

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 603\*

Short Title: Insurance Substantive Changes.

(Public)

Sponsors: Senator Johnson.

Referred to: Insurance.

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE SUBSTANTIVE CHANGES IN VARIOUS INSURANCE AND  
INSURANCE-RELATED LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3-100 reads as rewritten:

**"§ 58-3-100. Revocation, suspension and refusal to renew license.**

~~The license of any insurer, including fraternal orders and societies, may in the discretion of the Commissioner be suspended or revoked or its renewal refused, (a)~~

The Commissioner may revoke, suspend, or refuse to renew the license of any insurer if:

- (1) ~~Whenever it~~ The insurer fails or refuses to comply with any law, order or regulation ~~rule~~ applicable to ~~it~~; the insurer.
- (2) ~~Whenever its~~ The insurer's financial condition is unsound, or its assets above its liabilities, exclusive of capital, are less than the amount of its capital or required minimum ~~surplus~~; surplus.
- (3) ~~Whenever it~~ The insurer has published or made to the Department or to the public any false statement or ~~report~~; report.
- (4) ~~Whenever it~~ the insurer refuses to submit to any examination authorized by ~~law~~; law.
- (5) ~~Whenever it~~ the insurer is found to make a practice of unduly engaging in ~~litigation~~; litigation or of delaying the investigation of claims or the adjustment or payment of valid ~~claims~~; claims; or whenever ~~it~~ the insurer fails to acknowledge a claim within ~~60~~ 30 days after receiving written notice ~~thereof~~; of the claim; provided, ~~such~~ however, the notice

1 ~~contains~~ shall contain sufficient information for the insurance company  
2 to identify the specific insurance coverage involved. Acknowledgment  
3 of the claim shall be made to the claimant or his legal representative  
4 advising that the claim is being investigated; ~~or~~ shall be a payment of  
5 the claim; ~~or~~ shall be a bona fide written offer of settlement; or shall be  
6 a written denial of the claim.

7 (b) Any ~~such~~ suspension, revocation or refusal to renew ~~a~~ an insurer's license  
8 under this section may also be made applicable to the license or registration of ~~an agent~~  
9 any natural person regulated under this Chapter who is a party to ~~such default or improper~~  
10 practice. any of the causes for licensing sanctions listed in subsection (a) of this section.

11 (c) As used in this section, 'insurer' includes entities regulated under Articles 65  
12 and 67 of this Chapter."

13 Sec. 2. G.S. 58-33-30 reads as rewritten:

14 **"§ 58-33-30. License requirements.**

15 The Commissioner shall not issue or continue any license of an agent, broker,  
16 limited representative, adjuster, or motor vehicle damage appraiser except as follows:

17 (a) Application. – Application shall be made to the Commissioner by the  
18 applicant on a form prescribed by the Commissioner.

19 (b) Age. – Every individual applicant for license under this Article must be 18  
20 years or more of age.

21 (c) Character. – An applicant for any license under this Article must be deemed  
22 by the Commissioner to be competent, trustworthy and financially responsible, and  
23 must have not willfully violated the insurance laws of this or any other state.

24 (d) Education and Training. –

25 (1) Each applicant must have had special education, training, or  
26 experience of sufficient duration and extent reasonably to satisfy the  
27 Commissioner that the applicant possesses the competence necessary  
28 to fulfill the responsibilities of an agent, broker, limited representative,  
29 adjuster, or motor vehicle damage appraiser.

30 (2) All individual applicants for licensing as ~~life, accident-life~~ and health  
31 agents or as ~~fire and casualty-property and liability~~ agents shall furnish  
32 evidence satisfactory to the Commissioner of successful completion of  
33 at least 40 hours of instruction, which shall in all cases include the  
34 general principles of insurance and any other topics that the  
35 Commissioner establishes by regulation; and which shall, in the case  
36 of ~~life, accident-life~~ and health insurance applicants, include the  
37 principles of life, accident, and health insurance and, in the case of ~~fire~~  
38 ~~and casualty-property and liability~~ insurance applicants, shall include  
39 instruction in ~~fire and casualty-property and liability~~ insurance. Any  
40 applicant who submits satisfactory evidence of having successfully  
41 completed an agent training course that has been approved by the  
42 Commissioner and that is offered by or under the auspices of a ~~fire and~~  
43 ~~casualty-property and liability~~ or life or health insurance company  
44 admitted to do business in this State or a professional insurance

1 association shall be deemed to have satisfied the educational  
2 requirements of this subdivision. The requirement in this subdivision  
3 for completion of 40 hours of instruction applies only to applicants for  
4 ~~life, accident-life and health or fire and casualty property and liability~~  
5 ~~insurance licenses. The provisions of this subdivision also apply to~~  
6 ~~applicants for accident and health insurance licenses; except that such~~  
7 ~~applicants shall be required to successfully complete 20 hours of instruction.~~  
8 ~~Such instruction shall in all cases include the general principles of insurance~~  
9 ~~and the principles of accident and health insurance.~~

10 (3) Each applicant for a Medicare supplement and long-term care  
11 insurance license shall furnish evidence satisfactory to the  
12 Commissioner of successful completion of 10 hours of instruction,  
13 which shall in all cases include the principles of Medicare supplement  
14 and long-term care insurance and federal and North Carolina law  
15 relating to such insurance. An applicant who submits satisfactory  
16 evidence of having successfully completed an agent training course  
17 that has been approved by the Commissioner and that is offered by or  
18 under the auspices of an admitted life or health insurer or a  
19 professional insurance association satisfies the educational  
20 requirements of this subdivision.

