

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 647  
Insurance Committee Substitute Adopted 6/7/11

Short Title: Mutual Insurance Holding Companies.

(Public)

Sponsors:

Referred to:

April 19, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE CREATION OF MUTUAL INSURANCE HOLDING  
3 COMPANIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 10 of Chapter 58 of the General Statutes is amended by  
6 adding a new Part to read:

7 "Part 8. Mutual Insurance Holding Companies.

8 "§ 58-10-275. Definitions.

9 The following definitions apply in this Part:

- 10 (1) Affiliated. – Defined in G.S. 58-19-5.  
11 (2) Control. – Defined in G.S. 58-19-5.  
12 (3) Domestic mutual insurance company. – An insurance company organized on  
13 a mutual plan and incorporated under the laws of North Carolina.  
14 (4) Interested person. – With respect to another person, includes any of the  
15 following:  
16 a. Any affiliated person.  
17 b. Any member of the immediate family of any natural person who is  
18 an affiliated person of such company.  
19 c. Any person or partner or employee of any person who at any time  
20 since the beginning of the last two completed fiscal years of such  
21 company has acted as legal counsel for such company.  
22 d. Any natural person whom the Commissioner by order shall have  
23 determined to be an interested person by reason of having had, at any  
24 time since the beginning of the last two completed fiscal years of  
25 such company, a material business or professional relationship with  
26 such company or with the principal executive officer of such  
27 company.  
28 (5) Intermediate holding company. – A holding company that is a subsidiary of  
29 a mutual insurance holding company or part of a holding company system  
30 controlled by a mutual insurance holding company subject to the terms and  
31 conditions of Article 19 of this Chapter and that either directly or through a  
32 subsidiary intermediate holding company has one or more subsidiary  
33 reorganized insurance companies of which a majority of the voting shares of  
34 the capital stock would otherwise have been required by this section to be at  
35 all times owned by the mutual insurance holding company.



- 1           (6) Limited application. – An application by a domestic mutual insurance  
2 company for reorganization to a mutual insurance holding company which  
3 will hold, at all times, one hundred percent (100%) of the stock of its  
4 insurance subsidiaries.
- 5           (7) Majority of the voting shares of the capital stock of the reorganized  
6 insurance company. – Shares of the capital stock of a reorganized insurance  
7 company which carry the right to cast a majority of the votes entitled to be  
8 cast by all of the outstanding shares of the capital stock of the reorganized  
9 insurance company for the election of directors and on all other matters  
10 submitted to a vote of the shareholders of the reorganized insurance  
11 company.
- 12           (8) Member of the immediate family. – Any parent, spouse of a parent, child,  
13 spouse of a child, spouse, brother, or sister, including step and adoptive  
14 relationships.
- 15           (9) Mutual insurance holding company. – A holding company organized on a  
16 mutual plan and incorporated under the laws of North Carolina, resulting  
17 from the reorganization of a domestic mutual insurance company pursuant to  
18 this Part, with one or more stock insurance holding company subsidiaries or  
19 stock insurance company subsidiaries.
- 20           (10) Plan of reorganization. – A plan to reorganize a domestic mutual insurance  
21 company by forming a mutual insurance holding company.
- 22           (11) Standard application. – An application by a domestic mutual insurance  
23 company for reorganization to a mutual insurance holding company which  
24 may sell interests in its subsidiaries to third parties.
- 25           (12) Stock. – Any security evidencing an equity interest in the issuing entity.
- 26           (13) Stock offering. – Any proposed sale, exchange, transfer, or other change of  
27 ownership of stock or of securities convertible into or exchangeable or  
28 exercisable for stock. For the purposes of this Article, "stock offering" shall  
29 not include any of the following:
- 30           a. An offering of preferred stock which is not convertible or  
31 exchangeable into common stock and which has no ordinary voting  
32 rights.
- 33           b. A transfer of stock among any of the following:
- 34               1. A mutual insurance holding company.
- 35               2. An insurance company subsidiary of a mutual insurance  
36 holding company.
- 37               3. An intermediate holding company subsidiary of a mutual  
38 insurance holding company.
- 39               4. An insurance company subsidiary of an intermediate holding  
40 company subsidiary to a mutual insurance holding company.
- 41           (14) Subsidiary. – Defined in G.S. 58-19-5.

