

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH60087-LT-33A (2/26)

Short Title: Insurance Financial Amendments Omnibus.-AB (Public)

Sponsors: Representative Setzer.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE SUBSTANTIVE AND TECHNICAL AMENDMENTS IN THE
LAWS CONCERNING INSURANCE COMPANY SOLVENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-5-5 reads as rewritten:

"§ 58-5-5. **Amount of deposits required of foreign or alien fire and/or marine insurance companies.**

Unless otherwise provided in this Article, every fire, marine, or fire and marine insurance company chartered by any other state or foreign government shall make and maintain deposits of securities with the Commissioner in the amount of ~~twenty-five thousand dollars (\$25,000)~~ one hundred thousand dollars (\$100,000) market value."

SECTION 2. G.S. 58-5-10 reads as rewritten:

"§ 58-5-10. **Amount of deposits required of foreign or alien fidelity, surety and casualty insurance companies.**

Unless otherwise provided in this Article, every fidelity, surety or casualty insurance company chartered by any other state or foreign government shall make and maintain deposits of securities with the Commissioner in the amount of ~~fifty thousand dollars (\$50,000)~~ two hundred thousand dollars (\$200,000) market value."

SECTION 3. G.S. 58-5-50 reads as rewritten:

"§ 58-5-50. **Deposits of foreign life insurance companies.**

In addition to other requirements of Articles 1 through 64 of this Chapter, all foreign life insurance companies shall deposit securities, as specified in G.S. 58-5-20, having a market value of ~~one hundred thousand dollars (\$100,000)~~ four hundred thousand dollars (\$400,000) as a prerequisite of doing business in this State. All foreign life insurance companies shall deposit an additional ~~one hundred thousand dollars (\$100,000)~~ two hundred thousand dollars (\$200,000) where such companies cannot show three years of net operational gains prior to admission. Foreign life insurance companies that are

1 licensed on or before the effective date of this section shall have one year from that date
2 to comply with this section."

3 **SECTION 4.** G.S. 58-7-162(2) reads as rewritten:

4 "(2) Investments, securities, properties, and loans acquired or held in
5 accordance with this Chapter, ~~and in connection therewith the~~
6 ~~following items:~~

- 7 a. ~~Interest due or accrued on any bond or evidence of indebtedness~~
8 ~~that is not in default.~~
- 9 b. ~~Declared and unpaid dividends on stock and shares, unless that~~
10 ~~amount has otherwise been allowed as an asset.~~
- 11 e. ~~Interest due or accrued upon a collateral loan in an amount not~~
12 ~~to exceed one year's interest thereon.~~
- 13 d. ~~Interest due or accrued on deposits in solvent banks, savings~~
14 ~~and loan associations, and trust companies, and interest due or~~
15 ~~accrued on other assets, if the interest is, in the Commissioner's~~
16 ~~judgment, a collectible asset.~~
- 17 e. ~~Interest due or accrued on a current mortgage loan, in an~~
18 ~~amount not exceeding in any event the amount, if any, of the~~
19 ~~excess of the value of the property less delinquent taxes thereon~~
20 ~~over the unpaid principal; but in no event shall interest accrued~~
21 ~~for a period in excess of 90 days be allowed as an asset.~~
- 22 f. ~~Rent due or accrued on real property if the rent is not in arrears~~
23 ~~for more than three months, and rent more than three months in~~
24 ~~arrears if the payment of the rent is adequately secured by~~
25 ~~property held in the tenant's name and conveyed to the insurer~~
26 ~~as collateral and the underlying collateral is admissible under~~
27 ~~this Chapter.~~
- 28 g. ~~The unaccrued portion of taxes paid before the due date on real~~
29 ~~property.~~

30 Chapter."

31 **SECTION 5.** G.S. 58-7-162(5) and G.S. 58-7-162(7) are repealed.