21 (e) Examination.

22 (1) After completion and filing of the application with the Commissioner,  
23 except as provided in G.S. 58-33-35, the Commissioner shall require  
24 each applicant for license as an agent or an adjuster to take a written  
25 examination as to his competence to be licensed. The applicant must  
26 take and pass the examination according to requirements prescribed by  
27 the Commissioner.

28 (2) The Commissioner may require any licensed agent, adjuster, or motor  
29 vehicle damage appraiser to take and successfully pass an examination  
30 in writing, testing his competence and qualifications as a condition to  
31 the continuance or renewal of his license, if the licensee has been  
32 found guilty of any violation of any provision of Articles 1 through 67  
33 of this Chapter. If an individual fails to pass such an examination, the  
34 Commissioner shall revoke all licenses issued in his name and no  
35 license shall be issued until such individual has passed an examination  
36 as provided in this Article.

37 (3) Each examination shall be as the Commissioner prescribes and shall be  
38 of sufficient scope to test the applicant's knowledge of:  
39 a. The terms and provisions of the policies or contracts of  
40 insurance he proposes to effect; or  
41 b. The types of claims or losses he proposes to adjust; and  
42 c. The duties and responsibilities of such a license; and  
43 d. The current laws of this State applicable to such a license.

1 (4) The answers of the applicant to any such examination shall be written  
2 by the applicant under the Commissioner's supervision. The  
3 Commissioner shall give examinations at such times and places within  
4 this State as he deems necessary reasonably to serve the convenience  
5 of both the Commissioner and applicants: Provided that the  
6 Commissioner is authorized to contract directly with persons for the  
7 processing of examination application forms and for the administration  
8 and grading of the examinations required by this section; the  
9 Commissioner is authorized to charge a reasonable fee in addition to  
10 the registration fee charged under G.S. 58-33-125, to offset the cost of  
11 the examination contract authorized by this subsection; and such  
12 contracts shall not be subject to Article 3 of Chapter 143 of the  
13 General Statutes.

14 (5) The Commissioner shall collect in advance the examination and  
15 registration fees provided in G.S. 58-33-125 and in subsection (4) of  
16 this section. The Commissioner shall make or cause to be made  
17 available to all applicants, for a reasonable fee to offset the costs of  
18 production, materials that he deems necessary for the applicants'  
19 proper preparation for such exams. The Commissioner is empowered  
20 to contract directly with publishers and other suppliers for the  
21 production of such preparatory materials, and contracts so let by the  
22 Commissioner shall not be subject to Article 3 of Chapter 143 of the  
23 General Statutes.

24 In addition to the examinations for the kinds of insurance specified  
25 in G.S. 58-33-25(c)(1) and (2), before any person may sell Medicare  
26 supplement or long-term care insurance policies defined respectively  
27 in Articles 54 and 55 of this Chapter, he must take and pass a  
28 supplemental written examination according to requirements  
29 prescribed by the Commissioner.

30 (f) Brokers.

31 (1) Bond. – Prior to issuance of a license as a broker, the applicant shall  
32 file with the Commissioner and thereafter, for as long as the license  
33 remains in effect, shall keep in force a bond in favor of the State of  
34 North Carolina for the use of aggrieved parties in the sum of not less  
35 than fifteen thousand dollars (\$15,000), executed by an authorized  
36 corporate surety approved by the Commissioner. The aggregate  
37 liability of the surety for any and all claims on any such bond shall in  
38 no event exceed the sum thereof. The bond shall be conditioned on the  
39 accounting by the broker (i) to any person requesting the broker to  
40 obtain insurance for moneys or premiums collected in connection  
41 therewith, (ii) to any licensed insurer or agent who provides coverage  
42 for such person with respect to any such moneys or premiums, and (iii)  
43 to any premium finance company or to any association of insurers  
44 under any plan or plans for the placement of insurance under the laws

1 of North Carolina which afforded coverage for such person with  
2 respect to any such moneys or premiums. No such bond shall be  
3 terminated unless at least 30 days' prior written notice thereof is given  
4 by the surety to the licensee and the Commissioner. Upon termination  
5 of the license for which the bond was in effect, the Commissioner shall  
6 notify the surety within 10 business days. A person required by this  
7 subdivision to maintain a bond may, in lieu of that bond, deposit with  
8 the Commissioner the equivalent amount in cash, in certificates of  
9 deposit issued by banks organized under the laws of the State of North  
10 Carolina, or any national bank having its principal office in North  
11 Carolina, or securities, which shall be held in accordance with Article  
12 5 of this Chapter. Securities may only be obligations of the United  
13 States or of federal agencies listed in G.S. 147-69.1(c)(2) guaranteed  
14 by the United States, obligations of the State of North Carolina, or  
15 obligations of a city or county of this State. Any proposed deposit of  
16 an obligation of a city or county of this State is subject to the prior  
17 approval of the Commissioner.

