

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 843

Pensions & Retirement and Insurance Committee Substitute Adopted 4/29/97

Short Title: Insurance Technical Changes.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE LAWS AND MAKE TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS INSURANCE STATUTES; AND TO EXTEND THE EXPIRATION DATE OF THE 1986 RISK SHARING PLAN LAW.

The General Assembly of North Carolina enacts:

PART I. REPEALS OF OBSOLETE PROVISIONS.

Section 1. G.S. 58-2-120, 58-3-125, 58-6-10, 58-7-150, and 58-41-35 are repealed.

Section 2. Article 47 of Chapter 58 of the General Statutes, the North Carolina Health Care Excess Liability Fund, which includes G.S. 58-47-1, 58-47-5, 58-47-10, 58-47-15, 58-47-20, 58-47-25, 58-47-30, 58-47-35, 58-47-40, 58-47-45, and 58-47-50, is repealed.

Section 3. Article 68 of Chapter 58 of the General Statutes, the North Carolina Health Insurance Trust Commission, which includes G.S. 58-68-1, 58-68-5, 58-68-10, 58-68-15, and 58-68-20, is repealed.

Section 4. G.S. 120-123(55) and (65) are repealed.

Section 5. G.S. 58-36-15(e) reads as rewritten:

"(e) The Commissioner may require the filing of supporting data including:

- 1 (1) The Bureau's interpretation of any statistical data relied upon;
- 2 (2) Descriptions of the methods employed in setting the rates;
- 3 (3) Analysis of the incurred losses submitted on an accident year or policy
- 4 year basis into their component parts; to wit, paid losses, reserves for
- 5 losses and loss expenses, and reserves for losses incurred but not
- 6 reported;
- 7 (4) The total number and dollar amount of paid claims;
- 8 (5) The total number and dollar amount of case basis reserve claims;
- 9 (6) Earned and written premiums at current rates by rating territory;
- 10 (7) Earned premiums and incurred losses according to classification plan
- 11 categories; and
- 12 (8) Income from investment of unearned premiums and loss and loss
- 13 expense reserves generated by business within this State.

14 ~~Provided, however, that with respect to business written prior to January 1, 1980, the~~
15 ~~Commissioner shall not require the filing of such supporting data which has not been~~
16 ~~required to be recorded under statistical plans approved by the Commissioner."~~

17 Section 6. G.S. 58-3-115 reads as rewritten:

18 **"§ 58-3-115. Twisting with respect to insurance policies; penalties.**

19 No insurer shall make or issue, or cause to be issued, any written or oral statement that
20 willfully misrepresents or willfully makes an incomplete comparison as to the terms,
21 conditions, or benefits contained in any policy of insurance for the purpose of inducing or
22 attempting to induce a policyholder in any way to terminate or surrender, exchange, or
23 convert any insurance policy. Any person who violates this section is subject to the
24 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.
25 58-3-100."

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

- 27 "(7) Without first obtaining the written consent of the ~~Commissioner pursuant~~
28 ~~to G.S. 58-7-150, Commissioner,~~ the insurer has (i) transferred, or
29 attempted to transfer, in a manner contrary to Article 19 of this Chapter,
30 substantially its entire property or business, or (ii) has entered into any
31 transaction, the effect of which is to merge, consolidate, or reinsure
32 substantially its entire property or business in or with the property or
33 business of any other person."

34 Section 8. G.S. 58-41-40(a) reads as rewritten:

35 "(a) There is no liability on the part of and no cause of action for defamation or
36 invasion of privacy arises against any insurer or its authorized representatives, agents, or
37 employees, or any licensed insurance agent or broker, for any communication or
38 statement made, unless shown to have been made in bad faith with malice, in any of the
39 following:

- 40 (1) A written notice of cancellation under ~~G.S. 58-41-15, G.S. 58-41-15~~ or of
41 nonrenewal under G.S. 58-41-20, ~~or of cessation of business through an~~
42 ~~agency under G.S. 58-41-35,~~ specifying the reasons therefor; for
43 cancellation.

1 (2) Communications providing information pertaining to ~~such cancellation,~~
2 ~~nonrenewal, or cessation of business through an agency;~~ the cancellation or
3 nonrenewal.

4 (3) Evidence submitted at any court proceeding, administrative hearing, or
5 informal inquiry in which ~~such cancellation, nonrenewal, or cessation of~~
6 ~~business through an agency~~ the cancellation or nonrenewal is an issue."

7 **PART II. AMENDMENTS NECESSARY BECAUSE OF 1995 REWRITE OF G.S.**
8 **58-2-50.**

9 Section 9. G.S. 58-34-2(j) reads as rewritten:

10 "(j) The Commissioner shall disapprove any such contract that:

11 (1) Does not contain the required contract provisions specified in subsection
12 (d) of this section;

13 (2) Subjects the insurer to excessive charges for expenses or commission;

14 (3) Vests in the MGA any control over the management of the affairs of the
15 insurer to the exclusion of the board of directors of the insurer;

16 (4) Is entered into with any person if the person or its officers and directors
17 are of known bad character or have been affiliated directly or indirectly
18 through ownership, control, management, reinsurance transactions, or
19 other insurance or business relationships with any person known to have
20 been involved in the improper manipulation of assets, accounts, or
21 reinsurance; or

22 (5) Is determined by the Commissioner to contain provisions that are not
23 fair and reasonable to the insurer.

