

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

H

1

HOUSE BILL 1105

Short Title: Insurance Technical Corrections.

(Public)

Sponsors: Representative Hurley.

Referred to: Insurance.

April 11, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE INSURANCE LAWS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-1-1 reads as rewritten:

"§ 58-1-1. **Title of the Chapter.**

~~Articles 1 through 64 of this~~ This Chapter may be cited and shall be known as the Insurance Law."

**SECTION 2.** G.S. 58-1-15(b) reads as rewritten:

"(b) Any warranty made solely by a manufacturer, distributor, or seller of goods or services without charge, or an extended warranty offered as an option and made solely by a manufacturer, distributor, or seller of goods or services for charge, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or any other remedial measure, including replacement of goods or repetition of services, shall not be a contract of insurance under ~~Articles 1 through 64 of this~~ Chapter; however, service agreements on motor vehicles are governed by G.S. 58-1-25, 58-1-35, and 58-1-36. Service agreements on home appliances are governed by G.S. 58-1-30, 58-1-35, and 58-1-36."

**SECTION 3.** G.S. 58-2-40(3) reads as rewritten:

"(3) Prescribe to the companies, associations, orders, or bureaus required by ~~Articles 1 through 64 of this~~ Chapter to report to the Commissioner, the necessary forms for the statements required. The Commissioner may change those forms from time to time when necessary to secure full information as to the standing, condition, and such other information desired of companies, associations, orders, or bureaus under the jurisdiction of the Department."

**SECTION 4.** G.S. 58-2-40(4) reads as rewritten:

"(4) Receive and thoroughly examine each financial statement required by ~~Articles 1 through 64 of this~~ Chapter."

1           **SECTION 5.** G.S. 58-2-40(5) reads as rewritten:

2           "(5) Report in detail to the Attorney General any violations of the laws  
3           relative to insurance companies, associations, orders and bureaus or  
4           the business of insurance; and the Commissioner may institute civil  
5           actions or criminal prosecutions either by the Attorney General or  
6           another attorney whom the Attorney General may select, for any  
7           violation of the provisions of ~~Articles 1 through 64~~ of this Chapter."

8           **SECTION 6.** G.S. 58-2-60(a) reads as rewritten:

9           "(a) Whenever it appears to the Commissioner that any person has violated, is  
10          violating, or threatens to violate any provision of ~~Articles 1 through 64, 65 and 66, 67,~~  
11          ~~69, 70, or 71~~ of this Chapter, or Article 9A of Chapter 143 of the General Statutes, he  
12          may apply to the superior court of any county in which the violation has occurred, is  
13          occurring, or may occur for a restraining order and injunction to restrain such violation.  
14          If upon application the court finds that any provision of ~~said~~ those statutes has been  
15          violated, is being violated, or a violation thereof is threatened, the court shall issue an  
16          order restraining and enjoining ~~such the~~ violations; and ~~such that~~ relief may be granted  
17          regardless of whether criminal prosecution is instituted under any provision of law."

18          **SECTION 7.** G.S. 58-2-65 reads as rewritten:

19          "**§ 58-2-65. License surrenders.**

20          This section applies to persons or entities licensed under ~~Articles 1 through 64, 65~~  
21          ~~and 66, 67, 69, 70, or 71~~ of this Chapter, or Article 9A of Chapter 143 of the General  
22          Statutes. When a licensee is accused of any act, omission, or misconduct that would  
23          subject the license to suspension or revocation, the licensee, with the consent and  
24          approval of the Commissioner, may surrender the license for a period of time  
25          established by the Commissioner. A person or entity who surrenders a license shall not  
26          thereafter be eligible for or submit any application for licensure during the period of  
27          license surrender."

28          **SECTION 8.** G.S. 58-2-90(e) reads as rewritten:

29          "(e) Upon any appeal, the rates fixed or any rule, regulation, finding,  
30          determination, or order made by the Commissioner under the provisions of ~~Articles 1~~  
31          ~~through 64~~ of this Chapter shall be prima facie correct."

32          **SECTION 9.** G.S. 58-2-150 reads as rewritten:

33          "**§ 58-2-150. Oath required for compliance with law.**

34          Before issuing license to any insurance company to transact the business of  
35          insurance in this State, the Commissioner shall require, in every case, in addition to the  
36          other requirements provided for by law, that the company file with him the affidavit of  
37          its president or other chief officer that it has not violated any of the provisions of  
38          ~~Articles 1 through 64~~ of this Chapter for the space of 12 months last past, and that it  
39          accepts the terms and obligations of ~~Articles 1 through 64~~ of this Chapter as a part of  
40          the consideration of the license."