- 18 (2) Other Requirements. – An applicant must hold a valid agent's license  
19 at the time of application for the broker's license and throughout the  
20 duration of the broker's license. A broker's license shall be issued to  
21 cover only those kinds of insurance authorized by his agent's license.  
22 Suspension or revocation of the agent's license shall cause immediate  
23 revocation of the broker's license.

24 (g) Denial of License. – If the Commissioner finds that the applicant has not fully  
25 met the requirements for licensing, he shall refuse to issue the license and notify in  
26 writing the applicant and the appointing insurer, if any, of such denial, stating the  
27 grounds therefor.

28 (h) Resident-Nonresident Licenses. – The Commissioner shall issue a resident or  
29 nonresident license to an agent, broker, limited representative, adjuster, or motor vehicle  
30 damage appraiser as follows:

- 31 (1) Resident.

32 An individual may qualify for a license as a resident if he resides in  
33 this State. Any license issued pursuant to an application claiming  
34 residency in this State shall be void if the licensee, while holding a  
35 resident license in this State, also holds or makes application for a  
36 resident license in, or thereafter claims to be a resident of, any other  
37 state, or ceases to be a resident of this State; provided, however, if the  
38 applicant is a resident of a county in another state, the border of which  
39 county is contiguous with the state line of this State, the applicant may  
40 qualify as a resident for licensing purposes in this State.

- 41 (2) Nonresident.

42 a. An individual may qualify for a license under this Article as a  
43 nonresident if he holds a like license in another state or territory  
44 of the United States. An individual may qualify for a license as

1 a nonresident motor vehicle damage appraiser or a nonresident  
2 adjuster if the applicant's state of residency does not offer such  
3 licenses and such applicant meets all other requirements for  
4 licensure of a resident. A license issued to a nonresident of this  
5 State shall grant the same rights and privileges afforded a  
6 resident licensee, except as provided in subsection (i) of this  
7 section.

8 b. A nonresident of this State may be licensed without taking an  
9 otherwise required written examination if the Commissioner of  
10 the state of the applicant's residence certifies that the applicant  
11 has passed a similar written examination or has been a  
12 continuous holder, prior to the time such written examination  
13 was required, of a license like the license being applied for in  
14 this State.

15 c. Notwithstanding other provisions of this Article, no new bond  
16 shall be required for a nonresident broker if the Commissioner  
17 is satisfied that an existing bond covers his insurance business  
18 in this State.

19 d. Process Against Nonresident Licensees.

20 1. Each licensed nonresident agent, broker, adjuster, limited  
21 representative, or motor vehicle damage appraiser shall  
22 by the act of acquiring such license be deemed to appoint  
23 the Commissioner as his attorney to receive service of  
24 legal process issued against the agent, broker, adjuster,  
25 limited representative, or motor vehicle damage  
26 appraiser in this State upon causes of action arising  
27 within this State.

28 2. The appointment shall be irrevocable for as long as there  
29 could be any cause of action against the nonresident  
30 arising out of his insurance transactions in this State.

31 3. Duplicate copies of such legal process against such  
32 nonresident licensee shall be served upon the  
33 Commissioner either by a person competent to serve a  
34 summons, or through certified or registered mail. At the  
35 time of such service the plaintiff shall pay to the  
36 Commissioner a fee in the amount set in G.S. 58-16-30,  
37 taxable as costs in the action to defray the expense of  
38 such service.

39 4. Upon receiving such service, the Commissioner or his  
40 duly appointed deputy shall within three business days  
41 send one of the copies of the process, by registered or  
42 certified mail, to the defendant nonresident licensee at  
43 his last address of record as filed with the Commissioner.

1                                   5.     The Commissioner shall keep a record of the day and  
2                                   hour of service upon him of all such legal process. No  
3                                   proceedings shall be had against the defendant  
4                                   nonresident licensee, and such defendant shall not be  
5                                   required to appear, plead or answer until the expiration  
6                                   of 40 days after the date of service upon the  
7                                   Commissioner.

8                                   e.     If the Commissioner revokes or suspends any nonresident's  
9                                   license through a formal proceeding under this Article, he shall  
10                                  promptly notify the appropriate Commissioner of the licensee's  
11                                  residence of such action and of the particulars thereof.

12                               (i)    Retaliatory Provision. – Whenever, by the laws or regulations of any other  
13                               state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any  
14                               other requirements are imposed upon residents of this State who are nonresident  
15                               applicants or licensees of such other state or jurisdiction in addition to, or in excess of,  
16                               those imposed on nonresidents under this Article, the same such requirements shall be  
17                               imposed upon such residents of such other state or jurisdiction.

