

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 222\*

Short Title: Insurance Technical Changes.-AB (Public)

Sponsors: Representatives Setzer, Bumgardner, and Corbin (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

February 28, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE INSURANCE  
3 LAWS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. CAPTIVE INSURANCE CHANGES**

7 **SECTION 1.** G.S. 58-10-395 is amended by adding a new subsection to read:

8 "(c) G.S. 58-10-345(f) shall apply to all information filed pursuant to this section."

9 **SECTION 2.** G.S. 58-10-415(c) reads as rewritten:

10 "(c) ~~Captive insurance companies with less than one million two hundred thousand dollars~~  
11 ~~(\$1,200,000) in written premium may make a written request for exemption from the annual audit~~  
12 ~~requirement. Upon written request by any captive insurance company, the Commissioner may~~  
13 ~~grant an exemption from compliance with any and all provisions of this section if the~~  
14 ~~Commissioner finds, upon review of the request, that compliance with this section would~~  
15 ~~constitute a financial or organizational hardship upon the insurer. Such request must be made at~~  
16 ~~least 90 days prior to the captive insurance company's fiscal year-end or as otherwise required~~  
17 ~~by the Commissioner. Requests will be considered on a case-by-case basis and may be subject~~  
18 ~~to the Commissioner receiving an annual audit of the captive insurance company's parent in lieu~~  
19 ~~of the annual audit of the captive insurance company."~~

20 **SECTION 3.** G.S. 58-10-430 reads as rewritten:

21 "**§ 58-10-430. Audits and Financial Analyses.**

22 (a) Whenever the Commissioner determines it to be prudent, the Commissioner shall  
23 audit a captive insurance company's affairs to ascertain its financial condition, its ability to fulfill  
24 its obligations, and whether it has complied with this Part. The expenses and charges of the audit  
25 shall be paid by the captive insurance company.

26 (a1) Whenever the Commissioner determines it to be prudent, the Commissioner shall  
27 conduct a financial analysis of information submitted to or obtained by the Commissioner  
28 pursuant to this Part. Except as otherwise provided in this Part, the captive insurance company is  
29 not required to pay the expense and charges of the financial analysis.

30 (b) G.S. 58-2-160 shall apply to audits and financial analyses conducted under this  
31 section.

32 (c) All audit reports, preliminary audit reports or results, working papers, recorded  
33 information, documents, and copies thereof produced by, obtained by, or disclosed to the  
34 Commissioner or any other person in the course of an audit or financial analysis made under this  
35 section are confidential, are not subject to subpoena, and may not be made public by the



1 Commissioner or an employee or agent of the Commissioner. Nothing in this subsection shall  
2 prevent the Commissioner from using such information in furtherance of the Commissioner's  
3 regulatory authority under this Chapter. The Commissioner shall have the discretion to grant  
4 access to such information to public officials having jurisdiction over the regulation of insurance  
5 in any other state or country or to law enforcement officers of this State or any other state or  
6 agency of the federal government at any time only if the officials receiving the information agree  
7 in writing to maintain the confidentiality of the information in a manner consistent with this  
8 subsection.

9 (d) Risk retention groups are not subject to this section and shall instead be audited in  
10 accordance with the Examination Law, G.S. 58-2-131 through G.S. 58-2-134."

11 **SECTION 4.(a)** G.S. 58-10-340 is amended by adding a new subsection to read:

12 "(16a) Governing board. – The board of directors or officials possessing similar authority."

13 **SECTION 4.(b)** G.S. 58-10-345(b) reads as rewritten:

14 "(b) No captive insurance company shall transact any insurance business in this State  
15 unless:

16 ...

17 (2) ~~Its board of directors or committee of managers or, in the case of a reciprocal~~  
18 ~~insurer, its subscribers' advisory committee governing board~~ holds at least one  
19 meeting each year in this State. A captive insurance company will be exempt  
20 from this board meeting requirement if the captive insurance company utilizes  
21 the services of at least two of the following North Carolina-based service  
22 providers:

- 23 a. Legal.
- 24 b. Accounting.
- 25 c. Actuarial.
- 26 d. Investment advisor.
- 27 e. Captive manager.
- 28 f. Other service providers acceptable to the Commissioner.

29 ...."

30 **SECTION 4.(c)** G.S. 58-10-380(e) reads as rewritten:

31 "~~In the case of a captive insurance company formed as a corporation, at~~ At least one  
32 of the members of the board of directors governing board shall be a resident of this State. ~~In the~~  
33 ~~case of a captive insurance company formed as a reciprocal insurer, at least one of the members~~  
34 ~~of the subscribers' advisory committee shall be a resident of this State. In the case of a captive~~  
35 ~~insurance company formed as a limited liability company, at least one of the managers shall be~~  
36 ~~a resident of this State."~~

37 **SECTION 4.(d)** G.S. 58-10-380(i) reads as rewritten:

38 "(i) ~~The articles of incorporation or bylaws~~ organizational documents of a captive  
39 insurance company ~~formed as a corporation~~ may authorize a quorum of its ~~board of directors~~  
40 governing board to consist of no fewer than one-third of the fixed or prescribed number of  
41 ~~directors.~~ board members."

42 **SECTION 4.(e)** G.S. 58-10-385 reads as rewritten:

43 "**§ 58-10-385. Directors.Governing board members, officers, and employees.**

44 (a) Every captive insurance company shall report to the Commissioner within 30 days  
45 after any change in its executive officers or ~~directors, governing board members,~~ including in its  
46 report a biographical affidavit for each new officer or go ~~director, governing board member.~~ The  
47 change shall be deemed approved unless it is disapproved within 30 days from the completion of  
48 the Commissioner's review of the biographical affidavit.

49 (b) No ~~director, governing board member,~~ officer, or employee of a captive insurance  
50 company shall, except on behalf of the captive insurance company, accept or be the beneficiary  
51 of, any fee, brokerage, gift, or other compensation because of any investment, loan, deposit,

1 purchase, sale, payment, or exchange made by or for the captive insurance company unless  
2 otherwise approved in advance by the Commissioner, but such person may receive reasonable  
3 compensation for necessary services rendered to the captive insurance company in his or her  
4 usual private, professional, or business capacity.

5 (c) Any profit or gain received by or on behalf of any person in violation of this section  
6 shall inure to and be recoverable by the captive insurance company."

7 **SECTION 4.(f)** G.S. 58-10-390 reads as rewritten:

8 "**§ 58-10-390. Conflict of interest.**

9 (a) Each captive insurance company licensed in this State is required to adopt a conflict  
10 of interest statement for officers, ~~directors, governing board members,~~ and key employees. Such  
11 statement shall disclose that the individual has no outside commitments, personal or otherwise,  
12 that would divert him or her from his or her duty to further the interests of the captive insurance  
13 company he or she represents, but this shall not preclude such person from being a director or  
14 officer in more than one insurance company.

