

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 296  
Committee Substitute Favorable 4/14/99

Short Title: Insurance Technical Changes/AB.

(Public)

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Sponsors:

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Referred to:

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March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL OBSOLETE OR UNNECESSARY LAWS AND MAKE  
3 TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN  
4 VARIOUS INSURANCE STATUTES.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. REPEALS OF OBSOLETE OR UNNECESSARY PROVISIONS.**

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 G.S. 58-3-125, 58-6-10, and 58-71-90 are repealed.

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

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

16 The payment shall be made to the State Fire and Rescue Commission on or before  
17 July 1 of each year. The Commission shall remit the payments it receives to the State  
18 Treasurer, who shall credit the payments to the Fund. ~~If the Commission does not receive an~~

1 annual payment from an eligible unit by July 1, then that unit shall not receive workers'  
2 compensation coverage from the Fund for the fiscal year that begins that July 1."

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

4 **"§ 58-3-115. Twisting with respect to insurance policies; penalties.**

5 No insurer shall make or issue, or cause to be issued, any written or oral statement  
6 that willfully misrepresents or willfully makes an incomplete comparison as to the terms,  
7 conditions, or benefits contained in any policy of insurance for the purpose of inducing or  
8 attempting to induce a policyholder in any way to terminate or surrender, exchange, or  
9 convert any insurance policy. Any person who violates this section is subject to the  
10 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.  
11 58-3-100."

12 Section 1.4. G.S. 58-33-45(d) reads as rewritten:

13 "(d) For the purposes of investigation under this section, the Commissioner shall  
14 have all the power conferred upon him by ~~G.S. 58-3-125.~~ 58-2-50."

15  
16 **PART II. CONTINUING CARE RETIREMENT COMMUNITY NAME**  
17 **CORRECTION.**

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

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

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

27 **"ARTICLE 64.**

28 ~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~  
29 **CONTINUING CARE FACILITIES-RETIREMENT COMMUNITIES.**"

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

31 **"§ 58-64-1. Definitions.**

32 As used in this Article, unless otherwise specified:

- 33 (1) 'Continuing care' means the furnishing to an individual other than an  
34 individual related by blood, marriage, or adoption to the person  
35 furnishing the care, of lodging together with nursing services, medical  
36 services, or other health related services, ~~pursuant to~~ under an agreement  
37 effective for the life of the individual or for a period in excess of longer  
38 than one year.
- 39 (2) 'Entrance fee' means a payment that assures a resident a place in a  
40 facility for a term of years or for life.
- 41 (3) 'Facility' means the ~~place or places~~ retirement community or  
42 communities in which a provider undertakes to provide continuing care  
43 to an individual.

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

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

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

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

28 "**§ 58-64-80. Advisory Committee.**

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

36 **PART III. WORKERS' COMPENSATION LOSS COSTS CONFORMING**  
37 **CHANGES.**

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

- 39 "(2) The Bureau shall provide reasonable means to be approved by the  
40 Commissioner whereby any person affected by a rate or loss costs made  
41 by it may be heard in person or by ~~his~~ the person's authorized  
42 representative before the governing committee or other proper executive  
43 of the Bureau."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           (1) A detailed list of the rates, loss costs, rules, and policy forms filed,  
4           accompanied by a list of those superseded; and

5           (2) A detailed description, properly referenced, of all changes in policy  
6           forms, rules, prospective loss costs, and rates, including the effect of  
7           each change."

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

9       "~~no insurer, officer, agent or representative thereof~~ Except as permitted by G.S. 58-  
10 36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or  
11 representative of an insurer shall knowingly issue or deliver or knowingly permit the  
12 issuance or delivery of any policy of insurance in this State which that does not conform  
13 to the rates, rating plans, classifications, schedules, rules and standards made and filed by  
14 the Bureau. However, an An insurer may deviate from the rates promulgated by the  
15 Bureau ~~provided if~~ the insurer has filed the proposed deviation ~~to be applied both with the~~  
16 Bureau and the Commissioner, ~~and provided the deviation is uniform in its application to all~~  
17 ~~risks in the State of the class to which the deviation is to apply; and provided such deviation is~~  
18 ~~approved by the Commissioner.~~ if the proposed deviation is based on sound actuarial  
19 principles, and if the proposed deviation is approved by the Commissioner. The  
20 Commissioner shall approve proposed deviations if they do not render the rates excessive,  
21 inadequate or unfairly discriminatory. If approved, the deviation may thereafter be amended,  
22 subject to the provisions of this subsection. Amendments to deviations are subject to the  
23 same requirements as initial filings. The deviation may be terminated An insurer may  
24 terminate a deviation only if the deviation has been in effect for a period of six months  
25 before the effective date of the termination and the insurer notifies the Commissioner of  
26 the termination no later than 15 days before the effective date of the termination."

