required to be made in  
9           subdivision (2)d. of this subsection. Assessments may be subsequently  
10          made only to maintain the Fund at a level of five million dollars  
11          (\$5,000,000). In its discretion, the Board may determine that the assets  
12          of the Fund should be segregated, or, that a separate accounting shall be  
13          made, in order to identify that portion of the Fund which represents  
14          assessments paid by individual self-insurers and that portion of the Fund  
15          which represents assessments paid by group self-insurers. If the Board  
16          determines to segregate the Fund in this manner, the Association shall  
17          thereafter pay covered claims against individual member self-insurers  
18          from that portion of the Fund which represents assessments against  
19          individual self-insurers and shall thereafter pay covered claims against  
20          group member self-insurers from that portion of the Fund which  
21          represents assessments against group self-insurers. The cost of  
22          administration incurred by the Association shall be borne by the Fund  
23          and the Association is authorized to secure reinsurance and bonds and to  
24          otherwise invest the assets of the Fund to effectuate the purpose of the  
25          Association, subject to the approval of the Commissioner. All earnings  
26          from investment of Fund assets shall be placed in or credited to the  
27          Fund.

28                The Association may purchase primary excess insurance from an  
29                insurer licensed by the Commissioner for the appropriate lines of  
30                authority to defray its exposure to loss occasioned by the default of one  
31                of its members. The terms of any excess insurance so purchased shall be  
32                limited to providing coverage of liabilities which exceed the Fund's  
33                assets after the payment by member self-insurers of the maximum post-  
34                insolvency assessment provided in subdivision (c)(1) of this section  
35                herein and the Association shall fund any such purchase by levying a  
36                special assessment on its members for this purpose or by application of  
37                any unencumbered earnings of the Fund or any other available funds.  
38                The Association may obtain from each member any information the  
39                Association may reasonably require in order to facilitate the securing of  
40                this primary excess insurance. The Association shall establish  
41                reasonable safeguards designed to insure that information so received is  
42                used only for this purpose and is not otherwise disclosed;

- 1 (4) Be obligated to the extent of covered claims occurring prior to the  
2 determination of the member self-insurer's insolvency, or occurring  
3 after such determination but prior to the obtaining by the self-insurer of  
4 workers' compensation insurance as otherwise required under this  
5 Chapter. The Association shall pay claims against a self-insurer that are  
6 not or have not been paid as a result of a determination of insolvency or  
7 the institution of bankruptcy or receivership proceedings that occurred  
8 prior to the effective date of this Article.
- 9 (5) After paying any claim resulting from a self-insurer's insolvency, be  
10 subrogated to the rights of the injured employee and dependents and be  
11 entitled to enforce liability against the self-insurer by any appropriate  
12 action brought in its own name or in the name of the injured employee  
13 and dependents;
- 14 (6) Assess the Fund in an amount necessary to pay only:
- 15 a. The obligations for the Association under this Article subsequent  
16 to an insolvency;
- 17 b. The expenses of handling covered claims subsequent to an  
18 insolvency;
- 19 c. The cost of examinations under G.S. 97-137; and  
20 d. Other expenses authorized by this Article;
- 21 (7) Investigate claims brought against the Association and adjust,  
22 compromise, settle, and pay covered claims to the extent of the  
23 Association's obligation; and deny all other claims. The Association  
24 may review settlements to which the insolvent self-insurer was a party  
25 to determine the extent to which such settlements may be properly  
26 contested;
- 27 (8) Notify such persons as the Commissioner directs under G.S. 97-136;
- 28 (9) Handle claims through its employees or through one or more self-  
29 insurers or other persons designated as servicing facilities. Designation  
30 of a servicing facility is subject to the approval of the Commissioner,  
31 but designation of a member self-insurer as a servicing facility may be  
32 declined by such self-insurer;
- 33 (10) Reimburse each servicing facility for obligations of the Association paid  
34 by the facility and for expenses incurred by the facility while handling  
35 claims on behalf of the Association;
- 36 (11) Pay the other expenses of the Association authorized by this section;  
37 and
- 38 (12) Establish in the Plan a mechanism to calculate the assessments required  
39 by subdivisions ~~(1)~~, ~~(2)~~, (2) and (3) of this subsection by a simple and  
40 equitable means to convert from policy or fund years that are different  
41 from a calendar year.
- 42 (b) The Association may:

- 1 (1) Employ or retain such persons as are necessary to handle claims and  
2 perform other duties of the Association;
- 3 (2) Borrow funds necessary to effect the purposes of this Article in accord  
4 with the Plan;
- 5 (3) Sue or be sued;
- 6 (4) Negotiate and become a party to such contracts as are necessary to carry  
7 out the purpose of this section; and
- 8 (5) Perform such other acts as are necessary or proper to effectuate the  
9 purpose of this section.