41          **SECTION 10.** G.S. 58-2-155 reads as rewritten:

42          "**§ 58-2-155. Investigation of charges.**

43          Upon ~~his~~ the Commissioner's own motion or upon complaint being filed by a citizen  
44          of this State that a company authorized to do business in the State has violated any of

1 the provisions of Articles 1 through 64 of this Chapter, the Commissioner shall  
2 investigate the matter, and, if necessary, examine, under oath, by himself or his  
3 accredited representatives the president and ~~such any~~ other officer or agents of ~~such the~~  
4 companies as may be deemed proper; also all books, records, and papers of the same. In  
5 case the Commissioner shall find upon substantial evidence that any complaint against a  
6 company is justified, said company, in addition to such penalties as are imposed for  
7 violation of any of the provisions of ~~Articles 1 through 64~~ of this Chapter, shall be liable  
8 for the expenses of the investigation, and the Commissioner shall promptly present ~~said~~  
9 the company with a statement of such the expenses. If the company refuses or neglects  
10 to pay, the Commissioner is ~~authorized to~~ may bring a civil action for the collection of  
11 these expenses."

12 **SECTION 11.** G.S. 58-3-5 reads as rewritten:

13 **"§ 58-3-5. No insurance contracts except under Articles 1 through 64 of this**  
14 **Chapter.**

15 Except as provided in G.S. 58-3-6, it is unlawful for any company to make any  
16 contract of insurance upon or concerning any property or interest or lives in this State,  
17 or with any resident ~~thereof, of this State,~~ or for any person as insurance agent or  
18 insurance broker to make, negotiate, solicit, or in any manner aid in the transaction of  
19 such insurance, unless and except as authorized under the provisions of ~~Articles 1~~  
20 ~~through 64~~ of this Chapter."

21 **SECTION 12.** G.S. 58-3-30(a) reads as rewritten:

22 "(a) This section applies to the provisions of all group life, group accident, group  
23 health, and group accident and health insurance policies and group annuities under  
24 ~~Articles 1 through 64~~ of this Chapter that are issued on or after October 1, 1989, and  
25 preferred provider arrangements under ~~Articles 1 through 64~~ of this Chapter that are  
26 entered into on or after October 1, 1989."

27 **SECTION 13.** G.S. 58-3-130 reads as rewritten:

28 **"§ 58-3-130. Agent, adjuster, etc., acting without a license or violating insurance**  
29 **law.**

30 If any person shall assume to act either as principal, agent, broker, limited  
31 representative, adjuster or motor vehicle damage appraiser without license as is required  
32 by law or, pretending to be a principal, agent, broker, limited representative, adjuster or  
33 licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or  
34 shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to  
35 the nature and amount of damages to motor vehicles or the amount necessary to effect  
36 repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall  
37 do any other act in the soliciting, making or executing any contract of insurance of any  
38 kind otherwise than the law permits, or as principal or agent shall violate any provision  
39 of law contained in ~~Articles 1 through 64~~ of this Chapter, the punishment for which is  
40 not elsewhere provided for, he that person shall be deemed guilty of a Class 1  
41 misdemeanor."

42 **SECTION 14.** G.S. 58-7-1 reads as rewritten:

43 **"§ 58-7-1. Application of ~~Articles 1 through 64~~ of this Chapter and general laws.**

1 The general provisions of law relative to the powers, duties, and liabilities of  
2 corporations apply to all incorporated domestic insurance companies where pertinent  
3 and not in conflict with other provisions of law relative to ~~such those~~ companies or with  
4 their charters. All insurance companies of this State shall be governed by ~~Articles 1~~  
5 ~~through 64~~ of this Chapter, notwithstanding anything in their special charters to the  
6 contrary, provided notice of the acceptance of ~~Articles 1 through 64~~ of this Chapter is  
7 filed with the Commissioner."

8 **SECTION 15.** G.S. 58-15-15(a) reads as rewritten:

9 "(a) Except for Article 11 of this Chapter and as otherwise specifically provided,  
10 all the provisions of ~~Articles 1 through 64~~ of this Chapter relating to insurers generally,  
11 and those relating to insurers writing the same kinds of insurance that reciprocals are  
12 permitted to write, are applicable to reciprocals."