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

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

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

34       "~~Nothing in this section requires the Bureau or its member insurers to refile~~  
35 ~~rates previously implemented before two years after the effective date of this section.~~  
36 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed and~~  
37 ~~approved for its use until disapproved, or the insurer makes its own filing to change its~~  
38 ~~rates, either by making an independent filing or by filing a reference filing adoption form~~  
39 ~~adopting the Bureau's prospective loss costs, or modification thereof. Except as provided~~  
40 ~~in subsection subsections (k) and (m) of this section, with the initial prospective loss~~  
41 ~~costs reference filing, the Bureau shall no longer develop or file any minimum premiums,~~  
42 ~~minimum premium formulas, or expense constants. If an insurer wishes to amend~~  
43 ~~minimum premium formulas, formulas or expense constants, it must file the minimum~~

1 premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted  
2 to the Commissioner under subsections (e) and (g) of this section shall also be sent to the  
3 Bureau."

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

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

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

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

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

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

#### 28 29 **PART IV. HEALTH INSURANCE CLARIFYING CHANGES.**

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

32 "(4b) Late enrollees may only be excluded from coverage for the greater  
33 of 18 months or an 18-month preexisting-condition exclusion;  
34 however, if both a period of exclusion from coverage and a  
35 preexisting-condition exclusion are applicable to a late enrollee, the  
36 combined period shall not exceed 18 months. If a period of  
37 exclusion from coverage is applied, a late enrollee shall be enrolled  
38 at the end of that period in the health benefit plan held at the time by  
39 the small employer."

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

41 "(d) Applicability. – Subsection (b1) of this section applies only to group health  
42 insurance ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25,  
43 covering more than 50 employees. The remainder of this section applies only to group

1 health insurance contracts covering 20 or more employees. For purposes of this section,  
2 'group health insurance contracts' include MEWAs, as defined in G.S. 58-49-30(a)."

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

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

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

9 "(d) Applicability. – Subsection (b1) of this section applies only to group ~~contracts~~  
10 contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than  
11 50 employees. The remainder of this section applies only to group contracts covering 20  
12 or more employees."

13 Section 4.5. Reserved.

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

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

17 (1) Health insurance coverage offered by a health insurer if the coverage  
18 is made available in the small group market only through one or  
19 more bona fide associations.

20 (2) A self-employed individual as defined in ~~G.S. 58-50-110(21a).~~ G.S.  
21 58-50-110(21a), except as otherwise provided for the basic and  
22 standard health care plans under the North Carolina Small Employer  
23 Group Health Coverage Reform Act."

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

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

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

30 "Section 3.19. Except as modified by G.S. 58-50-56(i), as enacted in this Part, any  
31 administrative rules that were adopted by the Commissioner under the authority of ~~G.S.~~  
32 ~~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  
33 before January 1, 1998, are not affected by the repeals in Section 3.16 or Section 3.17 of  
34 this act."

## 35 36 PART V. BAIL BONDS.

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

### 38 "§ 58-71-82. Dual license holding.

39 If an individual holds a professional bondsman's license or a runner's license and a  
40 surety bondsman's license simultaneously, they are considered one license for the  
41 purpose of disciplinary actions involving suspension, revocation, or renewal-nonrenewal  
42 under this Article. Separate renewal fees must be paid for each license, however."  
43



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

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

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

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

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

38 "(b) The ~~fire and casualty~~ property and liability advisory committee shall comprise:

- 39 (1) Two employees of the Department of Insurance;  
40 (2) ~~One representative~~ Two representatives from a list of ~~two~~ four  
41 nominees submitted by the Independent Insurance Agents of North  
42 Carolina;

- 1           (3)     ~~One representative from a list of two nominees submitted by the~~  
2           ~~Carolinas Association of Professional Insurance Agents (North~~  
3           ~~Carolina Division);~~  
4           (4)     One representative of a licensed property and ~~casualty~~-liability  
5           insurance company writing business in this State that operates  
6           through an exclusive agency force;  
7           (5)     One representative from a list of two nominees submitted by the  
8           North Carolina Adjusters Association;  
9           (6)     One representative of ~~fire~~-property and ~~casualty~~-liability insurers  
10          from a list of two nominees submitted by the Association of North  
11          Carolina Property and Casualty Insurance Companies; and  
12          (7)     One representative from a list of two nominees submitted by the  
13          Department of Community Colleges."