32 **SECTION 6.** G.S. 58-7-162(12) reads as rewritten:

33 "(12) Electronic and mechanical machines, including operating and system
34 software constituting a management information system, ~~if the cost of~~
35 ~~the system is at least twenty five thousand dollars (\$25,000) but not~~
36 ~~more than two percent (2%) of total admitted assets; the cost shall be~~
37 ~~amortized in full over a period not to exceed seven calendar~~
38 ~~years.system."~~

39 **SECTION 7.** G.S. 58-7-163 reads as rewritten:

40 "**§ 58-7-163. Assets not allowed.**

41 In addition to assets impliedly excluded by the provisions of G.S. 58-7-162, the
42 following expressly shall not be allowed as assets in any determination of the financial
43 condition of an insurer:

- 44 (1) ~~Goodwill, trade names, and other like intangible assets.~~

- 1 (2) Advances (other than policy loans) to officers, directors, and
2 controlling stockholders, whether secured or not, and advances to
3 employees, agents, and other persons on personal security only.
- 4 (3) Stock of the insurer or any material equity therein or loans secured
5 thereby, or any material proportionate interest in the stock acquired or
6 held through the ownership by the insurer of an interest in another
7 firm, corporation, or business unit.
- 8 (4) ~~Furniture, fixtures, other equipment, safes, vehicles, libraries,
9 stationery, literature, and supplies, other than data processing and
10 accounting systems authorized under G.S. 58-7-162(12), except in the
11 ease of title insurers the materials and plants which G.S. 58-7-182
12 expressly authorizes the insurer to invest in, and except, in the case of
13 any insurer, any personal property that the insurer is permitted to hold
14 under this Chapter, or that is acquired through foreclosure of chattel
15 mortgages acquired under G.S. 58-7-180, or that is reasonably
16 necessary for the maintenance and operation of real estate that the
17 insurer uses for a home office, branch office, and similar purposes.~~
- 18 (5) The amount, if any, by which the aggregate book value of investments
19 as carried in the ledger assets of the insurer exceeds the aggregate
20 value of the investments as determined under this Chapter.
- 21 (6) Bonds, notes, or other evidences of indebtedness that are secured by
22 mortgages or deeds of trust that are in default, to the extent of the cost
23 or carrying value that is in excess of the value as determined pursuant
24 to other provisions of this Chapter.
- 25 ~~(7) Prepaid and deferred expenses.~~
- 26 ~~(8) Certificates of contribution or other similar evidences of indebtedness.~~
- 27 (9) Any asset that is encumbered in any manner unless the asset is
28 authorized under G.S. 58-7-187 or G.S. 58-7-162(13)."

29 **SECTION 8.** G.S. 58-7-192 reads as rewritten:

30 **"§ 58-7-192. Valuation of securities and investments.**

31 ~~(a) All securities, investments, and evidences of debt, other than those for which
32 valuation methodologies are specifically set forth in this Chapter, that are held by an
33 insurer shall be valued at their market values, at their appraised values, or at prices
34 determined by the insurer as representing their fair market values, subject to the
35 Commissioner's approval.~~

36 ~~(b) Preferred or guaranteed stocks or shares while paying full dividends may be
37 carried at a fixed value in lieu of market value, in the Commissioner's discretion and in
38 accordance with a method of valuation that the Commissioner approves.~~

39 ~~(c) Stock of a subsidiary corporation of an insurer shall not be valued at an
40 amount in excess of its net value as based upon those assets only of the subsidiary that
41 would be eligible under this Chapter and G.S. 58-19-10 for investment of the funds of
42 the insurer direct.~~

43 ~~(d) No valuations under this section shall be greater than any applicable valuation
44 or method contained in the latest edition of the NAIC publications entitled "Valuations~~

1 ~~of Securities"~~ "Purposes and Procedures Manual of the NAIC Securities Valuation
2 Office" or the "Accounting Practices and Procedures Manual", unless the Commissioner
3 determines that another valuation method is appropriate when it results in a more
4 conservative valuation.

5 ~~(e) All bonds or fully secured indebtedness having a stated term and a rate of~~
6 ~~interest that are held by an insurer shall be valued in accordance with the procedures~~
7 ~~and instructions contained in the NAIC publication entitled "Valuations of Securities",~~
8 ~~unless the Commissioner determines that a more conservative valuation is appropriate."~~

9 **SECTION 9.** G.S. 58-7-193 reads as rewritten:

10 "**§ 58-7-193. Valuation of property.**

11 (a) ~~Real property acquired pursuant to a mortgage loan or contract for sale shall~~
12 ~~be valued at the net realizable value, but in no event shall the property be valued at an~~
13 ~~amount greater than the unpaid principal of the defaulted loan or contract at the date of~~
14 ~~the acquisition and the cost of improvements thereafter made by the insurer and any~~
15 ~~amounts thereafter paid by the insurer on assessments levied for improvements in~~
16 ~~connection with the property.~~

17 (b) ~~Other real property held by an insurer shall not be valued at an amount in~~
18 ~~excess of fair market value as determined by recent appraisal and as approved by the~~
19 ~~Commissioner. If valuation is based on an appraisal more than three years old, the~~
20 ~~Commissioner may call for and require a new appraisal in order to determine fair value.~~

21 (c) Personal property acquired pursuant to chattel mortgages made in accordance
22 with G.S. 58-7-180 shall not be valued at an amount greater than the unpaid balance of
23 principal on the defaulted loan at the date of acquisition, or the fair market value of the
24 property, whichever amount is less.