42 **"§ 58-10-280. General provisions.**

43           (a) A domestic mutual insurance company, upon approval of the Commissioner, may  
44 reorganize by forming an insurance holding company based upon a mutual plan and by  
45 continuing the corporate existence of the reorganizing insurance company as a stock insurance  
46 company. If the Commissioner, after a public comment period as provided in G.S. 58-10-285,  
47 or, if applicable, a public hearing, is satisfied that the interests of the policyholders are properly  
48 protected and that the plan of reorganization is fair and equitable to the policyholders, the  
49 Commissioner may approve the proposed plan of reorganization and may require as a condition  
50 of approval such modifications of the proposed plan of reorganization as the Commissioner  
51 finds necessary for the protection of the policyholders' interests. The Commissioner may retain

1 consultants as provided in G.S. 58-10-285 to assist in the review of the proposed plan. The  
2 Commissioner shall retain jurisdiction over a mutual insurance holding company organized  
3 under this Part to assure that policyholder interests are protected. All of the initial shares of the  
4 capital stock of the reorganized insurance company shall be issued to the mutual insurance  
5 holding company. The membership interests of the policyholders of the reorganized insurance  
6 company shall become membership interests in the mutual insurance holding company,  
7 pursuant to the terms and conditions of the plan of reorganization approved by the  
8 Commissioner. Policyholders of the reorganized insurance company shall be members of the  
9 mutual insurance holding company in accordance with the articles of incorporation and bylaws  
10 of the mutual insurance holding company. The mutual insurance holding company shall at all  
11 times own a majority of the voting shares of the capital stock of the reorganized insurance  
12 company.

13 (b) A domestic mutual insurance company, after approval by the Commissioner, may  
14 reorganize by merging its policyholders' membership interests into a mutual insurance holding  
15 company formed under subsection (a) of this section and continuing the corporate existence of  
16 the reorganizing insurance company as a stock insurance company subsidiary of the mutual  
17 insurance holding company. If the Commissioner is satisfied that the interests of the  
18 policyholders are properly protected and that the merger of interests is fair and equitable to the  
19 policyholders, the Commissioner may approve the proposed merger of interests and may  
20 require as a condition of approval such modifications of the proposed merger of interests as the  
21 Commissioner finds necessary for the protection of the policyholders' interests. The  
22 Commissioner may retain consultants as provided in G.S. 58-10-285. The Commissioner has  
23 jurisdiction over the mutual insurance holding company organized under this Part to assure that  
24 policyholder interests are protected. All of the initial shares of the capital stock of the  
25 reorganized insurance company shall be issued to the mutual insurance holding company. The  
26 membership interests of the policyholders of the reorganized insurance company shall, pursuant  
27 to the terms and conditions of the plan of reorganization approved by the Commissioner,  
28 become membership interests in the mutual insurance holding company. Policyholders of the  
29 reorganized insurance company shall be members of the mutual insurance holding company in  
30 accordance with subsection (a) of this section and the articles of incorporation and bylaws of  
31 the mutual insurance holding company. The mutual insurance holding company shall at all  
32 times own a majority of the voting shares of the capital stock of the reorganized insurance  
33 company.

34 (c) A mutual insurance holding company resulting from the reorganization of a  
35 domestic mutual insurance company that was organized under Articles 7 and 8 and other  
36 applicable provisions of this Chapter shall be incorporated under this Chapter. The articles of  
37 incorporation and any amendments to such articles of the mutual insurance holding company  
38 shall be subject to approval of the Commissioner in the same manner as those of a mutual  
39 insurance company.