10 (c) In the event that the assets of the Fund are not sufficient to pay the obligations  
11 of the Association, then the Association shall impose an additional assessment upon its  
12 members, which shall be known as a post-insolvency assessment which shall be imposed  
13 as follows:

- 14 (1) Each individual member self-insurer shall be assessed in an amount not  
15 to exceed two percent (2%) each year of the annual ~~standard premium~~  
16 gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c),  
17 that would have been paid by that member self-insurer during the prior  
18 calendar year. The assessments of each individual member self-insurer  
19 shall be in the proportion that the annual ~~standard premium gross~~  
20 premiums, as determined under G.S. 105-228.5(b), (b1), and (c) of the  
21 individual member self-insurer for the premium calendar year bears to  
22 the annual ~~standard premium gross premiums~~ of all individual member  
23 self-insurers for the preceding calendar year. For group member self-  
24 insurers, the assessment shall not exceed two percent (2%) each year the  
25 annual premium collected by that group member self-insurer during the  
26 prior calendar year. The assessments of each group member self-insurer  
27 shall be in the proportion that the annual ~~collected premium gross~~  
28 premiums of the group member self-insurer for the premium calendar  
29 year bears to the annual ~~collected premium gross premiums~~ of all group  
30 member self-insurers for the preceding calendar year.
- 31 (2) Each member self-insurer shall be notified of the assessment no later  
32 than 30 days before it is due.
- 33 (3) The Association may exempt or defer, in whole or in part, the  
34 assessment of any member self-insurer, if the assessment would cause  
35 that member's financial statement to reflect liabilities in excess of assets.
- 36 (4) Delinquent assessments, except as provided in subdivision (3) of this  
37 subsection, shall bear interest at the rate to be established by the Board,  
38 but not to exceed the discount rate of the Federal Reserve Bank,  
39 Richmond, Virginia, on the due date of the assessment, plus four  
40 percent (4%) annually, computed from the due date of the assessment.
- 41 (5) The Association shall establish in the Plan a mechanism to calculate the  
42 assessments required by subdivision (1) of this subsection by a simple

1 and equitable means to convert from policy or fund years that are  
2 different from a calendar year.

3 (d) No individual member self-insurer may be assessed in any calendar year an  
4 amount greater than two and one-half percent (2.5%) of the annual ~~standard premium gross~~  
5 ~~premiums, as determined under G.S. 105-228.5(b), (b1), and (c), that would have been~~  
6 paid by that individual member self-insurer during the prior calendar year. No group  
7 member self-insurer may be assessed in any calendar year an amount greater than two  
8 and one-half percent (2.5%) of the annual ~~premium collected by gross premiums of that~~  
9 group member self-insurer during the prior calendar year. If the maximum assessment  
10 does not provide in any one year an amount sufficient to make all necessary payments,  
11 the funds available shall be prorated and the unpaid portion shall be paid as soon  
12 thereafter as funds become available. There shall be established in the Plan a mechanism  
13 to calculate the assessments required by this section by a simple and equitable means to  
14 convert from policy or fund years that are different from a calendar year."

15 Section 13.5. G.S. 97-165(2) reads as rewritten:

16 "(2) 'Certified audit' means an audit on which a certified public accountant  
17 expresses his or her professional opinion that the accompanying  
18 statements fairly present the financial position of the self-insurer, in  
19 conformity with generally accepted accounting ~~principles as considered~~  
20 ~~necessary by the auditor under the circumstances.~~ principles."

21 Section 13.6. G.S. 97-170(c) reads as rewritten:

22 "(c) Only an applicant ~~whose employee base is actuarially sufficient in numbers and~~  
23 ~~provides an actuarially appropriate spreading of risk and whose total fixed assets amount to~~  
24 five hundred thousand dollars (\$500,000) or more may apply for a license. In judging the  
25 applicant's financial strength and liquidity relative to its ability to comply with the Act,  
26 the Commissioner shall consider the applicant's:

- 27 (1) Organizational structure and management;
- 28 (2) Financial strength;
- 29 (3) Source and reliability of financial information;
- 30 (4) Risks to be retained;
- 31 (5) Workers' compensation loss history;
- 32 (6) Number of employees;
- 33 (7) Claims administration;
- 34 (8) Excess insurance; and
- 35 (9) ~~Access to excess insurance or reinsurance.~~ insurance."

36 Section 13.7. G.S. 97-170(d)(4) is repealed.

37 Section 13.8. G.S. 97-180(b) reads as rewritten:

38 "(b) Every self-insurer shall submit within 120 days after the end of its fiscal year a  
39 certification from a qualified actuary setting forth the actuary's opinion relating to loss  
40 and loss adjustment expense reserves for workers' compensation obligations for ~~each state~~  
41 ~~in which the self-insurer does business.~~ North Carolina. The certification shall show  
42 liabilities, excess insurance carrier and other qualifying credits, if any, and net retained  
43 workers' compensation liabilities. The qualified actuary shall present an annual report to

1 the self-insurer on the items within the scope of and supporting the certification, within  
2 90 days after the close of the self-insurer's fiscal year. Upon request, the report shall be  
3 submitted to the Commissioner."

4 Section 13.9. G.S. 97-180(d) reads as rewritten:

5 "(d) ~~Every~~ Upon the request of the Commissioner, every self-insurer shall submit  
6 ~~within 120 days after the end of its fiscal year~~ a report of its annual payroll information. The  
7 report shall summarize payroll, by annual amount paid, and the number of employees, by  
8 classification, using the rules, classifications, and rates in the most recently approved  
9 Workers' Compensation and Employers' Liability Insurance Manual governing the audits  
10 of payrolls and the adjustments of premiums. Every self-insurer shall maintain true and  
11 accurate payroll records. These payroll records shall be maintained to allow for  
12 verification of the completeness and accuracy of the annual payroll report."

13

#### 14 **PART XIV. EFFECT OF HEADINGS.**

15 Section 14. The headings to the parts of this act are a convenience to the  
16 reader and are for reference only. The headings do not expand, limit, or define the text of  
17 this act.

18

#### 19 **PART XV. EFFECTIVE DATE.**

20 Section 15. This act is effective when it becomes law.