## 15 PART VII. MISCELLANEOUS CORRECTIONS.

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

### 17 "§ 58-3-15. Additional or coinsurance clause.

18           No insurance company or agent licensed to do business in this State may issue any  
19           policy or contract of insurance covering property in this State ~~which shall contain that~~  
20           contains any clause or provision requiring the insured to take or maintain a larger amount  
21           of insurance than that expressed in ~~such the~~ policy, nor in any way provide that the  
22           insured shall be liable as a coinsurer with the company issuing the policy for any part of  
23           the loss or damage to the property described in ~~such the~~ policy, and any such clause or  
24           provision shall be null and void, and of no effect: Provided, the coinsurance clause or  
25           provision may be written in or attached to a policy or policies issued when there is  
26           printed or stamped on the ~~filing face declarations page of such the~~ policy or on the form  
27           containing ~~such the~~ clause the words 'coinsurance contract,' and the Commissioner may,  
28           in ~~his the~~ Commissioner's discretion, determine the location of the words 'coinsurance  
29           contract' and the size of the type to be used. If there ~~be is~~ a difference in the rate for the  
30           insurance with and without the coinsurance clause, the rates for each shall be furnished  
31           the insured upon request."

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

### 33 "§ 58-30-5. Persons covered.

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

- 35           (1)     All insurers ~~who that~~ are doing, or have done, an insurance business  
36           in this State, and against whom claims arising from that business  
37           may exist now or in the future.  
38           (2)     All insurers ~~who that~~ purport to do an insurance business in this  
39           State.  
40           (3)     All insurers ~~who that~~ have insureds resident in this State.  
41           (4)     All persons organized or in the process of organizing with the intent  
42           to do an insurance business in this State.

1 (5) All persons subject to Articles 64, 65 and 66, or 67 of this Chapter;  
2 except to the extent there is a conflict between the provisions of this  
3 Article and the provisions of those Articles, in which case those  
4 Articles will govern.

5 (6) Self-insured group workers' compensation funds ~~organized under G.S.~~  
6 ~~97-93(a)(2)~~ subject to Article 47 of this Chapter."

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

8 "(14) 'Insurer' means any entity that is or should be licensed under Articles  
9 7, 16, 26, 47, 49, 65, or 67 of this Chapter ~~and any employer that has~~  
10 ~~furnished to the Commissioner satisfactory proof of its financial~~  
11 ~~responsibility under G.S. 97-93(a)(2)~~ or under Article 5 of Chapter  
12 97 of the General Statutes. For the purposes of this Article, 'insurer'  
13 also includes continuing care retirement centers that are or should be  
14 licensed under Article 64 of this Chapter."  
15

## 16 PART VIII. AUTOMOBILE INSURANCE.

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

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

19 "(7) 'Motor vehicle insurance' means direct insurance against liability arising  
20 out of the ownership, operation, maintenance or use of a motor vehicle  
21 for bodily injury including death and property damage and includes  
22 medical payments and uninsured and underinsured motorist coverages.

23 With respect to motor carriers who are subject to the financial  
24 responsibility requirements established under the Motor Carrier Act of  
25 1980, the term, 'motor vehicle insurance' includes coverage with respect  
26 to environmental restoration. As used in this subsection the term,  
27 'environmental restoration' means restitution for the loss, damage, or  
28 destruction of natural resources arising out of the accidental discharge,  
29 dispersal, release, or escape into or upon the land, atmosphere, water  
30 course, or body of water of any commodity transported by a motor  
31 carrier. Environmental restoration includes the cost of removal and the  
32 cost of necessary measures taken to minimize or mitigate damage to  
33 human health, the natural environment, fish, shellfish, and wildlife."