13 **SECTION 16.** G.S. 58-16-1 reads as rewritten:

14 "**§ 58-16-1. Admitted to do business.**

15 Foreign or alien insurance companies, upon complying with the conditions of  
16 ~~Articles 1 through 64~~ of this Chapter applicable to them, may be admitted to transact in  
17 this State any class of insurance authorized by the laws in force relative to the duties,  
18 obligations, prohibitions, and penalties of insurance companies, and subject to all laws  
19 applicable to the transaction of such business by foreign or alien insurance companies  
20 and their agents."

21 **SECTION 17.** G.S. 58-16-15 reads as rewritten:

22 "**§ 58-16-15. Foreign companies; requirements for admission.**

23 A company organized under the laws of any other of these United States for the  
24 transaction of life insurance may be admitted to do business in this State if it complies  
25 with the other provisions of ~~Articles 1 through 64~~ of this Chapter regulating the terms  
26 and conditions upon which foreign life insurance companies may be admitted and  
27 authorized to do business in this State, and, in the opinion of the Commissioner, is in  
28 sound financial condition and has policies in force upon not less than 500 lives for an  
29 aggregate amount of not less than five hundred thousand dollars (\$500,000). Any life  
30 company organized under the laws of any other country than the United States, in  
31 addition to the above requirements, must make and maintain the deposit required of  
32 ~~such those~~ companies by Article 5 of this Chapter."

33 **SECTION 18.** G.S. 58-16-50 reads as rewritten:

34 "**§ 58-16-50. Action to enforce compliance with this Chapter.**

35 Compliance with the provisions of ~~Articles 1 through 64~~ of this Chapter as to  
36 deposits, obligations, and prohibitions, and the payment of taxes, fines, fees, and  
37 penalties by foreign or alien insurance companies, may be enforced in the ordinary  
38 course of legal procedure by action brought in the Superior Court of Wake County by  
39 the Attorney General in the name of the State upon the relation of the Commissioner of  
40 Insurance."

41 **SECTION 19.** G.S. 58-22-30 reads as rewritten:

42 "**§ 58-22-30. Countersignature not required.**

1 A policy of insurance issued to a risk retention group or any member of that group is  
2 not required to be countersigned as otherwise provided in ~~Articles 1 through 64~~ of this  
3 Chapter."

4 **SECTION 20.** G.S. 58-22-50 reads as rewritten:

5 "**§ 58-22-50. Administrative and procedural authority regarding risk retention**  
6 **groups and purchasing groups.**

7 The Commissioner ~~is authorized to~~ may make use of any of the powers established  
8 under ~~Articles 1 through 64~~ of this Chapter to enforce the laws of this State as long as  
9 those powers are not specifically preempted by the Product Liability Risk Retention Act  
10 of 1981, as amended by the Risk Retention Act of 1986. This includes, but is not limited  
11 to, the Commissioner's administrative authority to investigate, issue subpoenas, conduct  
12 depositions and hearings, issue orders, and seek or impose penalties. With regard to any  
13 investigation, administrative proceeding, or litigation, the Commissioner ~~can~~ may rely  
14 on the procedural law and regulations of the State. The injunctive authority of the  
15 Commissioner in regard to risk retention groups is restricted by the requirement that any  
16 injunction be issued by a court of competent jurisdiction."

17 **SECTION 21.** G.S. 58-33-120 reads as rewritten:

18 "**§ 58-33-120. Agent, adjuster, etc., acting without a license or violating insurance**  
19 **law.**

20 If any person shall assume to act either as principal, agent, broker, limited  
21 representative, adjuster or motor vehicle damage appraiser without license as is required  
22 by law or pretending to be a principal, agent, broker, limited representative, adjuster or  
23 licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or  
24 shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to  
25 the nature and amount of damages to motor vehicles or the amount necessary to effect  
26 repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall  
27 do any other act in the soliciting, making or executing any contract of insurance of any  
28 kind otherwise than the law permits, or as principal or agent shall violate any provision  
29 of law contained in ~~Articles 1 through 64~~ of this Chapter, the punishment for which is  
30 not elsewhere provided for, he shall be deemed guilty of a Class 1 misdemeanor."

31 **SECTION 22.** G.S. 58-34-5(a) reads as rewritten:

32 "(a) Retrospective compensation agreements for business written under ~~Articles 1~~  
33 ~~through 64~~ of this Chapter must be filed with the Commissioner for ~~his~~ the  
34 Commissioner's approval."