24 Failure of the Commissioner to disapprove any such contract within 30 days after the
25 contract has been filed with the Commissioner constitutes the Commissioner's approval
26 of the contract. An insurer may continue to accept business from ~~such~~ the person until the
27 Commissioner disapproves the contract. Any disapproval shall be in writing. The
28 Commissioner may, after ~~a hearing held under G.S. 58-2-50,~~ notice and an opportunity for a
29 hearing, withdraw approval of any contract the Commissioner has previously approved
30 upon finding that the basis of the original approval no longer exists or that the contract
31 has, in actual operation, shown itself to be subject to disapproval on any of the grounds in
32 this subsection."

33 Section 10. G.S. 58-34-15(b) reads as rewritten:

34 "(b) If the Commissioner disapproves any management contract, ~~notice of such~~
35 ~~action shall be given to the insurer assigning the reasons therefor in writing.~~ the Commissioner
36 shall give notice of, and written reasons for, the disapproval to the insurer. The
37 Commissioner shall grant any party to the contract a hearing upon ~~request according to~~
38 ~~G.S. 58-2-50.~~ request."

39 Section 11. G.S. 58-40-100 reads as rewritten:

40 **"§ 58-40-100. Request for review of rate, rating plan, rating system or underwriting**
41 **rule.**

42 (a) Any person aggrieved by any rate charged, rating plan, rating system, or
43 underwriting rule followed or adopted by an insurer or rating organization may request in

1 writing that the insurer or rating organization to review the manner in which the rate,
2 plan, system, or rule has been applied with respect to insurance afforded him. Such request
3 may be made by his authorized representative, and shall be in writing. the person's insurance.
4 The person's authorized representative may make the request. If the request is not
5 granted within 30 days after it is made, the requestor may treat it as rejected. Any person
6 aggrieved by the action of an insurer or rating organization in refusing the review
7 requested or in failing or refusing to grant all or part of the relief requested, may file a
8 written complaint and request for hearing with the Commissioner, and shall specify the
9 grounds relied upon. If the Commissioner has information concerning a similar ~~complaint~~
10 ~~he complaint, the Commissioner~~ may deny the hearing. If the Commissioner believes
11 that probable cause for the complaint does not exist or that the complaint is not made in
12 good faith, ~~he the Commissioner~~ shall deny the hearing. If the Commissioner finds that
13 the complaint charges a violation of this Article and that the complainant would be
14 aggrieved if the violation is proven, ~~he the Commissioner~~ shall proceed as provided in
15 G.S. ~~58-2-50 or~~ 58-2-70.

16 (b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1027, s. 15."

17 Section 12. G.S. 58-42-1 reads as rewritten:

18 **"§ 58-42-1. Establishment of plans.**

19 If the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-2-50, hearing,~~
20 that in all or any part of this State, any amount or kind of insurance authorized by G.S.
21 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the voluntary market
22 and that the public interest requires the availability of that insurance, ~~he the~~
23 Commissioner may either:

- 24 (1) Promulgate plans to provide insurance coverage for any risks in this
25 State that are, based on reasonable underwriting standards, entitled to
26 obtain but are otherwise unable to obtain coverage; or
27 (2) Call upon insurers to prepare plans for ~~his the~~ Commissioner's
28 approval."

29 Section 13. G.S. 58-45-50 reads as rewritten:

30 **"§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**
31 **Commissioner to superior court.**

32 Any person or any insurer who may be aggrieved by an act, ruling or decision of the
33 Association other than an act, ruling or decision relating to the cause or amount of a
34 claimed loss, may, within 30 days after ~~such ruling the ruling,~~ appeal to the
35 Commissioner. Any hearings held by the Commissioner ~~pursuant to such an~~ under the
36 appeal shall be in accordance with the procedure set forth in G.S. 58-2-50: rules adopted by
37 the Commissioner: Provided, however, the Commissioner is authorized to appoint a
38 member of ~~his the~~ Commissioner's staff as deputy commissioner for the purpose of
39 hearing ~~such those~~ appeals and a ruling based upon ~~such the~~ hearing shall ~~have~~ has
40 the same effect as if heard by the Commissioner. All persons or insureds aggrieved by any
41 order or decision of the Commissioner may appeal as ~~is provided by the provisions of in~~
42 G.S. 58-2-75.

1 No later than 20 days before each hearing, the appellant shall file with the
2 Commissioner or ~~his~~the designated hearing officer and shall serve on the appellee a
3 written statement of ~~his~~the appellant's case and any evidence ~~he~~that the appellant intends
4 to offer at the hearing. No later than five days before ~~such~~the hearing, the appellee shall
5 file with the Commissioner or ~~his~~the designated hearing officer and shall serve on the
6 appellant a written statement of ~~his~~the appellee's case and any evidence ~~he~~that the
7 appellee intends to offer at the hearing. Each ~~such~~ hearing shall be recorded and
8 transcribed. ~~The cost of such recording and transcribing shall be borne equally by the appellant~~
9 ~~and appellee; provided that~~ The appellant and appellee shall share the cost of recording and
10 transcribing equally; however, upon any final adjudication the prevailing party shall be
11 reimbursed for his~~that party's~~ share of ~~such~~the costs by the other party. Each party shall,
12 on a date determined by the Commissioner or ~~his~~the designated hearing officer, but not
13 sooner than 15 days after delivery of the completed transcript to the party, submit to the
14 Commissioner or ~~his~~the designated hearing officer and serve on the other party, a
15 proposed order. The Commissioner or ~~his~~the designated hearing officer shall then issue
16 an order."