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

35 "(2) Additional ceding privileges for motor vehicle insurance shall be  
36 provided by the Board of Governors if there is a substantial public  
37 demand for a coverage or coverage limit of any component of motor  
38 vehicle insurance up to the following:

39 Bodily injury liability: one hundred thousand dollars (\$100,000) each  
40 person, three hundred thousand dollars (\$300,000) each accident;

41 Property damage liability: fifty thousand dollars (\$50,000) each  
42 accident;

43 Medical payments: two thousand dollars (\$2,000) each person;

1 Underinsured motorist: ~~one hundred thousand dollars (\$100,000)~~ one  
2 million dollars (\$1,000,000) each person and ~~three hundred thousand~~  
3 ~~dollars (\$300,000)~~ each accident for bodily injury liability;

4 Uninsured motorist: ~~one hundred thousand dollars (\$100,000)~~ one million  
5 dollars (\$1,000,000) each person and each accident for bodily injury and  
6 ~~fifteen thousand dollars (\$15,000)~~ fifty thousand dollars (\$50,000) for  
7 property damage (one hundred dollars (\$100.00) deductible)."

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

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

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

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

29 The plan of operation shall provide for, among other matters, (i) the establishment of  
30 necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment  
31 of all members for initial expenses necessary to commence operations; (iv) the  
32 assessment of members if necessary to defray losses and expenses; (v) the distribution of  
33 gains to defray losses incurred since September 1, 1977; (vi) the distribution of gains by  
34 credit or reduction of recoupment ~~or allocation~~ surcharges to policies subject to  
35 recoupment ~~or allocation~~ surcharges pursuant to this Article (the Facility may apportion  
36 the distribution of gains among the coverages eligible for cession pursuant to this  
37 Article); (vii) the recoupment ~~or allocation~~ of losses sustained by the Facility since  
38 September 1, 1977, pursuant to this Article, which losses may be recouped by equitable  
39 pro rata assessment of ~~member companies~~; companies or by way of a surcharge on motor  
40 vehicle policies issued by member companies or through the Facility; (viii) the standard  
41 amount (one hundred percent (100%) or any equitable lesser amount) of coverage  
42 afforded on eligible risks which a member company may cede to the Facility; and (ix) the

1 procedure by which reinsurance shall be accepted by the Facility. The plan shall further  
2 provide that:

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

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

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

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

1 recover the amount of the assessment to member companies and the compensation paid  
2 by each member, ~~pursuant to~~ under this section, to agents."

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

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

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

14 "(l) The classifications, rules, rates, rating plans and policy forms used on motor  
15 vehicle insurance policies reinsured by the Facility may be made by the Facility or by any  
16 licensed or statutory rating organization or bureau on its behalf and shall be filed with the  
17 Commissioner. The Board of Governors shall establish a separate subclassification  
18 within the Facility for 'clean ~~risks~~' ~~as herein defined.~~ risks'. For the purpose of this Article,  
19 a 'clean risk' ~~shall be~~ is any owner of a nonfleet private passenger motor vehicle as defined  
20 in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the  
21 owner's household have two years' driving experience as licensed drivers and if none of  
22 the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of  
23 this Chapter during the three-year period immediately preceding either (i) the date of  
24 application for a motor vehicle insurance policy or (ii) the date of preparation of a  
25 renewal of a motor vehicle insurance policy. ~~Such~~ The filings may incorporate by  
26 reference any other material on file with the Commissioner. Rates shall be neither  
27 excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a  
28 hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he~~ the  
29 Commissioner shall issue an order specifying in what respect it is deficient and stating  
30 when, within a reasonable period thereafter, ~~such rate shall be deemed~~ the rate is no longer  
31 effective. ~~Said~~ The order is subject to judicial review as set out in Article 2 of this  
32 Chapter. Pending judicial review of said order, the filed classification plan and the filed  
33 rates may be used, charged and collected in the same manner as set out in G.S. 58-40-45  
34 of this Chapter. ~~Said~~ The order shall not affect any contract or policy made or issued ~~prior~~  
35 ~~to~~ before the expiration of the period set forth in the order. All rates shall be on an  
36 actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a  
37 profit nor a loss. However, the rates made by or on behalf of the Facility with respect to  
38 'clean ~~risks~~' ~~as defined above,~~ risks' shall not exceed the rates charged 'clean risks' who are  
39 not reinsured in the Facility. The difference between the actual rate charged and the  
40 actuarially sound and self-supporting rates for 'clean risks' reinsured in the Facility may  
41 be recouped in similar manner as assessments ~~pursuant to~~ G.S. 58-37-40(f) ~~or allocated~~  
42 ~~pursuant to~~ G.S. 58-37-75. under G.S. 58-37-40(f). Rates shall not include any factor for  
43 underwriting profit on Facility business, but shall provide an allowance for contingencies.