18                               (j)    Reciprocity Provision. – To the extent that other states that provide for the  
19                               licensing and regulation of and payment of commissions to agents, limited  
20                               representatives, or brokers, waive restrictions on the basis of reciprocity with respect to  
21                               North Carolina licensees holding nonresident licenses in such states, all such restrictions  
22                               on licensees from such states holding North Carolina nonresident licenses shall be  
23                               waived."

24                               Sec. 3. G.S. 58-33-35 reads as rewritten:

25   "**§ 58-33-35. Exemption from examination.**

26   The following are exempt from the requirement for a written examination:

- 27                               (1)   ~~Any applicant for a license covering the same kind or kinds of~~  
28                               ~~insurance for which the applicant was licensed under a like license in~~  
29                               ~~this State, other than a temporary license, within the 24 months next~~  
30                               ~~preceding the date of application, unless such previous license was~~  
31                               ~~revoked, suspended, or not continued by the Commissioner.~~
- 32                               (2)    Repealed by Session Laws 1989, c. 485, s. 66, effective June 28, 1989.
- 33                               (3)    An applicant who has attained the designation of Chartered Life  
34                               Underwriter (CLU), Chartered Financial Consultant (ChFC), Life  
35                               Underwriter Training Council Fellow (LUTCF) or Fellow of Life  
36                               Management Institute (FLMI), shall be exempt from the examination  
37                               for licenses in G.S. ~~58-33-25(c)(1) and (2).~~ 58-33-25(c)(1).
- 38                               (4)    An applicant who has attained the designation of Chartered Property  
39                               and Casualty Underwriter (CPCU) shall be exempt from the  
40                               examination for licenses in G.S. 58-33-25(c)(3) and (7).
- 41                               (5)    Applicants for license as limited representatives or as motor vehicle  
42                               damage appraisers.
- 43                               (6)    Applicants for license as agents for companies or associations  
44                               specified in G.S. 58-36-50; provided that with respect to town or

1 county farmers mutual fire insurance companies, this exemption  
2 applies only to those agents who solicit and sell only those kinds of  
3 insurance specified in G.S. 58-7-75(5)d for such companies."

4 Sec. 4. G.S. 58-33-130(k) is repealed.

5 Sec. 5. G.S. 58-42-55 reads as rewritten:

6 **"§ 58-42-55. Expiration.**

7 This Article shall expire on July 1, ~~1993-~~1995."

8 Sec. 6. G.S. 58-36-35, 58-37-65(b), 58-37-65(c), 58-37-65(d), 58-37-65(f),  
9 58-45-50, 58-46-30, 58-48-40(7), 58-48-42, 58-62-51(b), and 58-62-92 are repealed.

10 Sec. 7. G.S. 58-37-65(e) reads as rewritten:

11 "(e) In any hearing held ~~pursuant to this section by the Board of Governors or the~~  
12 ~~Commissioner, the Board or the Commissioner as the case may be,~~under subsection (a) of  
13 this section, the Board shall issue a ruling or order within 30 days after the close of the  
14 hearing."

15 Sec. 8. G.S. 58-33-25(m) reads as rewritten:

16 "(m) A license issued to an agent authorizes him to act until his license is  
17 otherwise suspended or revoked. Upon the suspension or revocation of a license, the  
18 licensee or any person having possession of such license shall return it to the  
19 Commissioner. ~~An agent's license automatically terminates after a period of one year during~~  
20 ~~which no appointment of such agent was in effect."~~

21 Sec. 9. G.S. 58-40-140 reads as rewritten:

22 **"§ 58-40-140. CGL or professional liability extended reporting.**

23 Any policy for commercial general liability coverage or professional liability  
24 insurance wherein the insurer offers, and the insured elects to purchase, an extended  
25 reporting period for claims arising during the expiring policy period must provide:

26 (1) That in the event of a cancellation permitted by G.S. 58-41-15 or  
27 nonrenewal effective under G.S. 58-41-20, there shall be a 30-day  
28 period before the effective date of the cancellation or nonrenewal  
29 during which the insured may elect to purchase coverage for the  
30 extended reporting ~~period;~~period.

31 (2) That the limit of liability in the policy aggregate for the extended  
32 reporting period shall be one hundred percent (100%) of the expiring  
33 policy ~~aggregate;~~and aggregate.

34 (3) Within 45 days after the mailing or delivery of the written request of  
35 the insured, the insurer shall mail or deliver the following loss  
36 information covering a three-year period:

37 a. Aggregate information on total closed claims, including date  
38 and description of occurrence, and any paid losses;

39 b. Aggregate information on total open claims, including date and  
40 description of occurrence, and amounts of any payments;

41 c. Information on notice of any occurrence, including date and  
42 description of occurrence.

43 (4) In the event of a cancellation or nonrenewal of a professional liability  
44 insurance policy by the insured or by the insurer, as permitted by G.S.