40 (d) A mutual insurance holding company is an insurer subject to Article 30 of this  
41 Chapter and shall automatically be a party to any proceeding under Article 30 of this Chapter  
42 involving an insurance company which, as a result of a reorganization under subsection (a) or  
43 (b) of this section, is a subsidiary of the mutual insurance holding company. In any proceeding  
44 under Article 30 of this Chapter involving the reorganized insurance company, the assets of the  
45 mutual insurance holding company are deemed to be assets of the estate of the reorganized  
46 insurance company for purposes of satisfying the claims of the reorganized insurance  
47 company's policyholders. A mutual insurance holding company shall not dissolve or liquidate  
48 without the approval of the Commissioner or as ordered by the court pursuant to Article 30 of  
49 this Chapter.

50 (e) G.S. 58-10-10 and G.S. 58-10-12 are not applicable to a reorganization or merger of  
51 interests under this Part. G.S. 58-10-10 and G.S. 58-10-12 are applicable to demutualization of

1 a mutual insurance holding company that resulted from the reorganization of a domestic mutual  
2 insurance company organized under this Chapter as if the mutual insurance holding company  
3 was a mutual insurance company.

4 (f) A membership interest in a domestic mutual insurance holding company shall not  
5 constitute a security as defined in Chapter 78A of the General Statutes.

6 (g) The majority of the voting shares of the capital stock of the reorganized insurance  
7 company, which is required by this section to be at all times owned by a mutual insurance  
8 holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security  
9 interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance  
10 holding company or intermediate holding company. Any conveyance, transfer, assignment,  
11 pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in, or on the  
12 majority of the voting shares of the reorganized insurance company is a violation of this section  
13 and shall be void in inverse chronological order of the date of such conveyance, transfer,  
14 assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to  
15 the shares necessary to constitute a majority of such voting shares. The majority of the voting  
16 shares of the capital stock of the reorganized insurance company shall not be subject to  
17 execution and levy as provided in Chapter 1 of the General Statutes. The shares of the capital  
18 stock of the surviving or new company resulting from a merger or consolidation of two or more  
19 reorganized insurance companies or two or more intermediate holding companies that were  
20 subsidiaries of the same mutual insurance holding company are subject to the same  
21 requirements, restrictions, and limitations to which the shares of the merging or consolidating  
22 reorganized insurance companies or intermediate holding companies were subject by this  
23 section prior to the merger or consolidation. The ownership of a majority of the voting shares  
24 of the capital stock of the reorganized insurance company that are required by this section to be  
25 at all times owned by a parent mutual insurance holding company includes indirect ownership  
26 through one or more intermediate holding companies in a corporate structure approved by the  
27 Commissioner. However, indirect ownership through one or more intermediate holding  
28 companies shall not result in the mutual insurance holding company owning less than the  
29 equivalent of a majority of the voting shares of the capital stock of the reorganized insurance  
30 company. The Commissioner shall have jurisdiction over an intermediate holding company as  
31 if it were a mutual insurance holding company.

32 (h) The applicant's articles of incorporation or bylaws, as appropriate, shall require a  
33 policyholder vote of approval of the reorganization by a two-thirds majority of the domestic  
34 mutual insurance company's policyholders voting on it in person, by proxy, or by mail at a  
35 meeting called for the purpose of voting on the reorganization.

36 **"§ 58-10-285. Application; contents; process.**

37 (a) An application shall be designated as either a limited application or a standard  
38 application. The filing of a limited application shall not preclude the subsequent filing of an  
39 application for approval of an initial sale of stock as provided in G.S. 58-10-315.

40 (b) The application shall be filed in triplicate with the Commissioner and shall include  
41 the following items:

42 (1) Designation as a limited or standard application.

43 (2) A plan of reorganization as set forth in G.S. 58-10-290.

44 (3) A plan to obtain the approval of the policyholders in accordance with this  
45 Part and the applicant's articles of incorporation and bylaws.

46 (4) A copy of the mutual insurance holding company's proposed articles of  
47 incorporation and bylaws specifying all membership rights.

48 (5) The names, addresses, and occupational information of all corporate officers  
49 and members of the initial mutual insurance holding company board of  
50 directors.