1 There shall be a strong presumption that the rates and premiums for the business of the  
2 Facility are neither unreasonable nor excessive."

3 Section 8.9. G.S. 58-37-75 is repealed.  
4

#### 5 **PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.**

6 Section 9.1. The phrase "certificate of authority" is deleted and replaced by the  
7 word "license" wherever it occurs in each of the following sections of the General  
8 Statutes:

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

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

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

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

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

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

15 G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic  
16 society.

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

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

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

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

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

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

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

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

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

29 Section 9.2. G.S. 58-43-35 reads as rewritten:

#### 30 **"§ 58-43-35. Punishment for issuing fire policies contrary to law.**

31 Any insurance company or agent who makes, issues, or delivers a policy of fire  
32 insurance in willful violation of the provisions of Articles 1 through 64 of this Chapter  
33 ~~which that~~ prohibit a domestic insurance company from issuing policies before obtaining  
34 ~~certificate and authority~~ a license from the ~~Commissioner of Insurance; Commissioner;~~ or  
35 ~~which that~~ prohibit the issuing of a fire insurance policy for more than the fair value of the  
36 property or for a longer term than seven years; or ~~which that~~ prohibit stipulations in  
37 insurance contracts restricting the jurisdiction of courts, or limiting the time within which  
38 an action may be brought to less than one year after the cause of action accrues or to less  
39 than six months after a nonsuit by the plaintiff, shall be guilty of a Class 3 misdemeanor  
40 and shall, upon conviction, be punished only by a fine of not less than one thousand  
41 dollars (\$1,000) nor more than five thousand dollars (\$5,000); but the policy shall be  
42 binding upon the company issuing it."

43 Section 9.3. G.S. 58-57-80 reads as rewritten:



1 **"§ 58-57-80. Penalties.**

2 In addition to any other penalty provided by law, any person, firm or corporation  
3 which willfully violates an order of the Commissioner after it has become final, and  
4 while such order is in effect, shall, upon proof thereof to the satisfaction of the court,  
5 forfeit and pay to the State of North Carolina a sum not to exceed one thousand dollars  
6 (\$1,000) which may be recovered in a civil action, except that if such violation is found  
7 to be willful, the amount of such penalty shall be a sum not to exceed five thousand  
8 dollars (\$5,000). The Commissioner, in his discretion, may revoke or suspend the license  
9 ~~or certificate of authority~~ of the person, firm or corporation guilty of such willful violation.  
10 Such order for suspension or revocation shall be upon notice and hearing, and shall be  
11 subject to judicial review as provided in G.S. 58-57-75. Any creditor who requires credit  
12 life insurance or credit accident and health insurance, or both, in excess of the amounts  
13 set forth in G.S. 58-57-15 or who violates the provisions of G.S. 58-57-65 shall be guilty  
14 of a Class 3 misdemeanor, the penalty for which shall only be a fine of two thousand  
15 dollars (\$2,000) for each such occurrence or violation."  
16

17 PART X. RESERVED.  
18

19 **PART XI. EXAMINATION LAW – CROSS REFERENCE CORRECTIONS.**

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

21 "(c) No licensed property or casualty insurer that has control of a broker may  
22 accept insurance from the broker in any transaction in which the broker, when the  
23 insurance is placed, is acting as such on behalf of the insured for any compensation,  
24 commission, or thing of value unless the broker, before the effective date of the coverage,  
25 delivers written notice to the prospective insured disclosing the relationship between the  
26 insurer and broker. The disclosure must be signed by the insured and must be retained in  
27 the insurer's underwriting file until the completion and release of the examination report  
28 ~~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  
29 period in which the coverage is in effect. If the insurance is placed through a subbroker  
30 that is not a controlled broker, the controlling insurer shall retain in its records a signed  
31 commitment from the subbroker that the subbroker is aware of the relationship between  
32 the insurer and the broker and that the subbroker has notified or will notify the insured."  
33