35 **SECTION 23.** G.S. 58-50-25(a) reads as rewritten:

36 "(a) No agency, institution or physician providing a service for which payment or  
37 reimbursement is required to be made under a policy governed by Articles 1 through 64  
38 or 68 of this Chapter shall be denied such payment or reimbursement on account of the  
39 fact that such services were rendered through a registered nurse acting under authority  
40 of rules and regulations adopted by the North Carolina Medical Board and the Board of  
41 Nursing pursuant to G.S. 90-6 and G.S. 90-171.23."

42 **SECTION 24.** G.S. 58-50-26 reads as rewritten:

43 "**§ 58-50-26. Physician services provided by physician assistants.**

1 No agency, institution, or physician providing a service for which payment or  
2 reimbursement is required to be made under a policy governed by Articles 1 through 64  
3 or 68 of this Chapter shall be denied the payment or reimbursement on account of the  
4 fact that the services were rendered through a physician assistant acting under the  
5 authority of rules adopted by the North Carolina Medical Board pursuant to G.S.  
6 90-18.1."

7 **SECTION 25.** G.S. 58-50-30(a) reads as rewritten:

8 "(a) Discrimination between individuals of the same class in the amount of  
9 premiums or rates charged for any policy of insurance covered by Articles 50 through  
10 55 or 68 of this Chapter, or in the benefits payable thereon, or in any of the terms or  
11 conditions of such policy, or in any other manner whatsoever, is prohibited.

12 Whenever any policy of insurance governed by Articles 1 through 64 or 68 of this  
13 Chapter provides for payment of or reimbursement for any service rendered in  
14 connection with a condition or complaint that is within the scope of practice of a duly  
15 licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed  
16 chiropractor, a duly certified clinical social worker, a duly certified substance abuse  
17 professional, a duly licensed psychologist, a duly licensed pharmacist, a duly certified  
18 fee-based practicing pastoral counselor, a duly licensed physician assistant, or an  
19 advanced practice registered nurse, the insured or other persons entitled to benefits  
20 under the policy shall be entitled to payment of or reimbursement for the services,  
21 whether the services be performed by a duly licensed physician, a duly licensed  
22 physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly  
23 licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a  
24 duly certified substance abuse professional, a duly licensed psychologist, a duly  
25 licensed pharmacist, a duly certified fee-based practicing pastoral counselor, or an  
26 advanced practice registered nurse, notwithstanding any provision contained in the  
27 policy. Whenever any policy of insurance governed by Articles 1 through 64 or 68 of  
28 this Chapter provides for certification of disability that is within the scope of practice of  
29 a duly licensed physician, a duly licensed physician assistant, a duly licensed  
30 optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed  
31 chiropractor, a duly certified clinical social worker, a duly certified substance abuse  
32 professional, a duly licensed psychologist, a duly certified fee-based practicing pastoral  
33 counselor, or an advanced practice registered nurse, the insured or other persons entitled  
34 to benefits under the policy shall be entitled to payment of or reimbursement for the  
35 disability whether the disability be certified by a duly licensed physician, a duly  
36 licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist,  
37 a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social  
38 worker, a duly certified substance abuse professional, a duly licensed psychologist, a  
39 duly certified fee-based practicing pastoral counselor, or an advanced practice registered  
40 nurse, notwithstanding any provisions contained in the policy. The policyholder,  
41 insured, or beneficiary shall have the right to choose the provider of the services  
42 notwithstanding any provision to the contrary in any other statute.

43 Whenever any policy of insurance provides coverage for medically necessary  
44 treatment, the insurer shall not impose any limitation on treatment or levels of coverage

1 if performed by a duly licensed chiropractor acting within the scope of the chiropractor's  
2 practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the  
3 medically necessary treatment if performed or authorized by any other duly licensed  
4 physician."

5 **SECTION 26.** G.S. 58-51-40(a) reads as rewritten:

6 "(a) Whenever any policy of insurance governed by Articles 1 through 64 or 68 of  
7 this Chapter provides for benefits for charges of hospitals or physicians, the policy shall  
8 provide for payments of benefits for charges made for medical care rendered in or by  
9 duly licensed State tax-supported institutions, including charges for medical care of  
10 cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases  
11 or disorders, mental retardation, alcoholism and drug or chemical dependency, and  
12 respiratory illness, on a basis no less favorable than the basis which would apply had the  
13 medical care been rendered in or by any other public or private institution or provider.  
14 The term "State tax-supported institutions" shall include community mental health  
15 centers and other health clinics which are certified as Medicaid providers."