- 1           (6) Information sufficient to demonstrate that the financial condition of the  
2           applicant will not be diminished upon reorganization.  
3           (7) A copy of the proposed articles of incorporation and bylaws for any  
4           insurance company subsidiary or intermediate holding company subsidiary.  
5           (8) A "Form A" filing as described in Chapter 11 of Title 11 of the North  
6           Carolina Administrative Code.  
7           (9) A statement that the application is in compliance with all pertinent North  
8           Carolina General Statutes and Administrative Rules and that the  
9           requirements for a plan of reorganization have been fulfilled.  
10          (10) An index demonstrating wherein the application information supplied in  
11          compliance with this subsection is found.  
12          (11) The applicable fee required by subsection (f) of this section.  
13          (12) Any other information requested by the Commissioner at any time during  
14          the course of proceedings.

15          (c) Upon receipt and review by the Commissioner of all information provided pursuant  
16 to subsection (b) of this section, the Commissioner may establish a period during which the  
17 Department will receive and consider public comments on the proposed reorganization. The  
18 Commissioner may inform the public of the limited or standard application in a manner deemed  
19 appropriate by the Commissioner and may hold a public hearing concerning the application.

20          (d) The Commissioner may contract, at the expense of the person filing the application,  
21 with any attorneys, actuaries, economists, accountants, consultants, or other professional  
22 advisors not otherwise a part of the Commissioner's staff to assist the Commissioner in  
23 reviewing the application. These contracts are personal professional service contracts exempt  
24 from Articles 3 and 3C of Chapter 143 of the General Statutes.

25          (e) The expenses of mailing any notices and other materials required by this section  
26 shall be borne by the person filing the application.

27          (f) An applicant filing a limited application under this section shall submit with the  
28 application under subsection (b) of this section an application fee of two hundred fifty dollars  
29 (\$250.00). An applicant filing a standard application under this section shall submit with the  
30 application under subsection (b) of this section an application fee of five hundred dollars  
31 (\$500.00).

32 **"§ 58-10-290. Plan of reorganization.**

33          (a) A limited application plan of reorganization shall include the following provisions:

- 34           (1) Establishing a mutual insurance holding company with at least one stock  
35           insurance company subsidiary or one intermediary stock holding company  
36           with a stock insurance company subsidiary, the shares of which shall be held  
37           exclusively by the mutual insurance holding company.  
38           (2) Protecting the interests of existing policyholders.  
39           (3) Ensuring immediate membership in the mutual insurance holding company  
40           of all existing policyholders of the reorganizing domestic mutual insurance  
41           company.  
42           (4) Describing a plan providing for membership interests of future  
43           policyholders.  
44           (5) Describing the number of members of the board of directors of the mutual  
45           insurance holding company required to be policyholders.  
46           (6) Demonstrating that, in the event of proceedings under Article 30 of this  
47           Chapter involving a stock insurance company subsidiary of the mutual  
48           insurance holding company which resulted from the reorganization of a  
49           domestic mutual insurance company, the assets of the mutual insurance  
50           holding company will be available to satisfy the policyholder obligations of  
51           the stock insurance company.