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

35 **"§ 58-20-30. Financial monitoring and evaluation of clubs.**

36 Each club shall be audited annually, at the Club's expense, by a certified public  
37 accounting firm. A copy of the audit report shall be furnished to each member, and to the  
38 Commissioner. The trustees shall obtain an appropriate actuarial evaluation of the loss  
39 and loss adjustment expenses reserves of the Club, including estimate of losses and loss  
40 ~~G.S. 58-2-133, G.S. 58-2-134,~~ G.S. 58-2-131 through G.S. 58-2-134, G.S. 58-2-150, 58-2-160, 58-2-165, 58-2-180, 58-2-185,  
41 58-2-190, 58-2-200, and G.S. 58-6-5 apply to each Club and to persons that administer  
42 the Clubs."  
43

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

1       (c) The Commissioner may, at times deemed appropriate, make or cause to be  
2 made an examination of each advisory organization; in which case the provisions of G.S.  
3 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-  
4 190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the advisory  
5 organization or any member thereof to be in violation of this Article, the Commissioner  
6 may issue an order requiring the discontinuance of the violation."

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

8       (c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-  
9 150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-75, 58-  
10 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, 58-7-140,  
11 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-  
12 173, 58-7-175, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188,  
13 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200, and Articles 13, 19, and 34 of this  
14 Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by each  
15 pool within 60 days after the end of the pool's fiscal year, subject to extension by the  
16 Commissioner."

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

18 **"§ 58-26-10. Financial statements and licenses required.**

19       Title insurance companies are subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-  
20 134, 58-2-165, 58-2-180, and 58-6-5. The Commissioner may require title insurance  
21 companies to separately report their experience in insuring titles and in insuring closing  
22 services. The Commissioner shall annually license such companies and their agents."

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

24       (m) The acts of an MGA are considered to be the acts of the insurer on whose  
25 behalf it is acting. An MGA may be examined by the Commissioner under ~~G.S. 58-2-131,~~  
26 ~~58-2-132, or 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 as if it were an insurer."

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

28 **"§ 58-47-100. Examinations.**

29       ~~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  
30 groups."

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

32 **"§ 58-47-195. Examinations.**

33       TPAs and service companies may be examined under ~~G.S. 58-2-131, 58-2-132, and 58-~~  
34 ~~2-133~~ G.S. 58-2-131 through G.S. 58-2-134."

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

36 **"§ 58-64-55. Examinations; financial statements.**

37       The Commissioner or the Commissioner's designee may, in the Commissioner's  
38 discretion, visit a facility offering continuing care in this State to examine its books and  
39 records. Expenses incurred by the Commissioner in conducting examinations under this  
40 section shall be paid by the facility examined. The provisions of G.S. 58-2-131, 58-2-132,  
41 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  
42 to this Article and are hereby incorporated by reference."

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

1       "(a) The Commissioner may make an examination of the affairs of any health  
2 maintenance organization and the contracts, agreements or other arrangements pursuant  
3 to its health care plan as often as the Commissioner deems it necessary for the protection  
4 of the interests of the people of this State but not less frequently than once every three  
5 years. Examinations shall otherwise be conducted under ~~G.S. 58-2-131, 58-2-132, and 58-~~  
6 ~~2-133.~~ G.S. 58-2-131 through G.S. 58-2-134."

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

8       "(g) Each pool shall be audited annually at the expense of the pool by a certified  
9 public accounting firm, with a copy of the report available to the governing body or chief  
10 executive officer of each member of the pool and to the Commissioner. The board of  
11 trustees of the pool shall obtain an appropriate actuarial evaluation of the loss and loss  
12 adjustment expense reserves of the pool, including an estimate of losses and loss  
13 adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131, 58-2-  
14 132, 58-2-133, ~~58-2-134,~~ 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190,  
15 58-2-200, and 58-6-5 apply to each pool and to persons that administer the pools. Annual  
16 financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days  
17 after the end of the pool's fiscal year. All financial statements required by this section  
18 shall be prepared in accordance with generally accepted statutory accounting principles."

## 19 20 **PART XII. MOTOR CLUBS.**

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

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

### 24 **"§ 58-69-2. Definitions.**

25               As used in this Article:

26               (1) 'Branch or district office' means any physical location, other than a  
27 motor club's home office, where the motor club or its representatives  
28 conduct any type of business authorized under this Article.