15 (b) Each officer, ~~directors, governing board member,~~ and key employee shall file such  
16 disclosure with ~~the board of directors or other governing body~~ governing board of the captive  
17 insurance company annually."

18 **SECTION 4.(g)** G.S. 58-10-420(b) reads as rewritten:

19 "(b) A captive insurance company shall require its independent certified public accountant  
20 to immediately notify in writing an officer and all members of the ~~board of directors or other~~  
21 ~~governing body~~ governing board of the captive insurance company of any determination by the  
22 independent certified public accountant that the captive insurance company has materially  
23 misstated its financial condition in its report to the Commissioner as required in G.S. 58-10-405.  
24 A captive insurance company receiving a notification pursuant to this subsection shall forward a  
25 copy of the notification to the Commissioner within five business days after receipt of the  
26 notification and shall provide the independent certified public accountant with proof that the  
27 notification was forwarded to the Commissioner. If the independent certified public accountant  
28 fails to receive the proof within the five-day period required by this subsection, the independent  
29 certified public accountant shall within the next five business days submit a copy of the  
30 notification to the Commissioner."

31 **SECTION 4.(h)** G.S. 58-10-510(d) reads as rewritten:

32 "(d) A protected cell captive insurance company shall establish administrative and  
33 accounting procedures necessary to properly identify (i) the one or more protected cells of the  
34 protected cell captive insurance company and (ii) the assets and liabilities attributable to each  
35 protected cell. The ~~directors governing board~~ of a protected cell captive insurance company shall  
36 keep protected cell assets and liabilities:

- 37 (1) Separate and separately identifiable from the assets and liabilities of the  
38 protected cell captive insurance company's general account.  
39 (2) Attributable to one protected cell separate and separately identifiable from  
40 protected cell assets and protected cell liabilities attributable to other protected  
41 cells.

42 If this subsection is violated, then the remedy of tracing is applicable to protected cell assets when  
43 commingled with protected cell assets of other protected cells or the assets of the protected cell  
44 captive insurance company's general account. The remedy of tracing shall not be construed as an  
45 exclusive remedy."

46 **SECTION 4.(i)** G.S. 58-10-512(c) reads as rewritten:

47 "(c) An incorporated protected cell may be organized and operated in any form of business  
48 organization authorized by the Commissioner. Unless otherwise permitted by the organizational  
49 documents of a protected cell captive insurance company, each incorporated protected cell of the  
50 protected cell captive insurance company must have the same ~~directors, governing board~~  
51 members, secretary, and registered office as the protected cell captive insurance company."

1           **SECTION 4.(j)** G.S. 58-10-565(b) reads as rewritten:

2           "(b) To transact business in this State, an SPFC shall:

3           ...

4           (3) Hold at least one management meeting each year in this State. For the  
5           purposes of this section, management is defined as the ~~board of directors,~~  
6           ~~managing board,~~ governing board or other individual or individuals vested  
7           with overall responsibility for the management of the affairs of the SPFC,  
8           including the election and appointment of officers or other of those agents to  
9           act on behalf of the SPFC.

10          ...."

11          **SECTION 4.(k)** G.S. 58-10-565(c) reads as rewritten:

12          "(c) A complete SPFC application shall include the following:

13          ...

14          (4) Biographical affidavits in NAIC format of all of the prospective SPFC's  
15          officers and ~~directors,~~ governing board members, providing the officers' and  
16          ~~directors'~~ governing board members' legal names, any names under which  
17          they have or are conducting their affairs, and any other biographical  
18          information as the Commissioner may request.

19          ...."

20          **SECTION 5.(a)** G.S. 105-228.4A(a) reads as rewritten:

21          "(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing  
22          business in this State. In the case of a branch captive insurance company, the tax levied in this  
23          section applies only to the branch business of the company. Two or more captive insurance  
24          companies under common ownership and ~~control~~ control, other than a protected cell captive  
25          insurance company or a special purpose captive insurance company with a cell or series structure,  
26          are taxed under this section as a single captive insurance company. The tax levied in this section  
27          does not apply to a foreign captive insurance company."

28          **SECTION 5.(b)** G.S. 105-228.4A(f) reads as rewritten:

29          "(f) Total Tax Liability. – The aggregate amount of tax payable under this section by a  
30          protected cell captive insurance company with more than 10 cells or a special purpose captive  
31          insurance company with a cell or series structure with 10 or more cells or series may not be less  
32          than ten thousand dollars (\$10,000) and may not exceed the lesser of (i) one hundred thousand  
33          dollars (\$100,000) plus five thousand dollars (\$5,000) multiplied by the number of cells or series  
34          over 10 and (ii) two hundred thousand dollars (\$200,000). The aggregate amount of tax payable  
35          under this section for any other captive insurance company may not be less than five thousand  
36          dollars (\$5,000) and may not exceed one hundred thousand dollars (\$100,000).

37          If a captive insurance company is a special purpose financial captive and if the special  
38          purpose financial captive is under common ownership and control with one or more other captive  
39          insurance companies, the following provisions apply to the consolidated group of companies that  
40          are taxed as a single captive insurance company pursuant to subsection (a) of this section:

41          (1) The amount of premium tax payable under this section is allocated to each  
42          member of the consolidated group in the same proportion that the premium  
43          allocable to the member bears to the total premium of all members.

44          (2) The aggregate amount of tax payable under this section by the consolidated  
45          group is equal to the greater of the following:

46                  a. The sum of the premium tax allocated to the members.

47                  b. Five thousand dollars (\$5,000).

48          (3) If the total premium tax allocated to all members of a consolidated group that  
49          are special purpose financial captives exceeds one hundred thousand dollars  
50          (\$100,000), then the total premium tax allocated to those members is one  
51          hundred thousand dollars (\$100,000).

- 1 (4) If the total premium tax allocated to all members of the consolidated group  
2 that are not special purpose financial captives exceeds one hundred thousand  
3 dollars (\$100,000), then the total premium tax allocated to those members is  
4 one hundred thousand dollars (\$100,000)."