25 (d) If the Commissioner and an insurer do not agree on the value of real or
26 personal property of an insurer, in carrying out the Commissioner's responsibilities
27 under this section, the Commissioner may retain the services of a qualified real or
28 personal property appraiser. The insurer shall reimburse the Commissioner for the costs
29 of the services of any appraiser incurred with respect to the Commissioner's
30 responsibilities under this section."

31 **SECTION 10.** G.S. 58-7-195 is repealed.

32 **SECTION 11.** G.S. 58-7-179(d) reads as rewritten:

33 "(d) In the case of a purchase money mortgage given to secure the purchase price
34 of real estate sold by the insurer, the amount lent or invested shall not exceed the unpaid
35 part of the purchase price ~~and shall be valued in accordance with G.S. 58-7-195 price.~~"

36 **SECTION 12.** G.S. 58-23-26(c) reads as rewritten:

37 "(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134,
38 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71,
39 58-3-75, 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-31, 58-7-50,
40 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168,
41 58-7-170, 58-7-172, 58-7-173, 58-7-175, 58-7-179, 58-7-180, 58-7-183, 58-7-185,
42 58-7-187, 58-7-188, 58-7-192, 58-7-193, ~~58-7-195~~, 58-7-197, 58-7-200, and Articles
43 13, 19, and 34 of this Chapter. Annual financial statements required by G.S. 58-2-165

1 shall be filed by each pool within 60 days after the end of the pool's fiscal year, subject
2 to extension by the Commissioner."

3 **SECTION 13.** G.S. 58-47-80 reads as rewritten:

4 "**§ 58-47-80. Assets and invested assets.**

5 Funds shall be held and invested by the board under G.S. 58-7-160, 58-7-162,
6 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-178,
7 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193,
8 ~~58-7-195~~, 58-7-197, 58-7-200, and 58-19-10."

9 **SECTION 14.** G.S. 58-8-15 reads as rewritten:

10 "**§ 58-8-15. Directors in mutual companies.**

11 Every mutual insurance company shall elect by ballot a board of not less than seven
12 directors, who shall manage and conduct its business and hold office for one year or for
13 such term as the bylaws provide and until their successors are qualified. The directors
14 need not be residents of this State or members of the company. In companies with a
15 guaranty capital, no more than one-half one-half of the directors shall be ~~chosen~~ elected
16 by and from the stockholders: holders of guaranty capital, except where guaranty capital
17 holders are policyholders. Policyholders which are holders of guaranty capital shall be
18 entitled to one vote for each policy that person holds and one vote for each unit of
19 guaranty capital that person holds."

20 **SECTION 15.** G.S. 58-8-20 reads as rewritten:

21 "**§ 58-8-20. Mutual companies with a guaranty capital.**

22 (a) A mutual insurance company formed as provided in Articles 1 through 64 of
23 this Chapter, in lieu of the contributed surplus required for the organization of mutual
24 companies under the provisions of G.S. 58-7-75, or a mutual insurance company now
25 existing, may, with the prior approval of the Commissioner, ~~establish~~ tender a guaranty
26 capital offering of not less than fifty thousand dollars (\$50,000), divided into ~~shares~~
27 units of one hundred dollars (\$100.00) each, which shall be invested in the same manner
28 as is provided in this Chapter for the investment of the capital stock of insurance
29 companies.

30 (a1) Guaranty capital may be issued by an existing domestic mutual insurance
31 company only under the following terms and conditions:

- 32 (1) To aid and assist a financially troubled domestic mutual insurance
33 company which otherwise faces rehabilitation or liquidation by this
34 Department; or
35 (2) For any other reason as presented in a petition to the Commissioner
36 and which is found by the Commissioner to be reasonable, justifiable,
37 and in the best interest of all the policyholders of the company.