17 Section 14. G.S. 58-45-70 reads as rewritten:

18 **"§ 58-45-70. Commissioner may examine affairs of Association.**

19 The Commissioner may from time to time make an examination into the affairs of the
20 Association when ~~he~~the Commissioner deems it to be ~~prudent and in undertaking such~~
21 ~~examination he~~prudent, and as part of the examination the Commissioner may hold a
22 public hearing pursuant to the provisions of G.S. 58-2-50. ~~hearing.~~ The expenses of such
23 ~~examination shall be borne and paid by the Association.~~ The Association shall pay the
24 expenses of the examination."

25 Section 15. G.S. 58-46-20(c) reads as rewritten:

26 "(c) The Commissioner may designate the kinds of property insurance policies on
27 principal residences to be offered by the association, including insurance policies under
28 Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for
29 these policies, if ~~he~~the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-~~
30 ~~2-50, hearing,~~ that the public interest requires the designation. The provisions of Chapter
31 150B of the General Statutes do not apply to any procedure under this subsection, except
32 that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection.
33 Within 30 days after the receipt of notification from the Commissioner of a change in
34 designation ~~pursuant to~~under this subsection, the association shall submit a revised plan
35 and articles of association for approval in accordance with subsection (b) of this section."

36 Section 16. G.S. 58-46-30 reads as rewritten:

37 **"§ 58-46-30. Appeals; judicial review.**

38 The association shall provide reasonable means, to be approved by the Commissioner,
39 whereby any person or insurer affected by any act or decision of the administrators of the
40 Plan or underwriting association, other than an act or decision relating to the cause or
41 amount of a claimed loss, may be heard in person or by an authorized representative,
42 before the governing board of the association or a designated committee. Any person or
43 insurer aggrieved by any decision of the governing board or designated committee, may

1 be appealed to the Commissioner within 30 days from the date of ~~such~~ the ruling or
2 decision. The Commissioner, after hearing held pursuant to the procedure set forth in G.S.
3 58-2-50, under rules adopted by the Commissioner, shall issue an order approving or
4 disapproving the act or decision with respect to the matter ~~which~~ that is the subject of
5 appeal. The Commissioner ~~is authorized to~~ may appoint a member of ~~his~~ the
6 Commissioner's staff as deputy commissioner for the purpose of hearing ~~such~~ the appeals
7 and a ruling based on ~~such~~ the hearing shall ~~have~~ has the same effect as if heard by the
8 ~~Commissioner personally.~~ Commissioner. All persons or insurers or their representatives
9 aggrieved by any order or decision of the Commissioner may appeal as provided ~~by the~~
10 ~~provisions of~~ in G.S. 58-2-75.

11 No later than 20 days before each hearing, the appellant shall file with the
12 Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellee a
13 written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant intends
14 to offer at the hearing. No later than five days before ~~such~~ the hearing, the appellee shall
15 file with the Commissioner or ~~his~~ the designated hearing officer and shall serve on the
16 appellant a written statement of ~~his~~ the appellee's case and any evidence ~~he~~ that the
17 appellee intends to offer at the hearing. Each ~~such~~ hearing shall be recorded and
18 transcribed. ~~The cost of such recording and transcribing shall be borne equally by the appellant~~
19 ~~and appellee; provided that~~ The appellant and appellee shall share the cost of recording and
20 transcribing equally; however, upon any final adjudication the prevailing party shall be
21 reimbursed for ~~his~~ that party's share of ~~such~~ the costs by the other party. Each party shall,
22 on a date determined by the Commissioner or ~~his~~ the designated hearing officer, but not
23 sooner than 15 days after delivery of the completed transcript to the party, submit to the
24 Commissioner or ~~his~~ the designated hearing officer and serve on the other party, a
25 proposed order. The Commissioner or ~~his~~ the designated hearing officer shall then issue
26 an order."

27 **PART III. CONTINUING CARE RETIREMENT COMMUNITY NAME** 28 **CORRECTION.**

29 Section 17. G.S. 58-30-10(14) reads as rewritten:

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

36 Section 18. The title of Article 64 of Chapter 58 of the General Statutes reads
37 as rewritten:

38 **"ARTICLE 64.**

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

41 Section 19. G.S. 58-64-1 reads as rewritten:

42 **"§ 58-64-1. Definitions.**

43 As used in this Article, unless otherwise specified:

- 1 (1) 'Continuing care' means the furnishing to an individual other than an
2 individual related by blood, marriage, or adoption to the person
3 furnishing the care, of lodging together with nursing services,
4 medical services, or other health related services, ~~pursuant to~~ under
5 an agreement effective for the life of the individual or for a period ~~in~~
6 ~~excess of~~ longer than one year.
- 7 (2) 'Entrance fee' means a payment that assures a resident a place in a
8 facility for a term of years or for life.
- 9 (3) 'Facility' means the ~~place or places~~ retirement community or
10 communities in which a provider undertakes to provide continuing
11 care to an individual.
- 12 (4) 'Health related services' means, at a minimum, nursing home
13 admission or assistance in the activities of daily living, exclusive of
14 the provision of meals or cleaning services.
- 15 (5) 'Living unit' means a room, apartment, cottage, or other area within a
16 facility set aside for the exclusive use or control of one or more
17 identified residents.
- 18 (6) 'Provider' means the promoter, developer, or owner of a ~~continuing~~
19 ~~care~~ facility, whether a natural person, partnership, or other
20 unincorporated association, however organized, trust, or corporation,
21 of an institution, building, residence, or other place, whether
22 operated for profit or not, or any other person, that solicits or
23 undertakes to provide continuing care under a continuing care
24 facility contract, or that represents ~~himself~~ himself, herself, or itself
25 as providing continuing care or 'life care.'
- 26 (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to, a
27 continuing care contract.
- 28 (8) 'Hazardous financial condition' means a provider is insolvent or in
29 eminent danger of becoming insolvent."