5 **SECTION 5.(c)** G.S. 105-228.4A is amended by adding a new subsection to read:

6 "(g) A captive insurance company formed and licensed under the laws of a jurisdiction  
7 other than North Carolina that (i) obtains the approval of the North Carolina Commissioner of  
8 Insurance to redomesticate to North Carolina pursuant to G.S. 58-10-380(g) to operate as a North  
9 Carolina-domiciled captive insurance company and (ii) redomesticates to North Carolina on or  
10 before December 31, 2020, is exempted from prorated premium taxes imposed by this section  
11 for the year in which the redomestication occurs and the premium taxes imposed by this section  
12 for the calendar year following the redomestication. This subsection expires for taxable years  
13 beginning on or after January 1, 2022."

14 **SECTION 5.(d)** Subsections (a) and (b) of this section are effective for premium  
15 taxes imposed for taxable years beginning on or after January 1, 2020. Subsection (c) of this  
16 section is effective for premium taxes imposed for taxable years beginning on or after January 1,  
17 2019.

## 18 **PART II. HOLDING COMPANY ACT TECHNICAL CHANGES**

19 **SECTION 6.** G.S. 58-19-10(b) reads as rewritten:

20 "(b) In addition to investments in common stock, preferred stock, debt obligations, and  
21 other securities permitted under this Chapter, a domestic insurer may also:

- 22 (1) Invest, in common stock, preferred stock, debt obligations, and other  
23 securities of one or more affiliates or subsidiaries, amounts that do not exceed  
24 the lesser of ten percent (10%) of the insurer's admitted assets or fifty percent  
25 (50%) of the insurer's policyholders' surplus, provided that after those  
26 investments, the insurer's policyholders' surplus will be reasonable in relation  
27 to the insurer's outstanding liabilities and adequate to its financial needs. In  
28 calculating the amount of the investments, investments in domestic or foreign  
29 insurance affiliates or subsidiaries and health maintenance organizations shall  
30 be excluded, and there shall be included: (i) total net monies or other  
31 consideration expended and obligations assumed in the acquisition or  
32 formation of a subsidiary, including all organizational expenses and  
33 contributions to capital and surplus of the subsidiary whether or not  
34 represented by the purchase of capital stock or issuance of other securities;  
35 and (ii) all amounts expended in acquiring additional common stock, preferred  
36 stock, debt obligations, and other securities, and all contributions to the capital  
37 or surplus, of a subsidiary subsequent to its acquisition or formation;

38 ...

- 39 (3) With the approval of the Commissioner, invest any greater amount in common  
40 stock, preferred stock, debt obligations, or other securities of one or more  
41 affiliates or subsidiaries; provided that after such investment the insurer's  
42 policyholders' surplus will be reasonable in relation to the insurer's  
43 outstanding liabilities and adequate to its financial needs."

## 44 **PART III. SURPLUS LINES TECHNICAL CHANGES**

45 **SECTION 7.(a)** G.S. 58-21-35(b) reads as rewritten:

46 "(b) The licensee shall complete and retain a copy of the report in paper or electronic  
47 form as required by the Commissioner. The report required by this section ~~and the quarterly~~  
48 ~~report required by G.S. 58-21-80 shall be completed on a standardized form or forms prescribed~~  
49  
50

1 ~~by the Commissioner and are not public records~~ is not a public record under G.S. 132-1 or  
2 G.S. 58-2-100."

3 **SECTION 7.(b)** G.S. 58-21-40(b)(3) is repealed.

4 **SECTION 7.(c)** G.S. 58-21-75 reads as rewritten:

5 **"§ 58-21-75. Records of surplus lines licensee.**

6 Each surplus lines licensee shall keep in his or her office ~~in this State~~ a full and true record  
7 of each surplus lines insurance contract placed by or through the licensee, including a copy of  
8 the policy, certificate, cover note, or other evidence of insurance. The record shall include the  
9 following items:

- 10 (1) Amount of the insurance and perils insured;
- 11 (2) Brief description of the property insured and its location;
- 12 (3) Gross premium charged;
- 13 (4) Any return premium paid;
- 14 (5) Rate of premium charged upon the several items of property;
- 15 (6) Effective date of the contract, and the terms of the contract;
- 16 (7) Name and address of the insured;
- 17 (8) Name and address of the insurer;
- 18 (9) Amount of tax and other sums to be collected from the ~~insured; and insured;~~
- 19 (10) Identity of the producing broker, any confirming correspondence from the  
20 insurer or its representative, and the ~~application~~ application; and
- 21 (11) Copy of the compliance agreement.

22 The record of each contract shall be kept open at all reasonable times to examination by the  
23 Commissioner without notice for a period not less than five years following termination of the  
24 contract."

25 **SECTION 7.(d)** G.S. 58-21-80 is repealed.

26 **SECTION 7.(e)** G.S. 58-21-95 reads as rewritten:

27 **"§ 58-21-95. Suspension, revocation or nonrenewal of surplus lines licensee's license.**

28 The Commissioner may suspend, revoke, or refuse to renew the license of a surplus lines  
29 licensee after notice and hearing as provided under G.S. 58-2-70 upon any one or more of the  
30 following grounds:

- 31 (1) ~~Removal of the surplus lines licensee's office from this State;~~
- 32 (2) Removal of the surplus lines licensee's office accounts and records ~~from this~~  
33 ~~State~~ during the period during which such accounts and records are required  
34 to be maintained under G.S. 58-21-75;
- 35 (3) Closing of the surplus lines licensee's office for a period of more than 30  
36 business days, unless permission is granted by the Commissioner;
- 37 (4) Failure to make and file required reports;
- 38 (5) Failure to transmit the required tax on surplus lines premiums;
- 39 (6) ~~Failure to maintain the required bond;~~ Failure to pay the stamping fee to the  
40 stamping office;
- 41 (7) Violation of any provision of this Article; or
- 42 (8) For any other cause for which an insurance license could be denied, revoked,  
43 suspended, or renewal refused under the Insurance Law."

44  
45 **PART IV. ALIGN STATE LAW WITH NAIC MODEL LAW REGARDING IMMUNITY**  
46 **FOR CONTRACTORS HIRED BY THE DEPARTMENT**

47 **SECTION 8.(a)** G.S. 58-30-71(a) reads as rewritten:

48 "(a) ~~For the purposes of this section, the persons~~ Persons entitled to protection under this  
49 section are:

- 50 (1) All receivers responsible for the conduct of a delinquency proceeding under  
51 this Article, including present and former receivers; and

(2) ~~Their employees~~ All of the receiver's employees, meaning all present and former special deputies and assistant special deputies appointed by the Commissioner, staff assigned to the delinquency proceeding employed by the Attorney General's Office, and all persons whom the Commissioner, special deputies, or assistant special deputies have employed to assist in a delinquency proceeding under this Article. Attorneys, accountants, auditors, and other professional persons or firms, who are retained by the receiver as independent contractors and their employees are not employees of the receiver for purposes of this section.