1           58-41-15 or G.S. 58-41-20, except for nonpayment of premium, there  
2           shall be a 30-day period after the effective date of the cancellation or  
3           nonrenewal during which the insured may elect to obtain an  
4           endorsement providing an extended reporting period of unlimited  
5           duration covering professional liability claims first reported during the  
6           extended reporting period and arising from the acts, errors, or  
7           omissions committed during the policy period and otherwise covered  
8           by the policy.

9           (5) An unlimited extended reporting period for professional liability  
10           claims must be provided if the insured: (i) dies; (ii) becomes  
11           permanently disabled and is unable to carry out his or her practice; or  
12           (iii) retires permanently from his or her practice after obtaining the age  
13           of 65 or older and accumulating five or more consecutive years of  
14           claims made coverage."

15           Sec. 10. G.S. 58-36-15(d) reads as rewritten:

16           "(d) With respect to the filing of rates for nonfleet private passenger motor vehicle  
17 insurance, the Bureau shall, on or before ~~July~~February 1 of each year, or later with the  
18 approval of the Commissioner, file with the Commissioner the experience, data,  
19 statistics, and information referred to in subsection (c) of this section and any proposed  
20 adjustments in the rates for all member companies of the Bureau. The filing shall  
21 include, where deemed by the Commissioner to be necessary for proper review, the data  
22 specified in subsections (c), (e), (g) and (h) of this section. Any filing that does not  
23 contain the data required by this subsection may be returned to the Bureau and not be  
24 deemed a proper filing. Provided, however, that if the Commissioner concludes that a  
25 filing does not constitute a proper filing he shall promptly notify the Bureau in writing  
26 to that effect, which notification shall state in reasonable detail the basis of the  
27 Commissioner's conclusion. The Bureau shall then have a reasonable time to remedy  
28 the defects so specified. An otherwise defective filing thus remedied shall be deemed to  
29 be a proper and timely filing, except that all periods of time specified in this Article will  
30 run from the date the Commissioner receives additional or amended documents  
31 necessary to remedy all material defects in the original filing."

32           Sec. 11. With respect to the nonfleet private passenger motor vehicle  
33 insurance rate filing made on or before February 1, 1994, the Bureau may file an  
34 additional factor for an additional rate increase or decrease to compensate for the  
35 changing of the filing rate from July 1 to February 1 as provided in Section 10 of this  
36 act.

37           Sec. 12. G.S. 58-36-20(a) reads as rewritten:

38           "(a) At any time within 50 days from and after the date of any filing, the  
39 Commissioner may give written notice to the Bureau specifying in what respect and to  
40 what extent he contends such filing fails to comply with the requirements of this Article  
41 and fixing a date for hearing not less than 30 days from the date of mailing of such  
42 notice. At such hearing the factors specified in G.S. 58-36-10 shall be considered. If  
43 the Commissioner after hearing finds that the filing does not comply with the provisions  
44 of this Article, he may issue his order determining wherein and to what extent such

1 filing is deemed to be improper and fixing a date thereafter, within a reasonable time,  
2 after which such filing shall no longer be effective. Any order of disapproval under this  
3 section must be entered within 105 days of the date the filing is received by the  
4 Commissioner: Provided that any order of disapproval under this section with respect to  
5 workers' compensation insurance and employers' liability insurance written in  
6 connection therewith shall be entered within ~~120~~150 days of the date the filing is  
7 received by the Commissioner."

8 Sec. 13. Article 31 of Chapter 58 of the General Statutes is amended by  
9 adding two new sections to read:

10 **"§ 58-31-12. Policy forms.**

11 The Commissioner, with the approval of the Council of State, may adopt insurance  
12 forms for coverages provided by the State Property Fire Insurance Fund under this  
13 Article.

14 **"§ 58-31-13. Hazardous conditions in State-owned buildings.**

15 If the Commissioner determines that an undue hazard to life, safety, or property  
16 exists because of a condition or the use of a building owned by the State, the  
17 Commissioner shall advise the proper agency how to limit or prohibit use of the  
18 building until the hazard is abated."

19 Sec. 14. G.S. 58-51-80(b) reads as rewritten:

20 "(b) No policy or contract of group accident, group health or group accident and  
21 health insurance shall be delivered or issued for delivery in this State unless the group  
22 of persons thereby insured conforms to the requirements of the following subdivisions:

23 (1) Under a policy issued to an employer, principal, or to the trustee of a  
24 fund established by an employer or two or more employers in the same  
25 industry or kind of business, or by a principal or two or more  
26 principals in the same industry or kind of business, which employer,  
27 principal, or trustee shall be deemed the policyholder, covering, except  
28 as hereinafter provided, only employees, or agents, of any class or  
29 classes thereof determined by conditions pertaining to employment, or  
30 agency, for amounts of insurance based upon some plan which will  
31 preclude individual selection. The premium may be paid by the  
32 employer, by the employer and the employees jointly, or by the  
33 employee; and where the relationship of principal and agent exists, the  
34 premium may be paid by the principal, by the principal and agents,  
35 jointly, or by the agents. If the premium is paid by the employer and  
36 the employees jointly, or by the principal and agents jointly, or by the  
37 employees, or by the agents, the group shall be structured on an  
38 actuarially sound basis.