- 1           (7)    Describing how any accumulation or prospective accumulation of earnings  
2           by the mutual insurance holding company in excess of that determined by  
3           the board of directors of the mutual insurance holding company to be  
4           necessary shall inure to the exclusive benefit of the policyholders of its  
5           insurance company subsidiaries who are members.  
6           (8)    Describing the nature and content of the annual report and financial  
7           statement to be sent to each member.  
8           (9)    Describing any other relevant matters the applicant deems appropriate.  
9       (b)    A standard application plan of reorganization shall include the following provisions:  
10          (1)   Establishing a mutual insurance holding company with at least one stock  
11          insurance company subsidiary or one wholly owned intermediate stock  
12          holding company with a stock insurance company subsidiary, the shares of  
13          which shall be held exclusively by the wholly owned intermediate holding  
14          company.  
15          (2)   Protecting the interests of existing policyholders.  
16          (3)   Ensuring immediate membership in the mutual insurance holding company  
17          of all existing policyholders of the reorganizing domestic mutual insurance  
18          company.  
19          (4)   Providing for membership interests of future policyholders.  
20          (5)   Describing the number of members of the board of directors of the mutual  
21          insurance holding company required to be policyholders.  
22          (6)   Demonstrating that, in the event of proceedings under Article 30 of this  
23          Chapter involving a stock insurance company subsidiary of the mutual  
24          insurance holding company which resulted from the reorganization of a  
25          domestic mutual insurance company, the assets of the mutual insurance  
26          holding company will be available to satisfy the policyholder obligations of  
27          the stock insurance company.  
28          (7)   Describing how any accumulation or prospective accumulation of earnings  
29          by the mutual insurance holding company in excess of that determined by  
30          the board of directors of the mutual insurance holding company to be  
31          necessary shall inure to the exclusive benefit of the policyholders of its  
32          insurance company subsidiaries who are members.  
33          (8)   Describing the nature and content of the annual report and financial  
34          statement to be sent to each member.  
35          (9)   Describing the applicant's plan for a stock offering in accordance with the  
36          provisions of G.S. 58-10-315.  
37          (10)  Describing any other relevant matters the applicant deems appropriate.  
38       (c)    With regard to either a limited or standard application, the plan of reorganization  
39       submitted to the Commissioner shall demonstrate the following:  
40          (1)   Policyholder interests are properly preserved and protected.  
41          (2)   The plan is fair and equitable to policyholders.  
42          (3)   The financial condition of the applicant will not be diminished.

43       **"§ 58-10-295. Powers of the Commissioner.**

44       (a)    The Commissioner shall at all times retain jurisdiction over the mutual insurance  
45       holding company, its intermediate holding company subsidiaries with stock insurance company  
46       subsidiaries, and its stock insurance company subsidiaries.

47       (b)    Following any public comment period or hearing pursuant to G.S. 58-10-285, the  
48       Commissioner by order shall approve, conditionally approve, or deny an application. The  
49       Commissioner may require, as a condition of approval of the proposed reorganization,  
50       modifications of the proposed plan of reorganization that the Commissioner finds necessary.  
51       The applicant shall accept the required modifications by filing appropriate amendments to the

1 proposed plan of reorganization with the Commissioner within 30 days of the date of the  
2 Commissioner's order requiring the modifications. If the applicant does not accept the required  
3 modifications by failing to file the required amendments to the proposed plan of reorganization  
4 within 30 days, the proposed reorganization shall be deemed denied.

5 (c) An approval or conditional approval of a plan of reorganization shall expire if the  
6 reorganization is not completed within 210 days after the approval or conditional approval  
7 unless the time period is extended by the Commissioner upon a showing of good cause.

8 (d) The Commissioner may revoke approval or conditional approval of an applicant's  
9 plan of reorganization in the event the Commissioner finds the applicant has failed to comply  
10 with the plan of reorganization. The Commissioner may compel completion of a plan of  
11 reorganization unless the plan is abandoned in its entirety, in accordance with the applicant's  
12 provisions for governance.

13 (e) Upon completion of all elements of a plan of reorganization, the applicant shall  
14 provide a notice of completion to the Commissioner.

15 **"§ 58-10-300. Special financial requirements.**

16 (a) Mutual insurance holding companies and their insurance company subsidiaries and  
17 affiliates shall comply with the provisions of Article 19 of this Chapter except as expressly  
18 provided in this Part. Mutual insurance holding companies' investments in subsidiaries,  
19 including intermediate holding companies, shall not be subject to any of the restrictions on  
20 investment activities set forth in G.S. 58-19-10.

21 (b) When a mutual insurance holding company acquires or plans to acquire more than  
22 fifty percent (50%) of a stock insurance company, the mutual insurance holding company shall  
23 submit to the Commissioner a plan describing any membership interests of policyholders.

24 (c) Each mutual insurance holding company shall supply to the Commissioner, by April  
25 1 of each year, an annual statement consisting of the following:

26 (1) An income statement.

27 (2) A balance sheet.

28 (3) A cash flow statement.

29 (4) Complete information on the status of any closed block formed as a part of a  
30 plan of reorganization.

31 (5) An investment plan covering all assets.