38 Guaranty capital issued under subdivision (2) of this subsection shall require written
39 notification of the action proposed by the board of directors of the company to be
40 mailed to the policyholders of the company not less than 30 days before the meeting
41 when the action may be taken. The written notification shall be advertised in two
42 newspapers of general circulation, approved by the Commissioner, not less than three
43 times a week for a period of not less than four weeks before the meeting. The written
44 notification to policyholders shall include a proxy statement to allow policyholders to

1 vote on the proposed action without personal attendance at the meeting, and the
2 Commissioner shall approve both the written notification and the proxy statement. The
3 proposed action shall be effected by a vote of two-thirds of the policyholders voting
4 thereon in person or by proxy.

5 (b) ~~The board of directors of a company may declare and pay dividends to the~~
6 ~~stockholders of the guaranty capital of a company, subject to the notification~~
7 ~~requirements of G.S. 58-19-25(d) and the prior approval requirements of G.S.~~
8 ~~58-19-30(e). distribute interest to the holders of guaranty capital in accordance with the~~
9 ~~guaranty capital filing approved by the Department.~~

10 (c) ~~The guaranty-Guaranty capital shall be applied to the payment of losses only~~
11 ~~when the company has exhausted its cash in hand and the invested assets, exclusive of~~
12 ~~uncollected premiums, and when thus impaired, the directors may make good the whole~~
13 ~~or any part of it by assessments upon the contingent funds of the company at the date of~~
14 ~~such impairment. In the event of a merger, demutualization, or other event where the~~
15 ~~entity ceases to exist, guaranty capital shall only be returned or repaid to the certificate~~
16 ~~holders to the extent that the guaranty capital had been contributed together with~~
17 ~~accrued income as specified in the certificate. Any amounts in excess shall be for the~~
18 ~~benefit of the policyholders.~~

19 (d) ~~Shareholders and members of such companies are subject to the same~~
20 ~~provisions of law in respect to their right to vote as apply respectively to shareholders in~~
21 ~~stock companies and policyholders in mutual companies. Guaranty capital holders are~~
22 ~~entitled to one vote per unit of guaranty capital. Guaranty capital holders who are not~~
23 ~~policyholders are not entitled to participate in the policyholder votes prescribed under~~
24 ~~subdivision (a1)(2) and subsection (e) of this section.~~

25 (e) ~~This guaranty-Guaranty capital may be reduced or retired by vote of the~~
26 ~~policyholders of the company and the assent of the Commissioner, if the net assets of~~
27 ~~the company above its reserve and all other claims and obligations, exclusive of~~
28 ~~guaranty capital, for two years immediately preceding and including the date of its last~~
29 ~~annual statement, is not less than twenty-five percent (25%) of the guaranty capital. Due~~
30 ~~notice of such proposed action on the part of the company must be mailed to each~~
31 ~~policyholder of the company not less than 30 days before the meeting when the action~~
32 ~~may be taken, and must also be advertised in two papers of general circulation,~~
33 ~~approved by the Commissioner, not less than three times a week for a period of not less~~
34 ~~than four weeks before such meeting. No insurance company with a guaranty capital~~
35 ~~which has ceased to do new business, shall divide to its stockholders any part of its~~
36 ~~assets or guaranty capital, except income from investments, until it has performed or~~
37 ~~canceled its policy obligations. In the event of a merger, demutualization, or other event~~
38 ~~where the entity ceases to exist, guaranty capital shall only be returned or repaid to the~~
39 ~~certificate holders to the extent that the guaranty capital had been contributed together~~
40 ~~with accrued income as specified in the certificate. Any amounts in excess shall be for~~
41 ~~the benefit of the policyholders.~~

42 (f) No insurance company with guaranty capital shall distribute to its holders of
43 guaranty capital its assets, except as provided in the guaranty capital filing as approved
44 by the Commissioner.

1 (g) In the event of a merger, demutualization, or other event where the entity
2 ceases to exist, guaranty capital shall only be returned or repaid to the holders of
3 guaranty capital to the extent that the guaranty capital has been contributed together
4 with accrued interest as specified in the filing approved by the Commissioner."

5 SECTION 16. G.S. 58-8-50 reads as rewritten:

6 "§ 58-8-50. **Guaranty against assessments prohibited.**

7 If any director, officer, or agent of a mutual insurance company, either officially or
8 privately, ~~shall give~~ gives a guaranty to a policyholder ~~thereof of the company~~ against
9 an assessment to which ~~such that~~ policyholder would otherwise be liable, ~~he the~~
10 director, officer, or agent shall be punished by a fine not exceeding ~~one hundred dollars~~
11 (\$100.00) one thousand dollars (\$1,000) for each offense."