(3) All of the receiver's contractors, meaning all persons who are retained by the receiver or the receiver's employees as independent contractors to assist in a delinquency proceeding under this Article, including attorneys, accountants, auditors, and other professional persons or firms and their employees."

**SECTION 8.(b)** G.S. 58-30-71(b) reads as rewritten:

"(b) ~~The receiver and his employees have~~ receiver, the receiver's employees, and the receiver's contractors shall have official immunity and are immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from any alleged act, error, or omission of the receiver or any employee arising out of or by reason of any of the following:

(1) ~~their~~ Their duties or employment; employment.

(2) Any matters that have been subject to review by the Court after notice and opportunity to be heard, provided that the alleged act, error, or omission was not disapproved or disallowed by the Court.

~~provided that nothing~~ Provided, however, that nothing in this section holds the receiver or any employee ~~receiver, the receiver's employees, or the receiver's contractors~~ receiver, the receiver's employees, or the receiver's contractors immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors or for any bodily injury caused by the operation of a motor vehicle."

**SECTION 8.(c)** G.S. 58-30-71(j) reads as rewritten:

"(j) Nothing in this section deprives the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors of any immunity, indemnity, benefits of law, rights, or any defense otherwise available."

## **PART V. CLARIFY CONSENT TO RATE**

**SECTION 9.(a)** G.S. 58-36-30(b) reads as rewritten:

"(b) This subsection applies ~~only~~ to insurance against loss to automobile physical damage and related expenses. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized:

**NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR AUTOMOBILE PHYSICAL DAMAGE AND RELATED EXPENSES THAT COVERS THE DAMAGE TO YOUR COVERED VEHICLE(S) EXCEEDS THE PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE WITH G.S. 58-36-30(b).**

The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy when the rates charged exceed the approved manual rate. The insurer shall retain consent to rate information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may also be

1 used to provide motor vehicle liability coverage limits above those required under Article 9A of  
2 Chapter 20 of the General Statutes and above those that could be ceded to the North Carolina  
3 Reinsurance Facility under Article 37 of this Chapter to persons whose personal excess liability  
4 insurance policies require that they maintain specific higher liability coverage limits. Any data  
5 obtained by the Commissioner under this subsection is proprietary and confidential and is not a  
6 public record under G.S. 132-1 or G.S. 58-2-100."

7 **SECTION 9.(b)** G.S. 58-36-30(b1) reads as rewritten:

8 "(b1) This subsection applies only to insurance against loss to residential property with not  
9 more than four housing units. A rate in excess of that promulgated by the Bureau may be charged  
10 by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted  
11 by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate  
12 the premium for the policy are greater than those rates that are applicable in the State of North  
13 Carolina by including the following language in the policy on page one of the declarations page  
14 or on a separate page before the declarations page, in at least 14 point type or in a font size larger  
15 than the remainder of the document whichever is larger, bolded, and all capitalized:

16 NOTICE: IN ACCORDANCE WITH G.S. 58-36-30(b1), THE PREMIUM BASED  
17 UPON THE APPROVED RATES IN NORTH CAROLINA FOR RESIDENTIAL PROPERTY  
18 INSURANCE COVERAGE APPLIED FOR WOULD BE \$\_\_\_\_. OUR PREMIUM FOR THIS  
19 COVERAGE IS \$\_\_\_\_\_.

20 The disclosure statement noted above in this subsection shall be included on any renewal of  
21 or endorsement to the policy when the rates charged exceed the approved manual rate. ~~for any~~  
22 ~~subsequent increase above the.~~ The insurer shall retain consent to rate information for each  
23 insured and make this information available to the Commissioner, upon request of the  
24 Commissioner. Any data obtained by the Commissioner under this subsection is proprietary and  
25 confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100."

26 **SECTION 9.(c)** G.S. 58-36-30(c) reads as rewritten:

27 "(c) ~~Any approved rate under subsection (b) of this section with respect~~ This subsection  
28 applies only to workers' compensation and employers' liability insurance written in connection  
29 therewith shall be furnished to the Bureau therewith. A rate in excess of that promulgated by the  
30 Bureau may be charged by an insurer on any specific risk if the higher rate is charged in  
31 accordance with rules adopted by the Commissioner."

32 **SECTION 9.(d)** G.S. 58-36-30(e) reads as rewritten:

33 "(e) Each insurer shall collect the following consent to rate data for nonfleet private  
34 passenger motor vehicle physical damage and homeowners residential property ~~(all forms~~  
35 ~~excluding HO4 and HO6)~~ with not more than four housing units (all forms, excluding HO4 and  
36 HO6) and transmit the data electronically for each policy to the Commissioner on a semi-annual  
37 basis in a format prescribed and designated by the Commissioner:

38 ...."

39 **SECTION 9.(e)** The Commissioner may adopt temporary rules to implement this  
40 section.

## 41 **PART VI. FAST ACT CONFIRMING CHANGE**

42 **SECTION 10.(a)** G.S. 58-39-26(a) reads as rewritten:

43 "(a) Disclosure Required. – In addition to the notice requirements of G.S. 58-39-25, an  
44 insurance institution or agent shall provide, to all applicants and policyholders no later than (i)  
45 before the initial disclosure of personal information under G.S. 58-39-75(11) or (ii) the time of  
46 the delivery of the insurance policy or certificate, a clear and conspicuous notice, in written or  
47 electronic form, of the insurance institution or agent's policies and practices with respect to:

- 48 (1) Disclosing nonpublic personal information to affiliates and nonaffiliated third  
49 parties, consistent with section 502 of Public Law 106-102, including the  
50 categories of information that may be disclosed.  
51



1 (2) Disclosing nonpublic personal information of persons who have ceased to be  
 2 customers of the financial institution.  
 3 (3) Protecting the nonpublic personal information of consumers.  
 4 These disclosures shall be made in accordance with the regulations prescribed under section 505  
 5 504 of Public Law 106-102.

6 (b) Information to Be Included. – The disclosure required by subsection (a) of this section  
 7 shall include:

- 8 (1) The policies and practices of the insurance institution or agent with respect to  
 9 disclosing nonpublic personal information to nonaffiliated third parties, other  
 10 than agents of the insurance institution or agent, consistent with section 502  
 11 of Public Law 106-102, and including:  
 12 a. The categories of persons to whom the information is or may be  
 13 disclosed, other than the persons to whom the information may be  
 14 provided under section 502(e) of Public Law 106-102.  
 15 b. The policies and practices of the insurance institution or agent with  
 16 respect to disclosing of nonpublic personal information of persons  
 17 who have ceased to be customers of the insurance institution or agent.  
 18 (2) The categories of nonpublic personal information that are collected by the  
 19 insurance institution or agent.  
 20 (3) The policies that the insurance institution or agent maintains to protect the  
 21 confidentiality and security of nonpublic personal information in accordance  
 22 with section 501 of Public Law 106-102.  
 23 (4) The disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair  
 24 Credit Reporting Act.