39 (1a) Under a policy issued to an association or to a trust or to the trustee or  
40 trustees of a fund established, created, or maintained for the benefit of  
41 members of one or more associations. The association or associations  
42 shall have at the outset a minimum of 500 persons and shall have been  
43 organized and maintained in good faith for purposes other than that of  
44 obtaining insurance; shall have been in active existence for at least five

1           years; and shall have a constitution and bylaws that provide that (i) the  
 2           association or associations hold regular meetings not less than annually  
 3           to further purposes of the members; (ii) except for credit unions, the  
 4           association or associations collect dues or solicit contributions from  
 5           members; and (iii) the members have voting privileges and  
 6           representation on the governing board and committees. The policy is  
 7           subject to the following requirements:

8           a. The policy may insure members of the association or  
 9           associations, employees of the association or associations, or  
 10           employees of members, or one or more of the preceding or all  
 11           of any class or classes for the benefit of persons other than the  
 12           employee's employer.

13           b. The premium for the policy shall be paid from funds  
 14           contributed by the association or associations, or by employer  
 15           members, or by both, or from funds contributed by the covered  
 16           persons or from both the covered persons and the association,  
 17           associations, or employer members.

18           c. A policy on which no part of the premium is to be derived from  
 19           funds contributed by the covered persons specifically for their  
 20           insurance must insure all eligible persons, except those who  
 21           reject the coverage, in writing.

22           (2) For employer groups of 50 or more persons no evidence of individual  
 23           insurability may be required at the time the person first becomes  
 24           eligible for insurance or within 31 days thereafter except for any  
 25           insurance supplemental to the basic coverage for which evidence of  
 26           individual insurability may be required. With respect to trustee  
 27           groups the phrase 'groups of 50' must be applied on a participating unit  
 28           basis for the purpose of requiring individual evidence of insurability.

29           (3) Policies may contain a provision limiting coverage for preexisting  
 30           conditions. Preexisting conditions must be covered no later than 12  
 31           months after the effective date of coverage. Preexisting conditions are  
 32           defined as 'those conditions for which medical advice or treatment was  
 33           received or recommended or which could be medically documented  
 34           within the 12-month period immediately preceding the effective date  
 35           of the person's coverage.' Preexisting conditions exclusions may not  
 36           be implemented by any successor plan as to any covered persons who  
 37           have already met all or part of the waiting period requirements under  
 38           any prior group plan. Credit must be given for that portion of the  
 39           waiting period which was met under the prior plan."

40           Sec. 15. Article 63 of Chapter 58 of the General Statutes is amended by  
 41           adding a new section to read:

42           "**§ 58-63-65. Rule-making authority.**

43           The Commissioner may adopt rules to carry out the provisions of this Article,  
 44           including rules that define unfair methods of competition or unfair or deceptive acts or

1 practices in the business of insurance, in addition to those defined in G.S. 58-63-15 and  
2 determined under G.S. 58-63-40."

3 Sec. 16. G.S. 58-71-80(a) reads as rewritten:

4 "(a) The Commissioner may deny, suspend, or revoke or refuse to renew any  
5 license issued under this Article for any of the following causes:

- 6 (1) For any cause sufficient to deny, suspend, or revoke license under any  
7 other provision of this Article.
- 8 (2) Violation of any laws of this State relating to bail in the course of  
9 dealings under the license issued by the Commissioner.
- 10 (3) Material misstatement, misrepresentation or fraud in obtaining the  
11 license.
- 12 (4) Misappropriation, conversion or unlawful withholding of moneys  
13 belonging to insurers or others and received in the conduct of business  
14 under the license.
- 15 (5) Fraudulent or dishonest practices in the conduct of business under the  
16 license.
- 17 (6) Conviction of a felony regardless of the time the conviction occurred  
18 and regardless of whether the conviction resulted from conduct in or  
19 related to the bail bond business.
- 20 (7) Failure to comply with or violation of the provisions of this Article or  
21 of any order, rule or regulation of the Commissioner.
- 22 (8) When in the judgment of the Commissioner, the licensee has in the  
23 conduct of the licensee's affairs under the license, demonstrated  
24 incompetency, financial irresponsibility, or untrustworthiness; or that  
25 the licensee is no longer in good faith carrying on the bail bond  
26 business; or that the licensee is guilty of rebating, or offering to rebate,  
27 or offering to divide the premiums received for the bond.
- 28 (9) For failing to pay any judgment or decree rendered on any forfeited  
29 undertaking in any court of competent jurisdiction.
- 30 (10) For charging or receiving, as premium or compensation for the making  
31 of any deposit or bail bond, any sum in excess of that permitted by this  
32 Article.
- 33 (11) For requiring, as a condition of executing a bail bond, that the  
34 principal agree to engage the services of a specified attorney.
- 35 (12) For cheating on an examination for a license under this Article.
- 36 (13) For entering into any business association or agreement with any  
37 person who is at that time found by the Commissioner to be in  
38 violation of any of the bail bond laws of this State, or who has been in  
39 any manner disqualified under the bail bond laws of this State or any  
40 other state, whereby the person has any direct or indirect financial  
41 interest in the bail bond business of the licensee or applicant.
- 42 (14) For knowingly aiding or abetting others to evade or violate the  
43 provisions of this Article.