12 SECTION 17. G.S. 58-65-1 reads as rewritten:

13 "§ 58-65-1. **Regulation and definitions; application of other laws; profit and**
14 **foreign corporations prohibited.**

15 (a) Any corporation organized under the general corporation laws of the State of
16 North Carolina for the purpose of maintaining and operating a nonprofit hospital or
17 medical or dental service plan whereby hospital care or medical or dental service may
18 be provided in whole or in part by the corporation or by hospitals, physicians, or
19 dentists participating in the plan, or plans, shall be governed by this Article and Article
20 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of
21 this State, unless otherwise provided.

22 The term "hospital service plan" as used in this Article ~~and Article 66 of this Chapter~~
23 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory
24 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and
25 obstetrical equipment, accommodations or any other services authorized or permitted to
26 be furnished by a hospital under the laws of the State of North Carolina and approved
27 by the North Carolina Hospital Association or the American Medical Association.

28 The term "medical service plan" as used in this Article ~~and Article 66 of this Chapter~~
29 includes the contracting for the payment of fees toward, or furnishing of, medical,
30 obstetrical, surgical or any other professional services authorized or permitted to be
31 furnished by a duly licensed physician or other provider listed in G.S. 58-50-30. The
32 term "medical services plan" also includes the contracting for the payment of fees
33 toward, or furnishing of, professional medical services authorized or permitted to be
34 furnished by a duly licensed provider of health services licensed under Chapter 90 of the
35 General Statutes.

36 The term "dental service plan" as used in this Article ~~and Article 66 of this Chapter~~
37 includes contracting for the payment ~~2of~~ of fees toward, or furnishing of dental or any
38 other professional services authorized or permitted to be furnished by a duly licensed
39 dentist.

40 The term "hospital service corporation" as used in this Article ~~and Article 66 of this~~
41 ~~Chapter~~ is intended to mean any nonprofit corporation operating a hospital or medical
42 or dental service plan, as defined in this section. Any corporation organized and subject
43 to the provisions of this ~~Article and Article 66 of this Chapter, Article,~~ the certificate of
44 incorporation of which authorizes the operation of either a hospital or medical or dental

1 service plan, or any or all of them, may, with the approval of the ~~Commissioner of~~
2 ~~Insurance, Commissioner,~~ issue subscribers' contracts or certificates approved by the
3 Commissioner of Insurance, for the payment of either hospital or medical or dental fees,
4 or the furnishing of such services, or any or all of them, and may enter into contracts
5 with hospitals for physicians or dentists, or any or all of them, for the furnishing of fees
6 or services respectively under a hospital or medical or dental service plan, or any or all
7 of them.

8 The term "preferred provider" as used in this Article ~~and Article 66 of this Chapter~~
9 with respect to contracts, organizations, policies or otherwise means a health care
10 service provider who has agreed to accept, from a corporation organized for the
11 purposes authorized by this Article ~~and Article 66 of this Chapter~~ or other applicable
12 law, special reimbursement terms in exchange for providing services to beneficiaries of
13 a plan administered pursuant to this ~~Article and Article 66 of this Chapter.~~ Article.
14 Except to the extent prohibited either by G.S. 58-65-140 or by rules ~~promulgated~~
15 adopted by the ~~Department of Insurance Commissioner~~ not inconsistent with this
16 ~~Article and Article 66 of this Chapter,~~ Article, the contractual terms and conditions for
17 special reimbursement shall be those which the corporation and preferred provider find
18 to be mutually agreeable.

19 ~~licensed licensed~~

20 (b) through (c) Repealed by Session Laws 2001-297.

21 ~~licensed licensed Social Work and Licensure~~

22 (d) No foreign or alien hospital or medical or dental service corporation as herein
23 defined shall be authorized to do business in this State."

24 **SECTION 18.** G.S. 58-67-5(i) reads as rewritten:

25 "(i) "Net worth" means the excess of total assets over the total liabilities and may
26 include borrowed funds that are repayable only from the net earned income of the health
27 maintenance organization and repayable only with the advance permission of the
28 Commissioner. For the purposes of this subsection, "assets" means (i) tangible assets
29 and (ii) other investments permitted under ~~G.S. 58-67-60; provided, however, that the~~
30 ~~depreciated cost of office furniture and equipment in the principal office shall not~~
31 ~~exceed ten percent (10%) of a health maintenance organization's net worth.~~ G.S.
32 58-67-60."

33 **SECTION 19.** G.S. 58-67-40 is repealed.