25 (c) In the case of a policyholder, the notice required by this section shall be provided not  
 26 less than annually during the continuation of the policy. As used in this subsection, "annually"  
 27 means at least once in any period of 12 consecutive months during which the policy is in effect.

28 (d) Exception to Annual Notice Requirement. – An insurance institution or agent is not  
 29 required to provide the privacy notice annually as required under subsection (c) of this section if  
 30 all of the following apply:

- 31 (1) The insurance institution or agent provides nonpublic personal information  
 32 only in accordance with the provisions of sections 502(b)(2) or 502(e) of  
 33 Public Law 106-102 or regulations prescribed under section 504(b) of Public  
 34 Law 106-102.  
 35 (2) The insurance institution or agent has not changed its policies and practices  
 36 with regard to disclosing nonpublic personal information from the policies and  
 37 practices that were disclosed in the most recent disclosure sent to consumers  
 38 in accordance with this section.

39 If at any time subdivisions (1) or (2) of this section no longer apply to an insurance institution  
 40 or agent, then the insurance institution or agent shall be required to provide the annual privacy  
 41 notice required under subsection (c) of this section."  
 42

## 43 PART VII. STREAMLINE EXPEDITED EXTERNAL REVIEW PROCESS

### 44 SECTION 11.(a) G.S. 58-50-82(a) reads as rewritten:

45 "(a) Except as provided in subsection (g) of this section, a covered person may file a  
 46 request for an expedited external review with the Commissioner at the time the covered person  
 47 ~~receives~~receives any of the following:

- 48 (1) A noncertification decision under G.S. 58-50-61(f) ~~if~~if all of the following  
 49 conditions apply:  
 50 a. The covered person has a medical condition where the time frame for  
 51 completion of an expedited review of an appeal involving a

- 1 noncertification set forth in G.S. 58-50-61(l) would be reasonably
- 2 expected to seriously jeopardize the life or health of the covered person
- 3 or would jeopardize the covered person's ability to regain maximum
- 4 ~~function; and~~function.
- 5 b. The covered person has filed a request for an expedited appeal under
- 6 G.S. 58-50-61(l).
- 7 (2) An appeal decision under G.S. 58-50-61(k) or ~~(4)G.S. 58-58-61(l)~~ upholding
- 8 a noncertification ~~if~~if all of the following conditions apply:
- 9 a. The noncertification appeal decision involves a medical condition of
- 10 the covered person for which the time frame for completion of an
- 11 expedited second-level grievance review of a noncertification set forth
- 12 in G.S. 58-50-62(i) would reasonably be expected to seriously
- 13 jeopardize the life or health of the covered person or jeopardize the
- 14 covered person's ability to regain maximum ~~function; and~~function.
- 15 b. The covered person has filed a request for an expedited second-level
- 16 grievance review of a noncertification as set forth in ~~G.S. 58-50-61(i);~~
- 17 ~~or G.S. 58-50-62(i).~~
- 18 (3) A second-level grievance review decision under ~~G.S. 58-60-62(h) or (i)~~
- 19 G.S. 58-50-62(h) or G.S. 58-50-62(i) upholding a
- 20 ~~noncertification; noncertification~~ if all of the following conditions apply:
- 21 a. If the covered person has a medical condition where the time frame for
- 22 completion of a standard external review under G.S. 58-50-80 would
- 23 reasonably be expected to seriously jeopardize the life or health of the
- 24 covered person or jeopardize the covered person's ability to regain
- 25 maximum ~~function; or~~function.
- 26 b. If the second-level grievance concerns a noncertification of an
- 27 admission, availability of care, continued stay, or health care service
- 28 for which the covered person received emergency services, but has not
- 29 been discharged from a facility."

30 **SECTION 11.(b)** G.S. 58-50-82(b) reads as rewritten:

- 31 "(b) Within two days after receiving a request for an expedited external review, the
- 32 Commissioner shall complete all of the following:
- 33 (1) Notify the insurer that made the noncertification, noncertification appeal
- 34 decision, or second-level grievance review decision which is the subject of the
- 35 request that the request has been received and provide a copy of the request.
- 36 The Commissioner shall also request any information from the insurer
- 37 necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and
- 38 require the insurer to deliver the information not later than one day after the
- 39 request was made.
- 40 (2) Determine whether the request is eligible for external ~~review and, if it is~~
- 41 ~~eligible, determine whether it is eligible for expedited review.~~review.
- 42 (3) If the request is eligible for external review and the covered person's treating
- 43 provider requesting the service that is the subject of the external review has
- 44 certified the request on a form prescribed by the Commissioner, then one of
- 45 the following shall apply:
- 46 a. For a request made pursuant to subdivision (a)(1) of this ~~section that~~
- 47 ~~the Commissioner has determined meets the reviewability~~
- 48 ~~requirements set forth in G.S. 58-50-80(b)(2), determine, based on~~
- 49 ~~medical advice from a medical professional who is not affiliated with~~
- 50 ~~the organization that will be assigned to conduct the external review~~
- 51 ~~of the request, whether section, the request should shall be reviewed~~

1 on an expedited basis because the time frame for completion of an  
2 expedited review under G.S. 58-50-61(l) would reasonably be  
3 expected to seriously jeopardize the life or health of the covered person  
4 or would jeopardize the covered person's ability to regain maximum  
5 function. The Commissioner shall ~~then~~ inform the covered person, the  
6 covered person's provider who performed or requested the service, and  
7 the insurer whether the Commissioner has accepted the covered  
8 person's request for an expedited external review. If the Commissioner  
9 has accepted the covered person's request for an expedited external  
10 review, then the Commissioner shall, in accordance with  
11 G.S. 58-50-80, assign an organization to conduct the review within the  
12 appropriate time frame. If the Commissioner has not accepted the  
13 covered person's request for an expedited external review, then the  
14 covered person shall be ~~informed by the Commissioner that the~~  
15 ~~covered person must exhaust, at a minimum, the insurer's internal~~  
16 ~~appeal process under G.S. 58-50-61(l) before making another request~~  
17 ~~for an external review with the Commissioner notified.~~