16 **SECTION 27.** G.S. 58-19-5(4) reads as rewritten:

17 "(4) "Insurer" includes a person subject to ~~Articles~~ Article 65 and 66 or 67  
18 of this Chapter. "Insurer" does not include (1) an agency, authority, or  
19 instrumentality of the United States; any of its possessions and  
20 territories; the Commonwealth of Puerto Rico; the District of  
21 Columbia; nor a state or political subdivision of a state; nor (2)  
22 fraternal benefit societies or fraternal orders."

23 **SECTION 28.** G.S. 58-38-35(a)(2) reads as rewritten:

24 "(2) To all policies of life insurance as described in Article 58 of this  
25 Chapter, to all benefit certificates issued by fraternal orders and  
26 societies as described in Articles 24 and 25 of this Chapter, to all  
27 policies of accident and health insurance as described in Articles 50  
28 through 55 and 68 of this Chapter, to all subscribers' contracts of  
29 hospital, medical, and dental service corporations as described in  
30 ~~Articles 65 and 66~~ Article 65 of this Chapter, and to all health  
31 maintenance organization evidences of coverage as described in  
32 Article 67 of this Chapter, that are made, issued, amended, or renewed  
33 after July 1, 1983."

34 **SECTION 29.** G.S. 58-51-35(c) reads as rewritten:

35 "(c) The provisions of this section shall apply to corporations governed by the  
36 provisions of ~~Articles 65 and 66~~ Article 65 of this Chapter."

37 **SECTION 30.** G.S. 58-54-1(5) reads as rewritten:

38 "(5) "Policy" means a Medicare supplement policy, which is a group or  
39 individual policy of accident and health insurance under ~~Articles 1~~  
40 ~~through 64~~ of this Chapter, a subscriber contract under ~~Articles 65 and~~  
41 66 Article 65 of this Chapter, or an evidence of coverage under Article  
42 67 of this Chapter, other than a policy issued pursuant to a contract  
43 under section 1876 or section 1833 of the federal Social Security Act  
44 (42 U.S.C. § 1395 et seq.), or an issued policy under a demonstration

1 project authorized pursuant to amendments to the federal Social  
2 Security Act, that is advertised, marketed, or designed primarily as a  
3 supplement to reimbursements under Medicare for the hospital,  
4 medical, or surgical expenses of persons eligible for Medicare."

5 **SECTION 31.** G.S. 58-48-35(a)(3) reads as rewritten:

6 "(3) Allocate claims paid and expenses incurred among the ~~two~~three  
7 accounts separately, and assess member insurers separately for each  
8 account amounts necessary to pay the obligation of the Association  
9 under subsection (a) above subsequent to an insolvency, the expenses  
10 of handling covered claims subsequent to an insolvency, the cost of  
11 examinations under G.S. 58-48-60 and other expenses authorized by  
12 this Article. The assessments of each member insurer shall be in the  
13 proportion that the net direct written premiums of the member insurer  
14 for the preceding calendar year on the kinds of insurance in the  
15 account bears to the net direct written premiums of all member  
16 insurers for the preceding calendar year on the kinds of insurance in  
17 the account; provided, for purposes of assessment only, premiums  
18 otherwise reportable by a servicing insurer under any plan of operation  
19 approved by the Commissioner of Insurance under Articles 45 or 46 of  
20 this Chapter shall not be deemed to be the net direct written premiums  
21 of such servicing insurer or association, but shall be deemed to be the  
22 net direct written premiums of the individual insurers to the extent  
23 provided for in any such plan of operation. Each member insurer shall  
24 be notified of the assessment not later than 30 days before it is due. No  
25 member insurer may be assessed in any year on any account an  
26 amount greater than two percent (2%) of that member insurer's net  
27 direct written premiums for the preceding calendar year on the kinds of  
28 insurance in the account. If the maximum assessment, together with  
29 the other assets of the Association in any account, does not provide in  
30 any one year in any account an amount sufficient to make all necessary  
31 payments from that account, the funds available shall be prorated and  
32 the unpaid portion shall be paid as soon thereafter as funds become  
33 available. The Association may exempt or defer, in whole or in part,  
34 the assessment of any member insurer, if the assessment would cause  
35 the member insurer's financial statement to reflect amounts of capital  
36 or surplus less than the minimum amounts required for a license by  
37 any jurisdiction in which the member insurer is authorized to transact  
38 insurance. Each member insurer may set off against any assessment,  
39 authorized payments made on covered claims and expenses incurred in  
40 the payment of such claims by the member insurer if they are  
41 chargeable to the account for which the assessment is made."