30 Section 20. G.S. 58-64-40(b) reads as rewritten:

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

39 Section 21. G.S. 58-64-80 reads as rewritten:

40 "**§ 58-64-80. Advisory Committee.**

41 There shall be a nine member Continuing Care Advisory Committee appointed by the
42 Commissioner. The Committee shall consist of at least two residents of ~~continuing care~~
43 ~~communities~~, facilities, two representatives of the North Carolina Association of

1 Nonprofit Homes for the Aging, one individual who is a certified public accountant and
2 is licensed to practice in this State, one individual skilled in the field of architecture or
3 engineering, and one individual who is a health care professional."

4 **PART IV. WORKERS' COMPENSATION LOSS COSTS CONFORMING**
5 **CHANGES.**

6 Section 22. G.S. 58-36-1(2) reads as rewritten:

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

12 Section 23. G.S. 58-36-1(5)c. reads as rewritten:

13 "c. Failure or refusal by any assigned employer risk to make full
14 disclosure to the Bureau, servicing carrier, or insurer writing a
15 policy of information regarding the employer's true ownership,
16 change of ownership, operations, or payroll, or any other failure
17 to disclose fully any records pertaining to workers' compensation
18 insurance shall be sufficient grounds for ~~the Bureau to authorize~~
19 the termination of the policy of that employer."

20 Section 24. G.S. 58-36-10 reads as rewritten:

21 **"§ 58-36-10. Method of rate making; factors considered.**

22 The following standards ~~shall~~ apply to the making and use of ~~rates~~ rates or loss costs:

23 (1) Rates or loss costs shall not be excessive, inadequate or unfairly
24 discriminatory.

25 (2) Due consideration shall be given to actual loss and expense
26 experience within this State for the most recent three-year period for
27 which ~~such~~ that information is available; to prospective loss and
28 expense experience within this State; to the hazards of conflagration
29 and catastrophe; to a reasonable margin for underwriting profit and
30 to contingencies; to dividends, savings, or unabsorbed premium
31 deposits allowed or returned by insurers to their policyholders,
32 members, or subscribers; to investment income earned or realized by
33 insurers from their unearned premium, loss, and loss expense reserve
34 funds generated from business within this State; to past and
35 prospective expenses specially applicable to this State; and to all
36 other relevant factors within this State: Provided, however, that
37 countrywide expense and loss experience and other countrywide
38 data may be considered only where credible North Carolina
39 experience or data is not available.

40 (3) In the case of fire insurance rates, as are subject to the ratemaking
41 authority of the Bureau, consideration may be given to the
42 experience of such fire insurance business during the most recent
43 five-year period for which ~~such~~ that experience is available. In the

1 case of fire insurance rates that are subject to the ratemaking
2 authority of the Bureau, consideration shall be given to the insurance
3 public protection classifications of rural fire districts based upon
4 standards established by the Commissioner. To the extent credits are
5 provided for proximity to fire hydrants, the Bureau may also provide
6 appropriate credits in public protection classifications for optional
7 water sources, such as ponds, lakes, or other bodies of water, in
8 accordance with standards and procedures filed with and approved
9 by the Commissioner.

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

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

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

35 "(a) The Bureau shall file with the Commissioner copies of the rates, loss costs,
36 classification plans, rating plans and rating systems used by its members. Each rate or
37 loss costs filing shall become effective on the date specified in the filing, but not earlier
38 than 105 days ~~from~~ after the date the filing is received by the Commissioner: Provided
39 that (1) rate or loss costs filings for workers' compensation insurance and employers'
40 liability insurance written in connection therewith shall not become effective earlier than
41 120 days from the date the filing is received by the Commissioner or on the date as
42 provided ~~under~~ in G.S. 58-36-100, whichever is earlier; and (2) any filing may become

1 effective on a date earlier than that specified in this subsection upon agreement between
2 the Commissioner and the Bureau."

3 Section 26. G.S. 58-36-15(f) reads as rewritten:

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

12 Section 27. G.S. 58-36-15(g) reads as rewritten:

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

- 15 (1) A detailed list of the rates, loss costs, rules, and policy forms filed,
16 accompanied by a list of those superseded; and
17 (2) A detailed description, properly referenced, of all changes in policy
18 forms, rules, prospective loss costs, and rates, including the effect of
19 each change."

20 Section 28. G.S. 58-36-30(a) reads as rewritten:

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

39 Section 29. G.S. 58-36-30(c) reads as rewritten:

40 "(c) ~~Any deviation with respect to workers' compensation and employers' liability~~
41 ~~insurance written in connection therewith as filed under subsection (a) of this section~~
42 ~~shall apply uniformly to all classifications. Any approved rate under subsection (b) of~~

1 this section with respect to workers' compensation and employers' liability insurance
2 written in connection therewith shall be furnished to the Bureau."