18 b. For a request made pursuant to subdivision (a)(2) of this section ~~that~~  
19 ~~the Commissioner has determined meets the reviewability~~  
20 ~~requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall~~  
21 ~~determine, based on medical advice from a medical professional who~~  
22 ~~is not affiliated with the organization that will be assigned to conduct~~  
23 ~~the external review of the request, whether~~ section, the request should  
24 shall be reviewed on an expedited basis because the time frame for  
25 completion of an expedited review under G.S. 58-50-62 would  
26 reasonably be expected to seriously jeopardize the life or health of the  
27 covered person or would jeopardize the covered person's ability to  
28 regain maximum function. The Commissioner shall ~~then~~ inform the  
29 covered person, the covered person's provider who performed or  
30 requested the service, and the insurer whether the Commissioner has  
31 accepted the covered person's request for an expedited external review.  
32 If the Commissioner has accepted the covered person's request for an  
33 expedited external review, then the Commissioner shall, in accordance  
34 with G.S. 58-50-80, assign an organization to conduct the review  
35 within the appropriate time frame. If the Commissioner has not  
36 accepted the covered person's request for an expedited external review,  
37 then the covered person shall be ~~informed by the Commissioner that~~  
38 ~~the covered person must exhaust the insurer's internal grievance~~  
39 ~~process under G.S. 58-50-62 before making another request for an~~  
40 ~~external review with the Commissioner notified.~~

41 c. For a request made pursuant to sub-subdivision (a)(3)a. of this section  
42 ~~that the Commissioner has determined meets the reviewability~~  
43 ~~requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall~~  
44 ~~determine, based on medical advice from a medical professional who~~  
45 ~~is not affiliated with the organization that will be assigned to conduct~~  
46 ~~the external review of the request, whether~~ section, the request should  
47 shall be reviewed on an expedited basis because the time frame for  
48 completion of a standard external review under G.S. 58-50-80 would  
49 reasonably be expected to seriously jeopardize the life or health of the  
50 covered person or would jeopardize the covered person's ability to  
51 regain maximum function. The Commissioner shall ~~then~~ inform the

covered person, the covered person's provider who performed or requested the service, and the insurer whether the review will be conducted using an expedited or standard time frame and shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame.

- d. For a request made pursuant to sub subdivision (a)(3)b. of this section, ~~that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision.~~ the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision."

**SECTION 11.(c)** G.S. 58-50-89 reads as rewritten:

**"§ 58-50-89. Hold harmless for ~~Commissioner, medical professionals,~~ Commissioner and independent review organizations.**

~~Neither the~~ The Commissioner, a medical professional rendering advice to the Commissioner under G.S. 58-50-82(b)(2), an independent review organization, nor shall or a clinical peer reviewer working on behalf of an independent review organization shall not be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted under this Part, unless the opinion was rendered in bad faith or involved gross negligence."

**SECTION 11.(d)** Subsections (a) and (b) of this section are effective October 1, 2019, and apply to requests for expedited review submitted on or after that date.

## **PART VIII. EXCLUSIVE PROVIDER BENEFIT PLANS**

**SECTION 12.(a)** G.S. 58-50-56(i) reads as rewritten:

"(i) ~~A person enrolled in a preferred provider benefit plan may obtain covered health care services from a provider who does not participate in the plan.~~ In accordance with rules adopted by the Commissioner and subject to G.S. 58-3-190 and G.S. 58-3-200(d), the preferred provider benefit plan may limit coverage for health care services obtained from a nonparticipating provider. The Commissioner shall adopt rules on product limitations, including payment differentials for services rendered by nonparticipating providers. These rules shall be similar in substance to rules governing HMO point-of-service products."

**SECTION 12.(b)** Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-50-56.1. Continuity of Care.**

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

(1) Exclusive provider benefit plan. – A preferred provider benefit plan in which enrollees must receive covered services from health care providers who are under contract with the insurer and under which there is no coverage for care received from a health care provider who is not under contract with the insurer, except for emergency services as required by G.S. 58-3-190 and medically necessary covered services as required by G.S. 58-3-200(d).

(2) Insurer. – As defined in G.S. 58-50-56.

(3) Ongoing special condition. – One of the following conditions:

a. An acute illness that is serious enough to require medical care or treatment to avoid a reasonable possibility of death or permanent harm.

1                    b. A chronic illness, disease, or condition that is life-threatening,  
2                    degenerative, or disabling, and that requires medical care or treatment  
3                    over a prolonged period of time.

4                    c. Pregnancy from the start of the second trimester.

5                    d. A terminal illness for which an individual has a medical prognosis of  
6                    a life expectancy of six months or less.

7                    (4) Terminated or termination. – The expiration or nonrenewal of a contract. This  
8                    term does not include an ending of the contract by an insurer for failure to  
9                    meet applicable quality standards or for fraud.

10                    (b) Termination of a Provider. – If (i) a contract between an insurer and a health care  
11                    provider offering an exclusive provider benefit plan is terminated by the provider or by the  
12                    insurer, or benefits or coverage provided by the insurer are terminated because of a change in the  
13                    terms of provider participation in an insurer's exclusive provider benefit plan and (ii) an insured  
14                    is undergoing treatment from the provider for an ongoing special condition on the date of  
15                    termination, then the following shall apply:

16                    (1) Upon termination of the contract by the insurer or upon receipt by the insurer  
17                    of written notification of termination by the provider, the insurer shall notify  
18                    the insured on a timely basis of the termination and of the insured's right to  
19                    elect continuation of coverage of treatment by the provider. This subdivision  
20                    shall apply only if the insured has a claim with the insurer for services  
21                    provided by the terminated provider or the insured is otherwise known by the  
22                    insurer to be a patient of the terminated provider.

23                    (2) Subject to subsection (h) of this section, the insurer shall permit an insured to  
24                    elect to continue to be covered with respect to the treatment by the terminated  
25                    provider for the ongoing special condition during a transitional period, as  
26                    provided under this section.

27                    (c) Newly Covered Insured. – Each exclusive provider benefit plan offered by an insurer  
28                    shall provide transition coverage to individuals who (i) are newly covered under an exclusive  
29                    provider benefit plan because the individual's employer has changed benefit plans and (ii) are  
30                    undergoing treatment from a provider for an ongoing special condition. On the date of  
31                    enrollment, an insurer shall notify the newly covered insured of the right to elect continuation of  
32                    coverage of treatment by a provider that is not contracted with the exclusive provider benefit plan  
33                    and, subject to subsection (h) of this section, the insurer shall permit the newly covered insured  
34                    to elect to continue to be covered with respect to the treatment by the provider of the ongoing  
35                    special condition during a transitional period, as provided under this section.