42 **SECTION 32.** G.S. 58-31-40(b) reads as rewritten:

43 "(b) No agency or other person authorized or directed by law to select a plan and  
44 erect a building for the use of the State or any State institution shall receive and approve



1 of the plan until it is submitted to and approved by the Commissioner as to the safety of  
2 the proposed building from fire, including the property's occupants or contents. No  
3 agency or person authorized or directed by law to select a plan or erect a building  
4 comprising 10,000 square feet or ~~or~~ more for the use of any county, city, or school  
5 district shall receive and approve of the plan until it is submitted to and approved by the  
6 Commissioner as to the safety of the proposed building from fire, including the  
7 property's occupants or contents."

8 **SECTION 33.** G.S. 58-21-65(b) reads as rewritten:

9 "(b) The Commissioner shall issue a surplus lines license to any qualified holder  
10 of a current ~~fire and casualty property and liability~~ broker's or agent's license, but only  
11 when the broker or agent has:

- 12 (1) Remitted the fifty dollars (\$50.00) annual fee to the Commissioner;
- 13 (2) Submitted a completed license application on a form supplied by the  
14 Commissioner, and the application has been approved by the  
15 Commissioner;
- 16 (3) Passed a qualifying examination approved by the Commissioner;  
17 except that all holders of a license ~~prior to~~ before July 11, 1985 shall  
18 be deemed to have passed such an examination; and
- 19 (4) Filed with the Commissioner, and maintains during the term of the  
20 license, in force and unimpaired a bond in favor of this State in the  
21 sum of ten thousand dollars (\$10,000), aggregate liability, with  
22 corporate sureties approved by the Commissioner. The bond shall be  
23 conditioned that the surplus lines licensee will conduct business in  
24 accordance with the provisions of this Article and will promptly remit  
25 the taxes as provided by law. No bond shall be terminated unless at  
26 least 30 days prior written notice is given to the licensee and  
27 Commissioner. A person required by this subdivision to maintain a  
28 bond may, in lieu of that bond, deposit with the Commissioner the  
29 equivalent amount in cash, in certificates of deposit issued by banks  
30 organized under the laws of the State of North Carolina, or any  
31 national bank having its principal office in North Carolina, or  
32 securities, which shall be held in accordance with Article 5 of this  
33 Chapter. Securities may only be obligations of the United States or of  
34 federal agencies listed in G.S. 147-69.1(c)(2) guaranteed by the United  
35 States, obligations of the State of North Carolina, or obligations of a  
36 city or county of this State. Any proposed deposit of an obligation of a  
37 city or county of this State is subject to the prior approval of the  
38 Commissioner."

39 **SECTION 34.** G.S. 58-33-135(a) reads as rewritten:

40 "(a) The Commissioner shall appoint, in accordance with G.S. 58-2-30, one  
41 advisory committee for ~~fire and casualty property and liability~~ insurance licensees and  
42 one advisory committee for life and health insurance licensees. The advisory  
43 committees shall recommend reasonable rules to the Commissioner for ~~promulgation~~  
44 adoption under G.S. 58-33-130. The Commissioner may adopt, reject, or modify ~~such~~

1 the recommendations. After the ~~promulgation-adoption~~ of rules under G.S. 58-33-130,  
2 the committees may from time to time make further recommendations to the  
3 Commissioner for additional rules or changes in existing rules."

4 **SECTION 35.** G.S. 58-35-10(c) reads as rewritten:

5 "(c) A ~~fire and casualty~~ property and liability insurance agent or an insurance  
6 broker duly licensed in this State who extends credit to and only to ~~his~~ the agent's or  
7 broker's own policyholders may charge and collect finance charges or other fees at a  
8 periodic (monthly) rate as provided in G.S. 24-11(a), after ~~said~~ that amount has been  
9 outstanding for 30 days, and is ~~hereby~~ exempt from the provisions of this Article.  
10 Notwithstanding the exceptions set forth in subsections (a), (b) and (c) of this section,  
11 when any ~~person, firm, or corporation shall exercise~~ person exercises a power of  
12 attorney taken in connection with the financing of an insurance premium, ~~such person,~~  
13 ~~firm or corporation that person~~ shall comply with ~~the requirements of~~ G.S. 58-35-85, as  
14 if ~~it were that person were~~ an insurance premium financing company."