3 Section 30. Effective September 1, 1997, G.S. 58-36-100(a) reads as rewritten:

4 "(a) ~~Nothing in this section requires the Bureau or its member insurers to refile~~
5 ~~rates previously implemented before two years after the effective date of this section.~~
6 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed and~~
7 ~~approved for its use until disapproved, or the insurer makes its own filing to change its~~
8 ~~rates, either by making an independent filing or by filing a reference filing adoption form~~
9 ~~adopting the Bureau's prospective loss costs, or modification thereof.~~ Except as provided
10 in subsection (m) of this section, ~~with the initial prospective loss costs reference filing,~~
11 the Bureau shall no longer develop or file any minimum premiums, minimum premium
12 formulas, or expense constants. If an insurer wishes to amend minimum premium
13 ~~formulas, formulas or expense constants,~~ it must file the minimum premium rules,
14 formulas, or amounts it proposes to use. A copy of each filing submitted to the
15 Commissioner under subsections (e) and (g) of this section shall also be sent to the
16 Bureau."

17 Section 31. Effective September 1, 1997, G.S. 58-36-100(b)(1) reads as
18 rewritten:

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

23 Section 32. Effective September 1, 1997, G.S. 58-36-100(c) reads as
24 rewritten:

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

35 **PART V. INSURANCE COMPANY FINANCIAL OPERATIONS.**

36 Section 33. G.S. 58-5-63(a) reads as rewritten:

37 "(a) All insurance companies making deposits under this Article are entitled to
38 interest on those ~~deposits, which shall remain in the deposit accounts.~~ deposits. The right to
39 interest is subject to a company paying its insurance policy liabilities. If any company
40 fails to pay those liabilities, interest accruing after the failure is payable to the
41 Commissioner for the payment of those liabilities under subsection (b) of this section."

42 Section 34. G.S. 58-7-21(a) reads as rewritten:

1 (a) As used in this section and in G.S. ~~58-7-26, 58-7-30, and 58-7-31~~: 58-7-26 and
2 G.S. 58-7-30:

3 (1) 'Reinsurance' means a transfer of insurance risk from a ceding
4 insurer to an assuming insurer.

5 (2) 'Insurance risk' means an uncertainty regarding the ultimate amount
6 of any claim payment (underwriting risk) or an uncertainty regarding
7 the timing of the payments (timing risk), or both."

8 Section 35. G.S. 58-7-31(b)(3) reads as rewritten:

9 "(3) The ceding insurer is required to reimburse the reinsurer for negative
10 experience under the reinsurance agreement; except that neither
11 offsetting experience refunds against current and prior years' losses
12 under the reinsurance agreement nor payment by the ceding insurer
13 of an amount equal to the current and prior years' losses under the
14 reinsurance agreement upon voluntary termination of in-force
15 reinsurance by the ceding insurer are a reimbursement to the
16 reinsurer for negative experience. Voluntary termination does not
17 include situations where termination occurs because of unreasonable
18 provisions that allow the reinsurer to reduce its risk or increase its
19 risk charge under the reinsurance agreement."

20 Section 36. G.S. 58-7-31(d)(1) reads as rewritten:

21 "(1) Reinsurance agreements entered into after October 1, 1993, that
22 involve the reinsurance of business issued ~~prior to~~ before the
23 effective date of the reinsurance agreements, along with any
24 subsequent amendments thereto, shall be filed by the ceding
25 company with the Commissioner within 30 days after its date of
26 execution. Each filing shall include data detailing the ~~final impact~~
27 financial effect of the transaction. The ceding insurer's actuary who
28 signs the financial statement actuarial opinion with respect to
29 valuation of reserves shall consider this ~~statute~~ section and any
30 applicable actuarial standards of practice when determining the
31 proper credit in financial statements filed with the Commissioner.
32 The actuary ~~should~~ shall maintain adequate documentation and be
33 prepared upon request to describe the actuarial work performed for
34 inclusion in the financial statements and to demonstrate that ~~such that~~
35 work conforms to this ~~statute~~ section."

36 Section 37. G.S. 58-7-173(12) reads as rewritten:

37 "(12) Secured obligations of duly constituted churches and of church-
38 holding companies; and the cost of investments made under this
39 subdivision shall not exceed the lesser of one percent (1%) of the
40 insurer's admitted assets ~~of~~ or five percent (5%) of the insurer's
41 capital and surplus."

42 Section 38. The catchline of G.S. 58-7-177 reads as rewritten:

43 **"§ 58-7-177. Investments in ~~subsidiaries and affiliated corporations~~. subsidiaries."**

1 Section 39. G.S. 58-8-5(a)(3) reads as rewritten:

2 "(3) ~~Said officers shall cause said certificate to be published once a week~~
3 ~~for two consecutive weeks in a newspaper in Raleigh and in the~~
4 ~~county where the company's principal office is located, or posted at~~
5 ~~the courthouse door if no newspaper be published within the county.~~
6 ~~Said printed or posted notices shall be in such form and of such size~~
7 ~~as the Commissioner may approve, and in addition to setting forth in~~
8 ~~full the certificate required in subdivision (2) shall state that~~
9 ~~application for amending the company's charter in the manner~~
10 ~~specified has been proposed by the board of directors, and shall also~~
11 ~~state the time set for a meeting of policyholders thereby called to be~~
12 ~~held at the principal office of the company to take action on the~~
13 ~~proposed amendment. A true copy of such notice shall be filed with~~
14 ~~the Commissioner, and also with that official who performs the~~
15 ~~functions of Commissioner in each state where the company is~~
16 ~~licensed to do business. Such publication and filing of notices shall~~
17 ~~be completed at least 30 days prior to the date set therein for the~~
18 ~~meeting of policyholders and due proof thereof shall be filed with~~
19 ~~the Commissioner at least 15 days prior to the date of such meeting.~~
20 ~~If the meeting at which the proposed amendment is to be considered~~
21 ~~is a special meeting, rather than a regular annual meeting of~~
22 ~~policyholders, such special that meeting can be called only after the~~
23 ~~Commissioner has given his approval in writing, and the published~~
24 ~~notice shall show the fact of such approval; writing."~~