32 (6) A statement disclosing any intention to pledge, borrow against, alienate,  
33 hypothecate, or in any way encumber the assets of the mutual insurance  
34 holding company.

35 (d) At least fifty percent (50%) of the net worth of the mutual insurance holding  
36 company, based upon generally accepted accounting practices, shall be invested in insurance  
37 company subsidiaries. The Commissioner may waive the fifty percent (50%) limitation upon a  
38 showing of good cause.

39 (e) No policyholder who is a member of a mutual insurance holding company shall  
40 receive on account of such membership interest any payment of a policy credit, dividend, or  
41 other distribution unless the payment has been approved by the Commissioner. The  
42 Commissioner, if satisfied the proposed payment is fair and equitable to policyholders who are  
43 members, may approve the proposed payment and may require as a condition of the approval  
44 modification of the proposed payment that the Commissioner finds necessary for the protection  
45 of the policyholders.

46 (f) Mutual insurance holding companies shall comply with Part 3 of this Article and  
47 shall be considered a domestic insurer for the purposes of compliance with Part 3.

48 **"§ 58-10-305. Reorganization of domestic mutual insurer with mutual insurance holding**  
49 **company.**

50 A domestic mutual insurance company may apply to reorganize by merging its  
51 policyholders' membership interests into a mutual insurance holding company by filing with the

1 Commissioner a joint application with the mutual insurance holding company complying with  
2 the provisions of G.S. 58-10-285.

3 **"§ 58-10-310. Mergers of mutual insurance holding companies.**

4 A mutual insurance holding company may apply to merge with another mutual insurance  
5 holding company by filing with the Commissioner a plan of merger and complying with the  
6 provisions of Article 19 of this Chapter.

7 **"§ 58-10-315. Stock offerings.**

8 (a) No stock offering by a mutual insurance holding company, an insurance company  
9 subsidiary of a mutual insurance holding company, an intermediate holding company  
10 subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an  
11 intermediate holding company subsidiary to a mutual insurance holding company shall occur  
12 without the prior approval of the Commissioner.

13 (b) Every application for approval of a stock offering shall contain the following  
14 information:

15 (1) A description of the stock intended to be offered by the applicant, including  
16 a description of all shareholder rights.

17 (2) The total number of shares authorized to be issued, the estimated number the  
18 applicant requests permission to offer, and the intended date or range of  
19 dates for the offer.

20 (3) A justification for a uniform planned offering price or a justification of the  
21 method by which the offering price will be determined.

22 (4) The name or names of any underwriter, syndicate member, or placement  
23 agent involved and, if known, the name or names of each entity, person, or  
24 group of persons to whom the stock offering is to be made who will control  
25 five percent (5%) of the total outstanding class of shares, and the manner in  
26 which the offer is to be tendered. If any such entity or person is a corporation  
27 or business organization, the name of each member of its board of directors  
28 or equivalent management team shall be provided along with the name of  
29 each member of the board of directors of the offeror. Copies of any filings  
30 with the United States Securities and Exchange Commission disclosing  
31 intended acquisitions of the stock shall be included in the application.

32 (5) A description of stock subscription rights to be afforded members of the  
33 mutual insurance holding company in conjunction with the stock offering.

34 (6) A detailed description of all expenses to be incurred in conjunction with the  
35 stock offering.

36 (7) An explanation of how funds raised by the stock offering are to be used.

37 (8) Any other information requested by the Commissioner.

38 (c) No application regarding a planned stock offering shall be approved unless the plan  
39 contains the following provisions:

40 (1) Prohibiting officers, directors, and insiders of the mutual insurance holding  
41 company and its subsidiaries and affiliates from purchase or ownership of  
42 shares of the stock offering, or issuance of stock options to or for the benefit  
43 of such officers, directors, and insiders, in excess of five percent (5%) of the  
44 stock offering. The Commissioner may waive this requirement upon a  
45 showing of good cause. This subdivision does not limit the rights of officers,  
46 directors, and insiders from exercising subscription rights that are generally  
47 accorded members of the mutual insurance holding company. However,  
48 pursuant to those subscription rights, the officers, directors, and insiders of  
49 the mutual insurance holding company and its subsidiaries and affiliates may  
50 not purchase or own, in the aggregate, more than five percent (5%) of the  
51 stock offering.