15 **SECTION 36.** G.S. 58-36-1(5)a. reads as rewritten:

16 "(5) a. It is the duty of every insurer that writes workers' compensation  
17 insurance in this State and is a member of the Bureau, as  
18 defined in this section and G.S. 58-36-5 to insure and accept  
19 any workers' compensation insurance risk that has been  
20 certified to be "difficult to place" by any ~~fire and casualty~~  
21 property and liability insurance agent who is licensed in this  
22 State. When any such risk is called to the attention of the  
23 Bureau by receipt of an application with an estimated or deposit  
24 premium payment and it appears that the risk is in good faith  
25 entitled to such coverage, the Bureau will bind coverage for 30  
26 days and will designate a member who must issue a standard  
27 workers' compensation policy of insurance that contains the  
28 usual and customary provisions found in those policies.  
29 Multiple coordinated policies, as defined by the Bureau and  
30 approved by the Commissioner, may be used for the issuance of  
31 coverage under this subdivision for risks involved in employee  
32 leasing arrangements. Coverage will be bound at 12:01 A.M. on  
33 the first day following the postmark time and date on the  
34 envelope in which the application is mailed including the  
35 estimated annual or deposit premium, or the expiration of  
36 existing coverage, whichever is later. If there should be no  
37 postmark, coverage will be effective 12:01 A.M. on the date of  
38 receipt by the Bureau unless a later date is requested. Those  
39 applications hand delivered to the Bureau will be effective as of  
40 12:01 A.M. of the date following receipt by the Bureau unless a  
41 later date is requested. The Bureau will make and adopt such  
42 rules as are necessary to carry this section into effect, subject to  
43 final approval of the Commissioner. As a prerequisite to the  
44 transaction of workers' compensation insurance in this State,

1 every member of the Bureau that writes ~~such workers'~~  
2 compensation insurance ~~must~~ shall file with the Bureau written  
3 authority permitting the Bureau to act in its behalf, as provided  
4 in this section, and an agreement to accept risks that are  
5 assigned to the member by the Bureau, as provided in this  
6 section."

7 **SECTION 37.** G.S. 58-37-35(d) reads as rewritten:

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

38 **SECTION 38.** G.S. 58-37-35(g)(6) reads as rewritten:

39 "(6) Upon the request of any licensed ~~fire and easualty-property and~~  
40 liability agent meeting any two of the standards set forth below as  
41 determined by the Commissioner within 10 days of the receipt of the  
42 application, the Facility shall contract with one or more members  
43 within 20 days of receipt of the determination to appoint ~~such the~~  
44 licensed ~~fire and easualty-property and liability~~ agent as designated

1 agents in accordance with reasonable rules as are established by the  
2 plan of operation. The standards shall be:

- 3 a. Whether the agent's evidence establishes that he has been  
4 conducting his business in a community for a period of at least  
5 one year;
- 6 b. Whether the agent's evidence establishes that he had a gross  
7 premium volume during the 13 months next preceding the date  
8 of his application of at least twenty thousand dollars (\$20,000)  
9 from motor vehicle insurance;
- 10 c. Whether the agent's evidence establishes that the number of  
11 eligible risks served by him during the 13 months next  
12 preceding the date of application was 200 or more;
- 13 d. Whether the agent's evidence establishes a growth in eligible  
14 risks served and premium volume during his years of service as  
15 an agent;
- 16 e. Whether the agent's evidence establishes that he made available  
17 to eligible risks premium financing or any other plan for  
18 deferred payment of premiums.

19 With respect to business produced by designated agents, adequate  
20 provision shall be made by the Facility to assure that such business is  
21 rated using Facility rates. All business produced by designated agents  
22 may be ceded to the Facility, except designated agents appointed  
23 before September 1, 1987, may place liability insurance policies with a  
24 voluntary carrier, provided that all policies written by the voluntary  
25 carrier are retained by the voluntary carrier unless ceded to the Facility  
26 using Facility rates. Designated agents must provide the Facility with a  
27 list of such policies written by the voluntary carrier at least annually,  
28 or as requested by the Facility, on a form approved by the Facility. If  
29 no insurer is willing to contract with any such agent on terms  
30 acceptable to the Board, the Facility shall license such agent to write  
31 directly on behalf of the Facility. However, for this purpose the  
32 Facility does not act as an insurer, but acts only as the statutory agent  
33 of all of the members of the Facility, which shall be bound on risks  
34 written by the Facility's appointed agent. The Facility may contract  
35 with one or more servicing carriers and shall promulgate fair and  
36 reasonable underwriting procedures to require that business produced  
37 by Facility agents and written through those servicing carriers shall be  
38 rated using Facility rates. All business produced by Facility agents  
39 may be ceded to the Facility. Any designated agent who is disabled or  
40 retiring or the estate of any deceased designated agent may transfer the  
41 designation and the book of business to some other licensed fire and  
42 casualty agent meeting the requirements of this section and under rules  
43 established by the Facility, and a transfer from a designated agent  
44 appointed before September 1, 1987, shall entitle the transferee

1 designated agent to place liability insurance policies with a voluntary  
2 carrier.