36                    (d) Transitional Period: In General. – Except as otherwise provided in this section, the  
37                    length of a transitional period provided under this subsection shall be determined by the treating  
38                    health care provider, so long as it does not exceed 90 days after the date of the notice to the  
39                    individual described in subdivision (b)(1) of this section or the date of enrollment in a new plan  
40                    described in subsection (c) of this section.

41                    (e) Transitional Period: Scheduled Surgery, Organ Transplantation, or Inpatient Care. –  
42                    If surgery, organ transplantation, or other inpatient care was scheduled for an individual, or if the  
43                    individual was on an established waiting list for surgery, organ transplantation, or other inpatient  
44                    care, before the date of the notice required under subdivision (b)(1) of this section or the date of  
45                    enrollment described in subsection (c) of this section, then the transitional period under this  
46                    subsection with respect to the surgery, transplantation, or other inpatient care shall extend  
47                    through the date of discharge of the individual after completion of the surgery, transplantation,  
48                    or other inpatient care, and through post discharge follow-up care related to the surgery,  
49                    transplantation, or other inpatient care occurring within 90 days after the date of discharge.

50                    (f) Transitional Period: Pregnancy. – If an individual has entered the second trimester of  
51                    pregnancy on or before the date of the notice required under subdivision (b)(1) of this section or

1 the date of enrollment in a new plan described in section (c) of this section, and the provider was  
2 treating the pregnancy before the date of the notice, or the date of enrollment in the plan, then  
3 the transitional period with respect to the provider's treatment of the pregnancy shall extend  
4 through the provision of 60 days of postpartum care.

5 (g) Transitional Period: Terminal Illness. – If an individual was determined to be  
6 terminally ill at the time of a provider's termination of participation under subsection (b) of this  
7 section or at the time of enrollment in the plan under subsection (c) of this section, and the  
8 provider was treating the terminal illness before the date of the termination or enrollment in the  
9 plan, then the transitional period shall extend for the remainder of the individual's life with respect  
10 to care directly related to the treatment of the terminal illness or its medical manifestations.

11 (h) Permissible Terms and Conditions. – An insurer may condition coverage of continued  
12 treatment by a provider under subsection (b) or subsection (c) of this section upon the following  
13 terms and conditions:

14 (1) When care is provided pursuant to subsection (b) of this section, the provider  
15 agrees to accept reimbursement from the insurer and, with respect to  
16 cost-sharing, from the insured involved at the rates applicable before the start  
17 of the transitional period as payment in full.

18 (2) When care is provided pursuant to subsection (c) of this section, the provider  
19 agrees to accept the prevailing rate based on contracts the insurer has with the  
20 same or similar providers in the same or similar geographic area, plus the  
21 applicable copayment from the newly covered insured, as reimbursement in  
22 full from the insurer and the insured for all covered services.

23 (3) The provider agrees to comply with the quality assurance programs of the  
24 insurer responsible for payment under this subsection and to provide to the  
25 insurer necessary medical information related to the care provided. The  
26 insurer's quality assurance programs shall not override the professional or  
27 ethical responsibility of the provider or interfere with the provider's ability to  
28 provide information or assistance to the insured.

29 (4) The provider agrees to adhere to the insurer's established policies and  
30 procedures for participating providers, including procedures regarding  
31 referrals and obtaining prior authorization, providing services pursuant to a  
32 treatment plan approved by the insurer, and member hold harmless provisions.

33 (5) The receipt of notification from the insured within 45 days of the date of the  
34 notice described in subdivision (b)(1) of this section or the new enrollment  
35 described in subsection (c) of this section, that the insured elects to continue  
36 receiving treatment by the provider.

37 (6) The provider agrees to discontinue providing services at the end of the  
38 transition period and to assist the insured in an orderly transition to a network  
39 provider. Nothing in this section shall prohibit the insured from continuing to  
40 receive services from the provider at the insured's expense.

41 (i) Construction. – Nothing in this section shall do any of the following:

42 (1) Require the coverage of benefits that would not have been covered if the  
43 provider involved remained a participating provider or, in the case of a newly  
44 covered insured, require the coverage of benefits not provided under the  
45 policy in which the newly covered insured is enrolled.

46 (2) Require an insurer to offer a transitional period when the insurer terminates a  
47 provider's contract for reasons relating to quality of care or fraud. Refusal by  
48 an insurer to offer a transitional period under these circumstances is not  
49 subject to the grievance review provisions of G.S. 58-50-62.

50 (3) Prohibit an insurer from extending any transitional period beyond that  
51 specified in this section.

1           (4) Prohibit an insurer from terminating the continuing services of a provider  
2           when the insurer has determined that the provider's continued provision of  
3           services may result in, or is resulting in, a serious danger to the health or safety  
4           of the insured. A termination for these reasons shall be in accordance with the  
5           contract provisions that the provider would otherwise be subject to if the  
6           provider's contract were still in effect.

7           (j) Disclosure of Right to Transitional Period. – Each insurer shall include a clear  
8           description of an insured's rights under this section in its evidence of coverage and summary plan  
9           description."

10           **SECTION 12.(c)** The Department of Insurance may adopt temporary rules to  
11 implement this section.

12           **SECTION 12.(d)** Subsections (a) and (b) of this section apply to insurance contracts  
13 issued, renewed, or amended on or after the effective date of this act.

## 14 **PART IX. BAIL BONDSMAN TECHNICAL CHANGES**

15           **SECTION 13.(a)** G.S. 58-71-1 is amended by adding a new subdivision to read:

16           "(6a) Premium. – An amount of money paid in exchange for a bail bondsman's  
17           services in writing a bail bond."

18           **SECTION 13.(b)** G.S. 58-71-45 reads as rewritten:

19           "**§ 58-71-45. Terms of licenses.**

20           A license issued to a bail bondsman or to a runner authorizes the licensee to act in that  
21 capacity until the license is lapsed, suspended or revoked. Upon the suspension or revocation of  
22 a license, the ~~The~~ licensee shall return the license to the ~~Commissioner.~~ Commissioner within 10  
23 working days of the lapse, suspension, or revocation of the license. A license of a bail bondsman  
24 and a license of a runner shall be renewed in accordance with G.S. 58-71-75. After notifying the  
25 Commissioner in writing, a professional bondsman who employs a runner may cancel the  
26 runner's authority to act for the professional bondsman."

27           **SECTION 13.(c)** G.S. 58-71-165(a) reads as rewritten:

28           "(a) Each professional bail bondsman shall file with the Commissioner a written report in  
29 a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable  
30 as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was  
31 given, (iii) the principal sum of the bond, (iv) the ~~State or local official to whom given, and court~~  
32 file or docket number for the principal's court obligation, (v) the fee charged for the bonding  
33 service in each ~~instance.~~ instance, and (vi) the certificate seal number for each bond issued."