29               (2) 'Motor club' means any person, whether or not residing, domiciled, or  
30 chartered in this State, that, in consideration of dues, assessments, or  
31 periodic payments of money, promises its members to assist them in  
32 matters relating to the ownership, operation, use, or maintenance of  
33 motor vehicles by rendering three or more of the following services:

34               a. Automobile theft reward service. – A reward payable to any  
35 person, law enforcement agency, or officer for information  
36 leading to the recovery of a member's stolen vehicle and to the  
37 apprehension and conviction of the person or persons unlawfully  
38 taking the vehicle.

39               b. Bail or cash appearance bond service. – The furnishing of cash or  
40 a surety bond for a member accused of a violation of the motor  
41 vehicle law, or of any law of this State by reason of an  
42 automobile accident to secure the member's release and  
43 subsequent appearance in court.

- 1           c.     Emergency road service. – Roadside adjustment of a motor  
2           vehicle so that the vehicle may be operated under its own power.  
3           d.     Legal service. – Providing for reimbursement to a member for  
4           attorneys' fees if criminal proceedings are instituted against the  
5           member as a result of the operation of a motor vehicle.  
6           e.     Map service. – The furnishing of road maps to members without  
7           cost.  
8           f.     Personal travel and accident insurance service. – Making  
9           available to members a personal travel and accident insurance  
10          policy issued by a duly licensed insurance company in this State.  
11          g.     Touring service. – The furnishing of touring information to  
12          members without cost.  
13          h.     Towing service. – Furnishing means to move a motor vehicle  
14          from one place to another under power other than its own.

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

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

19           "**§ 58-69-50. Authority for qualified surety companies to guarantee certain arrest**  
20           **bond certificates.**

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

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

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

29           (2)   The unqualified obligation of the surety company to pay the fine or  
30           forfeiture, in an amount not to exceed one thousand five hundred dollars  
31           (\$1,500) of any person who, after posting a guaranteed arrest bond  
32           certificate which the surety has undertaken to guarantee, fails to make  
33           the appearance for which the guaranteed arrest bond certificate was  
34           posted."

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

37           "**§ 58-69-55. Guaranteed arrest bond certificates accepted.**

38           (a)   Any guaranteed arrest bond certificate guaranteed by a surety company under  
39           G.S. 58-69-50 shall be accepted in lieu of cash bail or other bond in an amount not to  
40           exceed one thousand five hundred dollars (\$1,500) as a bail bond, when signed by the  
41           person whose signature appears on the certificate, to guarantee the appearance of that  
42           person in any court in this State at the time set by the court when the person is arrested  
43           for the violation of any motor vehicle law of this State or any motor vehicle ordinance of

1 any municipality of this State. The guaranteed arrest bond certificate shall not apply to,  
2 and shall not be accepted in lieu of, cash bail or bond when the person has been arrested  
3 for any impaired driving offense or for any felony.

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

### 7 8 **PART XIII. WORKERS' COMPENSATION SELF-INSURANCE.**

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

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

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

17 "c. Adopt a policy whereby every member:

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

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

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

37 Section 13.4. Reserved.

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

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

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

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

- 7 (1) Organizational structure and management;
- 8 (2) Financial strength;
- 9 (3) Source and reliability of financial information;
- 10 (4) Risks to be retained;
- 11 (5) Workers' compensation loss history;
- 12 (6) Number of employees;
- 13 (7) Claims administration;
- 14 (8) Excess insurance; and
- 15 (9) Access to excess insurance or reinsurance."

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

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

18 "(b) Every self-insurer shall submit within 120 days after the end of its fiscal year a  
19 certification from a qualified actuary setting forth the actuary's opinion relating to loss  
20 and loss adjustment expense reserves for workers' compensation obligations for ~~each state~~  
21 ~~in which the self-insurer does business.~~ North Carolina. The certification shall show  
22 liabilities, excess insurance carrier and other qualifying credits, if any, and net retained  
23 workers' compensation liabilities. The qualified actuary shall present an annual report to  
24 the self-insurer on the items within the scope of and supporting the certification, within  
25 90 days after the close of the self-insurer's fiscal year. Upon request, the report shall be  
26 submitted to the Commissioner."

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

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

#### 36 37 **PART XIV. EFFECT OF HEADINGS.**

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

#### 41 42 **PART XV. EFFECTIVE DATE.**

1           Section 15. This act is effective when it becomes law, except for Part III of  
2 this act, which becomes effective September 1, 1999.