1 (15) Any cause for which issuance of the license could ~~not~~ have been  
 2 refused had it then existed and been known to the Commissioner at the  
 3 time of issuance."

4 Sec. 17. Article 71 of Chapter 58 of the General Statutes is amended by  
 5 adding a new section to read:

6 **"§ 58-71-81. Notice of receivership.**

7 Upon the filing for protection under the United States Bankruptcy Code by any  
 8 professional bondsman licensed under this Article or by any bail bond business in which  
 9 the bondsman holds a position of management or ownership, the bondsman shall notify  
 10 the Commissioner of the filing for protection within three business days after the filing.  
 11 Upon the appointment of a receiver by a court of this State for any professional  
 12 bondsman licensed under this Article, or for any bail bond business in which the  
 13 bondsman holds a position of management or ownership, the bondsman shall notify the  
 14 Commissioner of the filing for protection within three business days after the filing.  
 15 The failure to notify the Commissioner within three business days after the filing for  
 16 bankruptcy protection shall, after hearing, cause the license of any person failing to  
 17 make the required notification to be suspended for a period of not less than 60 days nor  
 18 more than three years, in the discretion of the Commissioner."

19 Sec. 18. G.S. 58-71-95 reads as rewritten:

20 **"§ 58-71-95. Prohibited practices.**

21 No bail bondsman or runner shall:

- 22 (1) Pay a fee or rebate or give or promise anything of value, directly or  
 23 indirectly, to a jailer, law-enforcement officer, committing magistrate,  
 24 or any other person who has power to arrest or hold in custody, or to  
 25 any public official or public employee in order to secure a settlement,  
 26 compromise, remission or reduction of the amount of any bail bond or  
 27 the forfeiture thereof, including the payment to law-enforcement  
 28 officers, directly or indirectly, for the arrest or apprehension of a  
 29 principal or principals who have caused or will cause a forfeiture.
- 30 (2) Pay a fee or rebate or give anything of value to an attorney in bail bond  
 31 matters, except in defense of any action on a bond.
- 32 (3) Pay a fee or rebate or give or promise anything of value to the  
 33 principal or anyone in his behalf.
- 34 (4) Participate in the capacity of an attorney at a trial or hearing of one on  
 35 whose bond he is surety, nor suggest or advise the employment of, or  
 36 name for employment any particular attorney to represent his  
 37 principal.
- 38 (5) Accept anything of value from a principal or from anyone on behalf of  
 39 a principal except the premium, which shall not exceed fifteen percent  
 40 (15%) of the face amount of the ~~bond, bond;~~ provided that the  
 41 bondsman shall be permitted to accept collateral security or other  
 42 indemnity from ~~the a principal which shall be returned upon final~~  
 43 termination of liability on the bond. or from anyone on behalf of a  
 44 principal. Such collateral security or other indemnity required by the

1                    bondsman must be reasonable in relation to the amount of the ~~bond~~  
2                    bond and shall be returned upon final termination of liability on the  
3                    bond.

4                    (6) Solicit business in any of the courts or on the premises of any of the  
5                    courts of this State, in the office of any magistrate and in or about any  
6                    place where prisoners are confined. Loitering in or about a magistrate's  
7                    office or any place where prisoners are confined shall be **prima facie**  
8                    evidence of soliciting.

9                    (7) Advise or assist the principal for the purpose of forfeiting bond."

10                    Sec. 19. G.S. 20-310(f) reads as rewritten:

11                    "(f) No cancellation or refusal to renew by an insurer of a policy of automobile  
12 insurance ~~shall be is~~ effective unless the insurer ~~shall have~~ has given the policyholder  
13 notice at his last known ~~post office~~ address by certificate of mailing a written notice of  
14 the cancellation or refusal to renew. Such notice shall:

- 15                    (1) Be approved as to form by the Commissioner of Insurance prior to use;  
16                    (2) State the date, not less than 60 days after mailing to the insured of  
17                    notice of cancellation or notice of intention not to renew, on which  
18                    such cancellation or refusal to renew shall become effective, except  
19                    that such effective date may be 15 days from the date of mailing or  
20                    delivery when it is being canceled or not renewed for the reasons set  
21                    forth in subdivision ~~(1) of subsection (d)-(d)(1)~~ and in subdivision ~~(4) of~~  
22                    ~~subsection (e)-(e)(4)~~ of this section;  
23                    (3) State the specific reason or reasons of the insurer for cancellation or  
24                    refusal to renew;  
25                    (4) Advise the insured of his right to request in writing, within 10 days of  
26                    the receipt of the notice, that the Commissioner of Insurance review  
27                    the action of the insurer; ~~and the insured's right to request in writing,~~  
28                    ~~within 10 days of receipt of the notice, a hearing before the Commissioner of~~  
29                    ~~Insurance;~~  
30                    (5) Either in the notice or in an accompanying statement advise the  
31                    insured that operation of a motor vehicle without complying with the  
32                    provisions of this Article is a misdemeanor and specifying the  
33                    penalties for such violation."