25 Section 40. G.S. 58-8-25 reads as rewritten:

26 "**§ 58-8-25. Dividends to policyholders.**

27 (a) Any participating or dividend-paying company, stock or mutual or foreign or
28 domestic, that writes other than life insurance or workers' compensation insurance and
29 employers' liability insurance in connection therewith, may declare and pay a dividend to
30 policyholders from its ~~surplus~~, unassigned surplus as reflected in the company's most
31 recent annual or quarterly statement filed with the Commissioner, which shall include
32 only its surplus in excess of any required minimum surplus. No such dividend shall be
33 paid unless it is fair and equitable and for the best interest of the company and its
34 policyholders. In declaring any dividend to its policyholders, any such company may
35 make reasonable classifications of policies expiring during a fixed period, upon the basis
36 of each general kind of insurance covered by ~~such those~~ policies and by territorial
37 divisions of the location of risks by states, except that in fixing the amount of dividends
38 to be paid on each general kind of insurance, ~~which the~~ dividends shall be uniform in rate
39 and applicable to the majority of risks within ~~such that~~ general kind of insurance, and
40 exceptions may be made as to any class or classes of risk and a different rate or amount
41 of dividends paid on ~~such the~~ class or classes if the conditions applicable to ~~such the~~ class
42 or classes differ substantially from the condition applicable to the kind of insurance as a
43 whole. Every such company shall have an equal rate of dividend for the same term on all

1 policies insuring risks in the same classification. The payment of dividends to
2 policyholders shall not be contingent upon the maintenance or renewal of the policy. All
3 dividends shall be paid to the policyholder unless a written assignment ~~thereof be of those~~
4 dividends is executed. Neither the payment of dividends nor the rate ~~thereof of the~~
5 dividends may be guaranteed by any company, or its agent, ~~prior to before~~ the declaration
6 of the dividend by the board of directors of ~~such the~~ company. The holders of policies of
7 insurance issued by a company in compliance with the orders of any public official,
8 bureau or committee, in conformity with any statutory requirement or voluntary
9 arrangement, for the issuance of insurance to risks not otherwise acceptable to the
10 company, may be established as a separate class of risks.

11 (b) Any participating or dividend-paying company, stock or mutual or foreign or
12 domestic, that writes workers' compensation insurance and employers' liability insurance
13 in connection therewith may declare and pay a dividend to policyholders from its ~~surplus,~~
14 unassigned surplus as reflected in the company's most recent statement filed with the
15 Commissioner under G.S. 58-2-165, which shall include only its surplus in excess of any
16 required minimum surplus. No such dividend shall be paid unless it is fair and equitable
17 and for the best interest of the company and its policyholders. In declaring any dividend
18 to its policyholders, any such company may make reasonable classifications of policies
19 expiring during a fixed period. The payment of dividends to policyholders shall not be
20 contingent upon the maintenance or renewal of the policy. All dividends shall be paid to
21 the policyholder unless a written assignment ~~thereof be of those dividends is~~ executed.
22 Neither the payment of dividends nor the rate ~~thereof of the dividends~~ may be guaranteed
23 by any company, or its agent, ~~prior to before~~ the declaration of the dividend by the board
24 of directors of ~~such the~~ company. The holders of policies of insurance issued by a
25 company in compliance with the orders of any public official, bureau, or committee, in
26 conformity with any statutory requirement or voluntary arrangement, for the issuance of
27 insurance to risks not otherwise acceptable to the company, may be established as a
28 separate class of risks."

29 Section 41. G.S. 58-9-6(a) reads as rewritten:

30 "(a) The Commissioner shall issue an intermediary license or an exemption from
31 the license, subject to G.S. 58-9-2(b)(2) or G.S. 58-9-2(c)(3), to any person who has
32 complied with the requirements of this Article. A license issued to a noncorporate entity
33 authorizes all of the members of the entity and any designated employees to act as
34 intermediaries under the license, and those persons shall be named in the application and
35 any supplements. A license issued to a corporation authorizes all of the officers and any
36 designated employees and directors of the corporation to act as intermediaries on behalf
37 of the corporation, and those persons shall be named in the application and any
38 supplements."

39 Section 42. G.S. 58-9-11(b) reads as rewritten:

40 "(b) An insurer shall not engage the services of any person to act as a broker on its
41 behalf unless the person is licensed ~~under G.S. 58-9-6~~ or exempted under this Article. An
42 insurer shall not employ an individual who is employed by a broker with which it

1 transacts business, unless the broker is under common control with the insurer under
2 Article 19 of this Chapter."

3 Section 43. G.S. 58-9-21(a) reads as rewritten:

4 "(a) A reinsurer shall not engage the services of any person to act as a manager on
5 its behalf unless the person is licensed ~~under G.S. 58-9-6.~~ or exempted under this Article."