- 1           (2)   Requiring that, after the initial stock offering, a majority of the board of  
2           directors of the mutual insurance holding company be persons who are not  
3           interested persons of the mutual insurance holding company or of an  
4           affiliated person of the company. For purposes of this subdivision, a member  
5           of the mutual insurance holding company or a policyholder of any of its  
6           insurance company subsidiaries shall not be considered an "interested  
7           person" or an "affiliated person." The Commissioner may waive this  
8           requirement upon a showing of good cause.
- 9           (3)   For the mutual insurance holding company to adopt articles of incorporation  
10          prohibiting any waiver of dividends from stock subsidiaries except under  
11          conditions specified in its articles of incorporation and after approval of the  
12          waiver by the board of directors of the mutual insurance holding company  
13          and the Commissioner.
- 14          (4)   Requiring that, after the initial stock offering by an insurance company  
15          subsidiary of a mutual insurance holding company, an intermediate holding  
16          company subsidiary of a mutual insurance holding company, or an insurance  
17          company subsidiary of an intermediate holding company subsidiary of a  
18          mutual insurance holding company, the boards of directors of each insurance  
19          company or intermediate holding company include at least three directors  
20          who are not interested persons of the mutual insurance holding company.  
21          The Commissioner may waive this requirement upon a showing of good  
22          cause.
- 23          (5)   Establishing, within the board of directors of the corporation offering stock,  
24          a pricing committee consisting exclusively of directors who are not members  
25          of management of the insurance company subsidiary whose responsibility is  
26          to evaluate and approve the price of any stock offering.
- 27          (d)   An insurance company subsidiary of a mutual insurance holding company, an  
28          intermediate holding company subsidiary of a mutual insurance holding company, or an  
29          insurance company subsidiary of an intermediate holding company subsidiary to a mutual  
30          insurance holding company may issue more than one class of stock, provided, however, that the  
31          issuer complies with all of the following requirements:
- 32                  (1)   At all times a majority of the voting stock is held by the mutual insurance  
33                  holding company or its subsidiary.
- 34                  (2)   No class of common stock may possess greater dividend or other rights than  
35                  the class held by the mutual insurance holding company or its subsidiary.
- 36          (e)   The Commissioner may retain, at the expense of the person filing the application,  
37          any attorneys, actuaries, economists, accountants, consultants, or other professional advisors  
38          not otherwise a part of the Commissioner's staff to assist the Commissioner in reviewing the  
39          application. These contracts are personal professional service contracts exempt from Articles 3  
40          and 3C of Chapter 143 of the General Statutes.
- 41          (f)   The expenses of mailing any notices and other materials required by this section  
42          shall be borne by the person filing the application.
- 43          (g)   Upon receipt and review by the Commissioner of all information provided under  
44          this section, the Commissioner may establish a period during which the Department will  
45          receive and consider public comments about the proposed offering. The Commissioner shall  
46          inform the public of the offering by posting information about the application in a manner  
47          deemed appropriate by the Commissioner. The Commissioner may hold a public hearing  
48          concerning the application or the proposed offering. Following any public comment period or  
49          hearing, if applicable, the Commissioner may approve, conditionally approve, or deny the  
50          application. The Commissioner may approve the application if the following apply:
- 51                  (1)   The offering complies with this Part and other provisions of law.

- 1           (2)   The method for establishing the price of a stock offering is consistent with  
2           generally accepted market or industry practices for establishing stock  
3           offering prices in similar transactions.  
4           (3)   The plan and offering will not unfairly impact the interests of members of  
5           the mutual insurance holding company.

6           Nothing in this subsection shall be deemed to prohibit the filing of a registration statement  
7           with the United States Securities and Exchange Commission before or concurrently with the  
8           giving of notice to members.