34           **SECTION 13.(d)** G.S. 58-71-167 reads as rewritten:

35           "(a) In any case where the agreement between principal and surety calls for some portion  
36 of the bond premium payments to be deferred or paid after the defendant has been released from  
37 custody, a written memorandum of agreement between the principal and surety shall be kept on  
38 file by the surety with a copy provided to the ~~principal, upon request.~~ principal. The memorandum  
39 shall contain the following information:

40           (1) The amount of the premium payment deferred or not yet paid at the time the  
41 defendant is released from jail.

42           (2) The method and schedule of payment to be made by the defendant to the  
43 bondsman, which shall include the dates of payment and amount to be paid on  
44 each date.

45           (3) That the principal is, ~~upon the principal's request,~~ is entitled to a copy of the  
46 memorandum.

47           (b) The memorandum must be signed by the defendant and the bondsman, or one of the  
48 bondsman's agents, and dated at the time the agreement is made. Any subsequent modifications  
49 of the memorandum must be in writing, signed, dated, and kept on file by the surety, with a copy  
50 provided to the ~~principal, upon request.~~ principal."  
51

1  
2 **PART X. CLARIFY RULEMAKING AUTHORITY FOR STATE FIRE AND RESCUE**  
3 **COMMISSION**

4 **SECTION 14.** G.S. 58-78-5(a) is amended by adding a new subsection to read:

5 "(a) The Commission shall have the following powers and duties:

6 ...

7 (17) To adopt, modify, or repeal any rules and regulations necessary for the  
8 purpose of carrying out the provisions of this Article."

9  
10 **PART XI. PREPAID HEALTH PLAN LICENSING ACT CLARIFYING AND**  
11 **TECHNICAL CHANGES**

12 **SECTION 15.(a)** G.S. 58-93-20(c) reads as rewritten:

13 "(c) Any person that is already a licensed health organization in this State under this  
14 Chapter shall be recognized as a PHP under this Article and shall be issued a PHP license upon  
15 the licensed health organization's demonstration to the Commissioner of its compliance with this  
16 Article. A licensed health organization shall not be required to file a PHP application, pay a PHP  
17 application fee, or provide the notice required by subsection (d) of this section as a condition of  
18 receipt of a PHP license. Unless otherwise exempted, a licensed health organization shall be  
19 subject to the remaining requirements of this Article, including deposit, minimum capital and  
20 surplus, and working capital requirements."

21 **SECTION 15.(b)** G.S. 58-93-30 reads as rewritten:

22 "**§ 58-93-30. Fees.**

23 The Commissioner shall ~~establish charge~~ an application fee ~~not to exceed of~~ two thousand  
24 dollars (\$2,000) for entities filing an application to be licensed as a PHP under this Article. The  
25 Commissioner shall ~~establish charge~~ an annual PHP license continuation fee ~~not to exceed of~~  
26 five thousand dollars (\$5,000). The PHP license shall continue in full force and effect subject to  
27 timely payment of the annual PHP license continuation fee in accordance with G.S. 58-6-7(c)  
28 and subject to any other provisions of this Chapter applicable to PHPs."

29 **SECTION 15.(c)** G.S. 58-93-60 reads as rewritten:

30 "**§ 58-93-60. Examinations.**

31 The Commissioner may make an examination of the affairs of any PHP as often as the  
32 Commissioner determines it to be necessary for the protection of the interests of the enrollees or  
33 the State but not less frequently than once every five years. The Commissioner shall notify DHHS  
34 prior to any examination of a PHP and shall provide DHHS with the results of an examination in  
35 accordance with G.S. 58-93-5(e). Examinations shall otherwise be conducted under  
36 G.S. 58-2-131 through G.S. 58-2-134."

37 **SECTION 15.(d)** G.S. 58-93-90 reads as rewritten:

38 "**§ 58-93-90. Rehabilitation or liquidation of PHP.**

39 (a) Any rehabilitation or liquidation of a PHP shall be deemed to be the rehabilitation or  
40 liquidation of an insurance company and shall be conducted under the supervision of the  
41 Commissioner pursuant to Article 30 of this Chapter. The Commissioner may apply for an order  
42 directing the rehabilitation or liquidation of a PHP upon one or more grounds set out in Article  
43 30 of this Chapter or when it is the opinion of the Commissioner that the continued operation of  
44 the PHP would be hazardous either to the enrollees or to the State. Priority shall be given to  
45 DHHS's claims over all other claims in G.S. 58-30-220, except for claims in G.S. 58-30-220(1).

46 (b) To the greatest extent possible, the Commissioner shall provide notice to DHHS prior  
47 to seeking an application for an order to rehabilitate or liquidate a PHP under this section. If prior  
48 notice is not possible, the Commissioner shall provide the notice to DHHS as soon as possible  
49 after seeking the order."

50 **SECTION 15.(e)** G.S. 58-93-95(a) reads as rewritten:



1       "(a) When the Commissioner has cause to believe that grounds for the denial of an  
2 application for a license exist, or that grounds for the suspension or revocation of a license exist,  
3 notification shall be given to the PHP in ~~writing-writing~~ and a copy of the notice shall be provided  
4 to DHHS. This notice shall specifically state the grounds for denial, suspension, or revocation  
5 and shall set a date for a hearing on the matter at least 30 days after notice is given."

6               **SECTION 15.(f)** G.S. 58-93-120(16) reads as rewritten:

7               "(16) G.S. 58-7-26, Asset or reduction from liability for reinsurance ceded by a  
8 domestic insurer to an assuming insurer not meeting the requirements of  
9 ~~G.S. 58-7-21~~, G.S. 58-7-21."

10  
11 **PART XII. CLARIFY WHEN APPLICATION SENT TO NORTH CAROLINA**  
12 **SELF-INSURANCE SECURITY ASSOCIATION**

13               **SECTION 16.** G.S. 97-170(b) reads as rewritten:

14               "(b) An applicant for a license as a self-insurer shall file with the Commissioner the  
15 information required by subsection (d) of this section on a form prescribed by the Commissioner  
16 at least 90 days before the proposed licensing date. No application is complete until the  
17 Commissioner has received all required information. A copy of the application ~~must~~ shall also  
18 be filed with the North Carolina Self-Insurance Security Association ~~at least 90 days before the~~  
19 ~~proposed licensing date~~ at the same time the application is filed with the Commissioner."

20  
21 **PART XIII. EFFECTIVE DATE**

22               **SECTION 17.** Except as otherwise provided, this act is effective when it becomes  
23 law.