6 Section 44. G.S. 58-12-2(3) reads as rewritten:

7 "(3) Domestic insurer. – Any insurance company organized in this State
8 under ~~Article 7~~ Article 7 or Article 15 of this Chapter."

9 Section 45. G.S. 58-13-10 reads as rewritten:

10 **"§ 58-13-10. Scope.**

11 (a) This Article applies to all domestic insurers and to all kinds of insurance
12 written by those insurers ~~under Articles 1 through 66~~ of this Chapter. Foreign insurers ~~are to~~
13 shall comply in substance with the requirements and limitations of this section. ~~This~~
14 ~~Article does not apply to variable contracts for which separate accounts are required to be~~
15 ~~maintained nor to statutory deposits that are required to be maintained by insurance regulatory~~
16 ~~agencies as a requirement for doing business in such jurisdictions.~~

17 (b) This Article does not apply to:

18 (1) Variable contracts for which separate accounts are required to be
19 maintained.

20 (2) Statutory deposits that are required to be maintained by insurance
21 regulatory agencies as a requirement for doing business.

22 (3) Real estate authorized under G.S. 58-7-187 and encumbered by a
23 mortgage loan with a first lien."

24 Section 46. G.S. 58-13-15 reads as rewritten:

25 **"§ 58-13-15. Definitions.**

26 As used in this Article:

27 (1) 'Assets' means all property, real or personal, tangible or intangible,
28 legal or equitable, owned by an insurer.

29 (2) 'Claimants' means any owners, beneficiaries, assignees, certificate
30 holders, or third-party beneficiaries of any insurance benefit or right
31 arising out of and within the coverage of an insurance policy covered
32 by this Article.

33 (3) 'Reserve assets' means those assets of an insurer that are authorized
34 investments for policy reserves in accordance with ~~Articles 1 through~~
35 ~~64 of this Chapter and G.S. 58-65-95.~~ this Chapter.

36 (4) 'Policyholder-related liabilities' means those liabilities that are
37 required to be established by an insurer for all of its outstanding
38 insurance policies in accordance with ~~Articles 1 through 64 of this~~
39 ~~Chapter and G.S. 58-65-95.~~ this Chapter."

40 Section 47. G.S. 58-13-20(b) reads as rewritten:

41 "(b) The Commissioner ~~has the right to~~ may examine any of ~~such~~ these assets,
42 reinsurance agreements, or deposit arrangements at any time in accordance with ~~his~~ the

1 Commissioner's authority to make examinations of insurers as conferred by other
2 provisions of Articles 1 through 64 of this Chapter."

3 Section 48. G.S. 58-19-5(5) reads as rewritten:

4 "(5) 'Person' means an individual, corporation, partnership, limited
5 liability company, association, joint stock company, trust,
6 unincorporated organization, or any similar entity or any
7 combination of the foregoing acting in concert."

8 Section 49. G.S. 58-19-10(b)(1) reads as rewritten:

9 "(1) Invest, in common stock, preferred stock, debt obligations, and other
10 securities of one or more subsidiaries, amounts that do not exceed
11 the lesser of ten percent (10%) of ~~such~~the insurer's admitted assets
12 or fifty percent (50%) of ~~such~~the insurer's surplus as regards
13 policyholders, provided that after ~~such~~those investments, the
14 insurer's surplus as regards policyholders will be reasonable in
15 relation to the insurer's outstanding liabilities and adequate to its
16 financial needs. In calculating the amount of ~~such~~the investments,
17 investments in domestic or foreign insurance subsidiaries and health
18 maintenance organizations shall be excluded, and there shall be
19 included: (i) total net monies or other consideration expended and
20 obligations assumed in the acquisition or formation of a subsidiary,
21 including all organizational expenses and contributions to capital
22 and surplus of ~~such~~the subsidiary whether or not represented by the
23 purchase of capital stock or issuance of other securities; and (ii) all
24 amounts expended in acquiring additional common stock, preferred
25 stock, debt obligations, and other securities, and all contributions to
26 the capital or surplus, of a subsidiary subsequent to its acquisition or
27 formation;"

28 **PART VI. HANDICAPPED PERSONS.**

29 Section 50. G.S. 168-10 reads as rewritten:

30 **"§ 168-10. Eliminate discrimination in treatment of handicapped and disabled.**

31 Each handicapped person shall have the same consideration as any other person for
32 individual accident and health insurance coverage, and no insurer, service corporation,
33 multiple employer welfare arrangement, or health maintenance organization subject to
34 Chapter 58 of the General Statutes solely on the basis of ~~such~~the person's handicap, shall
35 deny ~~such~~ coverage or benefits. The availability of ~~such~~ insurance coverage or benefits
36 shall not be denied solely ~~due to~~because of the handicap, ~~provided, however, that no such~~
37 ~~insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions~~
38 ~~from such coverage, and further provided that~~ handicap; however, any such insurer may
39 charge the appropriate premiums or fees for the risk insured on the same basis and
40 conditions as insurance issued to other ~~persons~~persons, in accordance with actuarial and
41 underwriting principles prescribed in Chapter 58 of the General Statutes. ~~Nothing~~
42 ~~contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter~~
43 ~~58 of the General Statutes from setting and charging a premium or fee based upon the class or~~

1 classes of risks and on sound actuarial and underwriting principles as determined by such
2 insurer, or from applying its regular underwriting standards applicable to all classes of risks. The
3 provisions of this section shall apply to both corporations governed by Chapter 58 of the General
4 Statutes."