3 The Commissioner shall require, as a condition precedent to the  
4 issuance, renewal, or continuation of a resident agent's license to any  
5 designated agent to act for the company appointing such designated  
6 agent under contract with the Facility, that the designated agent file  
7 and thereafter maintain in force while so licensed a bond in favor of  
8 the State of North Carolina executed by an authorized corporate surety  
9 approved by the Commissioner, cash, mortgage on real property, or  
10 other securities approved by the Commissioner, in the amount of ten  
11 thousand dollars (\$10,000) for the use of aggrieved persons. Such  
12 bond, cash, mortgage, or other securities shall be conditioned on the  
13 accounting by the designated agent (i) to any person requesting the  
14 designated agent to obtain motor vehicle insurance for moneys or  
15 premiums collected in connection therewith, and (ii) to the company  
16 providing coverage with respect to any such moneys or premiums  
17 under contract with the Facility. Any such bond shall remain in force  
18 until the surety is released from liability by the Commissioner, or until  
19 the bond is cancelled by the surety. Without prejudice to any liability  
20 accrued prior to such cancellation, the surety may cancel the bond  
21 upon 30 days' advance notice in writing filed with the Commissioner.

22 No agent may be designated under this subdivision to any insurer  
23 that does not actively write voluntary market business."

24 **SECTION 39.** G.S. 58-48-30(a) reads as rewritten:

25 "(a) The board of directors of the Association shall consist of not less than five  
26 nor more than nine persons serving terms as established in the plan of operation. One  
27 non-voting member of the board shall be a property and ~~casualty~~-liability insurance  
28 agent authorized to write insurance for a member insurer, and appointed by the  
29 Commissioner; and the remaining members shall be selected by member insurers  
30 subject to the approval of the Commissioner. Vacancies of the board shall be filled for  
31 the remaining period of the term in the same manner as initial appointments. If no  
32 members are selected within 60 days after June 25, 1971, the Commissioner may  
33 appoint the initial members of the board of directors."

34 **SECTION 40.** G.S. 58-36-15(e) reads as rewritten:

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

- 36 (1) The Bureau's interpretation of any statistical data relied upon;
- 37 (2) Descriptions of the methods employed in setting the rates;
- 38 (3) Analysis of the incurred losses submitted on an accident year or policy  
39 year basis into their component parts; to wit, paid losses, reserves for  
40 losses and loss expenses, and reserves for losses incurred but not  
41 reported;
- 42 (4) The total number and dollar amount of paid claims;
- 43 (5) The total number and dollar amount of case basis reserve claims;
- 44 (6) Earned and written premiums at current rates by rating territory;

- 1           (7) Earned premiums and incurred losses according to classification plan  
2           categories; and  
3           (8) Income from investment of unearned premiums and loss and loss  
4           expense reserves generated by business within this State.

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

8           **SECTION 41.** G.S. 153A-435(a) reads as rewritten:

9           "(a) A county may contract to insure itself and any of its officers, agents, or  
10 employees against liability for wrongful death or negligent or intentional damage to  
11 person or property or against absolute liability for damage to person or property caused  
12 by an act or omission of the county or of any of its officers, agents, or employees when  
13 acting within the scope of their authority and the course of their employment. The board  
14 of commissioners shall determine what liabilities and what officers, agents, and  
15 employees shall be covered by any insurance purchased pursuant to this subsection.

16           Purchase of insurance pursuant to this subsection waives the county's governmental  
17 immunity, to the extent of insurance coverage, for an act or omission occurring in the  
18 exercise of a governmental function. Participation in a local government risk pool  
19 pursuant to Article ~~39\_23~~ of ~~General Statute Chapter 58~~ Chapter 58 of the General  
20 Statutes shall be deemed to be the purchase of insurance for the purposes of this section.  
21 By entering into an insurance contract with the county, an insurer waives any defense  
22 based upon the governmental immunity of the county.

23           **SECTION 42.** This act is effective when it becomes law.