34                    Sec. 20. G.S. 20-310(i) reads as rewritten:

35                    "(i) Notwithstanding any provision herein contained, any insured may within 10  
36 days of the receipt of the notice of cancellation or notice of intention not to renew, or  
37 the receipt of the reason or reasons for cancellation or refusal to renew if they were not  
38 stated in the notice, ~~be entitled to request in writing that the Commissioner of Insurance~~  
39 review the action of an insurer in canceling or refusing to renew the policy of ~~such~~  
40 ~~insured. Within said 10 day period the insured may also request in writing a hearing in regard~~  
41 ~~to such review; the insured;~~ otherwise, the right of the insured for a hearing ~~shall be~~  
42 ~~deemed~~ review is waived. On receiving a request in writing for a review of the action of  
43 such insurer, the Commissioner of Insurance shall immediately notify the insurer  
44 involved of the insured's request and the charges involved, if known, and on receipt of

1 ~~said the~~ notification and within 10 days thereafter the insurer may make a request  
2 ~~response in writing for a hearing in regard to such review; otherwise, the right of the insurer~~  
3 ~~to such a hearing shall be deemed waived. the review.~~ If neither the insurer or the insured by  
4 request in writing or the Commissioner of Insurance of his own motion requires a hearing, then  
5 ~~in such event the~~ The Commissioner of Insurance shall make such investigation as he  
6 deems to be appropriate to determine if the insurer has violated the provisions of this  
7 section, and shall ~~after appropriate findings of fact~~ either approve the cancellation or  
8 nonrenewal of such policy or order the insurer to renew, reissue, or reinstate such policy  
9 on such terms as may be just. ~~At the written request of the insured or insurer or on his own~~  
10 ~~motion, the Commissioner of Insurance shall after notice conduct a hearing to determine if the~~  
11 ~~insurer has violated the provisions of this section, and after appropriate findings of fact, shall~~  
12 ~~within 40 days after receipt in writing of a request for review by the insured, either approve the~~  
13 ~~cancellation or nonrenewal of such policy or order the insurer to renew, reissue, or reinstate~~  
14 ~~such policy on such terms as may be just. In addition, if~~ If the Commissioner of Insurance  
15 finds after notice and hearing and after appropriate findings of fact, that the insurer has  
16 willfully violated the provisions of this section or has acted without reasonable  
17 investigation into the grounds for action of cancellation or nonrenewal, he may order the  
18 insurer involved to pay the reasonable expenses and costs of the ~~investigation~~  
19 investigation, review, and hearing conducted by the Commissioner not to exceed the  
20 sum of ~~three hundred dollars (\$300.00)~~ one thousand dollars (\$1,000) and such costs as  
21 are ordered paid by the Commissioner pursuant to the provisions of this section shall be  
22 paid as a condition of such insurer continuing to write automobile insurance business in  
23 this State. Any insured or insurer aggrieved by any order or decision of the  
24 Commissioner of Insurance may appeal said order and decision to the Superior Court of  
25 Wake County pursuant to and subject to the provisions of under G.S. 58-2-75. All  
26 examinations, reviews, investigations, and hearings provided by this subsection may be  
27 conducted by the Commissioner personally or by one or more of his deputies, actuaries,  
28 examiners, licensed attorneys, or employees designated by him for the purpose, and any  
29 order entered by such ~~hearing officer person~~ other than the Commissioner shall have the  
30 same force and effect as if entered by the Commissioner himself. All hearings shall be  
31 held at such time and place as shall be designated in a notice which shall be given by the  
32 Commissioner in writing to the person cited to appear at least 10 days before the date  
33 designated thereon. The notice shall state the subject of the inquiry and the specific  
34 charges, if any. It shall be sufficient to give such notice either by delivering it or by  
35 depositing the same in the United States mail, postage prepaid and addressed to the last  
36 known address of such insured or insurer. The policy shall remain in full force and  
37 effect during the pendency of review by the Commissioner of Insurance or the court  
38 except where the Commissioner of Insurance has sustained the action of the insurer and  
39 except where the cancellation or failure to renew was for nonpayment under subdivision  
40 ~~(1) of subsection (d) (d)(1)~~ and subdivision ~~(4) of subsection (e) (e)(4)~~ of this section, in  
41 which case the policy shall terminate as of the date provided in the notice under  
42 subsection (f) of this section."

43           Sec. 21. Section 17 of this act becomes effective September 1, 1993. The  
44 remainder of this act is effective upon ratification.