9           (h)   Notwithstanding the provisions of subsections (a) through (g) of this section, stock  
10          offerings which are not an initial stock offering, and which are proposed by entities with a class  
11          of securities regularly traded on the New York Stock Exchange, the American Stock Exchange,  
12          or another exchange approved by the Commissioner, or designated on the National Association  
13          of Securities Dealers Automated Quotations national market system (NASDAQ), may be sold  
14          in accordance with the following procedure: if a mutual insurance holding company, an  
15          insurance company subsidiary of a mutual insurance holding company, an intermediate holding  
16          company, or an insurance company subsidiary of an intermediate holding company intends to  
17          make a stock offering which would be governed by the provisions of this subsection, that entity  
18          shall deliver to the Commissioner, not less than 60 days prior to the offering, a notice of the  
19          planned stock offering and all of the following information:

- 20           (1)   The total number of shares intended to be offered.  
21           (2)   The intended date of sale.  
22           (3)   Evidence the stock is regularly traded on one of the public exchanges  
23           specified in this subsection.  
24           (4)   A record of the trading price and trading volume of the stock during the prior  
25           52 weeks.

26          The Commissioner shall be deemed to have approved the sale unless, within 60 days  
27          following receipt of such notice, the Commissioner issues an objection to the sale. If the  
28          Commissioner issues an objection to the sale, the application process set forth in subsections  
29          (a) through (g) of this section shall be followed to determine whether the Commissioner  
30          approves of the proposed sale.

31          (i)   Approval of a stock offering obtained under either subsection (g) or (h) of this  
32          section shall expire 120 days following the date of the approval or deemed approval, except as  
33          otherwise provided by order of the Commissioner.

34          (j)   No prospectus, information, sales material, or sales presentation by the applicant, or  
35          by any representative, agent, or affiliate of the applicant, shall contain a representation that the  
36          Commissioner has endorsed the price, price range, or any other information relating to the  
37          stock.

38          (k)   No company making a stock offering under this section shall engage in any of the  
39          following practices:

- 40           (1)   Borrow funds from the mutual insurance holding company, or its  
41           subsidiaries and affiliates, to finance the purchase of any portion of a stock  
42           offering.  
43           (2)   Pay any commissions, "special fees," or any other special payments or  
44           extraordinary compensation to officers, directors, interested persons, and  
45           affiliates for arranging, promoting, aiding, or assisting in reorganization to a  
46           mutual insurance holding company or for arranging, promoting, aiding,  
47           assisting, or participating in the structuring and placement of a stock  
48           offering.  
49           (3)   Enter into an understanding or agreement transferring legal or beneficial  
50           ownership of stock to another person to avoid the requirements of this Part.

51          **"§ 58-10-320. Regulation of holding company system.**

1       (a) All material transactions, as that term is defined under Part 3 of this Article,  
2 between or among subsidiaries and affiliates of the mutual insurance holding company, must,  
3 after review and exercise of director duties by the directors of the mutual insurance holding  
4 company, be approved by a majority of the directors of the mutual insurance holding company  
5 as being fair and reasonable.

6       (b) If the Commissioner determines that activities within a mutual insurance holding  
7 company system have violated provisions of the General Statutes of North Carolina or the  
8 North Carolina Administrative Code or acted to circumvent requirements or prohibitions  
9 contained in the General Statutes or Administrative Code, the Commissioner may prohibit or  
10 order rescission of any transaction relating to those activities.

11 **"§ 58-10-325. Reporting of stock ownership and transactions.**

12       (a) Any director or officer of a mutual insurance holding company, its subsidiary, or  
13 affiliate, who acquires directly or indirectly the beneficial ownership of any security issued by  
14 any intermediate holding company or any insurance company subsidiary of an intermediate  
15 holding company or mutual insurance holding company shall, within 15 days following the  
16 transaction, file with the Commissioner a statement of the transaction on the form prescribed by  
17 the Commissioner.

18       (b) A mutual insurance holding company, and its subsidiaries and affiliates, shall file  
19 with the Commissioner, within 15 days of receipt, copies of Form 3, Form 4, and Schedule  
20 13D, or any equivalent filings, such filings made under the federal Securities Exchange Act of  
21 1934, as amended."

22               **SECTION 2.** This act is effective when it becomes law.