5 Section 51. G.S. 168-22(b) reads as rewritten:

6 "(b) A family care home ~~shall be~~ is deemed a residential use of property for the
7 purposes of determining charges or assessments imposed by political subdivisions or
8 businesses for water, sewer, power, telephone service, cable television, garbage and trash
9 collection, repairs or improvements to roads, streets, and sidewalks, and other services,
10 utilities, and ~~improvements, and for purposes of classification for insurance.~~ improvements."

11 PART VII. AUTOMOBILE INSURANCE.

12 Section 52. G.S. 58-36-75(c) is repealed.

13 Section 53. G.S. 58-36-85(a) reads as rewritten:

14 "(a) Definitions. – The following definitions apply in this section:

15 (1) Policy. – A nonfleet private passenger motor vehicle liability
16 insurance policy, including a ~~policy~~ one that provides medical
17 payments, uninsured motorist, or underinsured motorist coverage,
18 ~~whose named insured is one individual or two or more individuals who~~
19 ~~reside in the same household.~~ that is under the jurisdiction of the Rate
20 Bureau.

21 (2) Terminate. – To cancel or refuse to renew a policy."

22 Section 54. G.S. 58-37-40(f) reads as rewritten:

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

1 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 55. G.S. 58-37-35(b)(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
9 recouped ~~pursuant to~~ under G.S. 58-37-40(f) or ~~which cannot be~~
10 ~~recouped or allocated under G.S. 58-37-75,~~ allocated, and other costs,
11 charges, expenses, liabilities, income, property and other assets of
12 the Facility and for assessing or distributing to members their
13 appropriate shares. ~~Such~~ The shares may be based on the member's
14 premiums for voluntary business for the appropriate category of
15 motor vehicle insurance or by any other fair and reasonable
16 method."

17 Section 56. G.S. 58-37-35(l) reads as rewritten:

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

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

7 Section 57. G.S. 58-37-75 is repealed.

8 PART VIII. WORKERS' COMPENSATION SELF-INSURANCE.

9 Section 58. G.S. 58-50-60 reads as rewritten:

10 "§ 58-50-60. Rules for precertification practices.

11 (a) This section applies to all accident and health insurers under Articles 1 through
12 64 of this Chapter, all third-party administrators and preferred provider arrangements, all
13 entities subject to Articles 65 through 67 of this Chapter, and all self-funded health benefit
14 workers' compensation insurance plans.

15 (b) The Commissioner shall adopt reasonable rules governing precertification
16 practices and forms utilization review and utilization review organizations affiliated that do
17 business with the entities subject to this section."

18 Section 59. G.S. 58-50-65(a) reads as rewritten:

19 "(a) ~~Nothing~~ Except as provided in this subsection, nothing in Articles 50 through
20 55 of this Chapter shall apply applies to or affect any policy of liability or workers'
21 compensation insurance, except that insurance policy. Except for G.S. 58-50-55(a), the
22 provisions of G.S. 58-50-50 and subsections (b) and (c) of G.S. 58-50-55 shall this Article and
23 Articles 65 and 67 of this Chapter and any administrative rules adopted under those
24 Articles relating to preferred providers and utilization review apply to policies of workers'
25 compensation insurance. insurance policies and to individual and group self-funded
26 workers' compensation insurance plans. If there is any conflict between managed care
27 rules adopted by the Commissioner under this Chapter and managed care rules adopted
28 by the Industrial Commission under G.S. 97-25.2, the Industrial Commission's rules
29 govern. If there is any conflict between managed care provisions in this Chapter and in
30 Chapter 97 of the General Statutes with respect to workers' compensation, the provisions
31 in Chapter 97 govern."

32 PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.

33 Section 60. The phrase "certificate of authority" is deleted and replaced by the
34 word "license" wherever it occurs in each of the following sections of the General
35 Statutes:

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

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

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

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

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

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

42 G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic
43 society.

- 1 G.S. 58-28-5. Transacting business without certificate of authority
2 prohibited; exceptions.
- 3 G.S. 58-28-15. Validity of acts or contracts of unauthorized company
4 shall not impair obligation of contract as to the company;
5 maintenance of suits; right to defend.
- 6 G.S. 58-28-45. Uniform Unauthorized Insurers Act.
- 7 G.S. 58-30-10. Definitions.
- 8 G.S. 58-30-55. Condition on release from delinquency proceedings.
- 9 G.S. 58-30-260. Conservation of property of foreign or alien insurers
10 found in this State.
- 11 G.S. 58-33-132. Qualifications of instructors.
- 12 G.S. 58-41-55. Penalties; restitution.
- 13 G.S. 58-48-35. Powers and duties of the Association.
- 14 G.S. 58-48-45. Duties and powers of the Commissioner.
- 15 G.S. 58-57-80. Penalties.

16 **PART X. RISK SHARING PLAN SUNSET EXTENSION.**

17 Section 61. G.S. 58-42-55 reads as rewritten:

18 **"§ 58-42-55. Expiration.**

19 This Article ~~shall expire~~ expires on July 1, ~~1997-1999.~~"

20 **PART XI. EFFECT OF HEADINGS.**

21 Section 62. The headings to the parts of this act are a convenience to the
22 reader and are for reference only. The headings do not expand, limit, or define the text of
23 this act.

24 **PART XII. EFFECTIVE DATE.**

25 Section 63. Sections 30-32 of this act become effective September 1, 1997.
26 The remainder of this act is effective when it becomes law.