34 **SECTION 20.** G.S. 58-67-110 reads as rewritten:

35 "**§ 58-67-110. Protection against insolvency.**

36 (a) The Commissioner shall require deposits in accordance with the provisions of
37 G.S. 58-67-25.

38 (b) Each full service ~~medical~~ health maintenance organization shall maintain a
39 minimum net worth of ~~not less than one million dollars (\$1,000,000), which shall be~~
40 ~~increased by the amount of the contingency reserves calculated annually in accordance~~
41 ~~with the provisions of G.S. 58-67-40. The net worth calculation shall be computed in~~
42 ~~accordance with statutory accounting principles generally recognized in the regulation~~
43 ~~of health maintenance organizations and the Commissioner may promulgate such~~
44 ~~regulations as he deems appropriate to carry out the provisions of this section. If a~~

1 health maintenance organization fails to comply with the net worth requirement of this
2 subsection or subsections (c) or (d) of this section, the Commissioner is authorized to
3 take appropriate action to assure that the continued operation of the health maintenance
4 organization will not be hazardous to its enrollees. equal to the greater of one million
5 dollars (\$1,000,000) or the amount required pursuant to the risk-based capital provisions
6 of Article 12 of this Chapter. Each single service health maintenance organization shall
7 maintain a minimum net worth equal to the greater of fifty thousand dollars (\$50,000)
8 or that amount required pursuant to the risk-based capital provisions of Article 12 of this
9 Chapter.

10 (e) ~~The minimum net worth for a health maintenance organization authorized to~~
11 ~~operate on July 17, 1987, and having a net worth of less than one million dollars~~
12 ~~(\$1,000,000) shall be as follows:~~

- 13 (1) \$150,000 by December 31, 1987
- 14 (2) \$300,000 by December 31, 1988
- 15 (3) \$450,000 by December 31, 1989
- 16 (4) \$750,000 by December 31, 1990
- 17 (5) \$1,000,000 by December 31, 1991

18 ~~The net worth amounts required by this section shall be in addition to the contingency~~
19 ~~reserves required by G.S. 58-67-40.~~

20 (d) ~~Notwithstanding any other provision of this Article, a health maintenance~~
21 ~~organization authorized to offer only a single health care service plan providing a single~~
22 ~~health care service must have a minimum net worth of fifty thousand dollars (\$50,000).~~
23 ~~The minimum net worth for such plan authorized to operate on July 17, 1987, and~~
24 ~~having a net worth of less than fifty thousand dollars (\$50,000) shall be as follows:~~

- 25 (1) Twenty five thousand dollars (\$25,000) by December 31, 1987; and
- 26 (2) Fifty thousand dollars (\$50,000) by December 31, 1988;

27 ~~The net worth amounts required by this section shall be in addition to the contingency~~
28 ~~reserves required by G.S. 58-67-40.~~

29 (e) ~~Every full service medical health maintenance organization shall have and~~
30 ~~maintain at all times an adequate plan for protection against insolvency acceptable to~~
31 ~~the Commissioner. In determining the adequacy of such a plan, the Commissioner may~~
32 ~~consider:~~

- 33 (1) ~~A reinsurance agreement preapproved by the Commissioner covering~~
34 ~~excess loss, stop loss, or catastrophes. The agreement must provide~~
35 ~~that the Commissioner will be notified no less than 60 days prior to~~
36 ~~cancellation or reduction of coverage.~~
- 37 (2) ~~A conversion policy or policies that will be offered by an insurer to the~~
38 ~~enrollees in the event of the health maintenance organization's~~
39 ~~insolvency.~~
- 40 (3) ~~Any other arrangements offering protection against insolvency that the~~
41 ~~Commissioner may require."~~

42 **SECTION 21.** G.S. 58-67-140(a)(3) reads as rewritten:

- 43 "(3) ~~No longer maintains the financial reserve specified in G.S. 58-67-40 or~~
44 ~~is~~ is no longer financially responsible and may reasonably be expected

1 to be unable to meet its obligations to enrollees or prospective
2 enrollees."

3 **SECTION 22.** G.S. 58-67-140(a)(7) reads as rewritten:

4 "(7) Has knowingly published or made to the Department or to the public
5 any false statement or report, including any report or any data that
6 serves as the basis for any report, required to be submitted under ~~G.S.~~
7 ~~58-3-210.~~G.S. 58-3-191."

8 **SECTION 23.** If any section or provision of this act is declared
9 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the
10 validity of the act as a whole or any part other than the part declared to be
11 unconstitutional, preempted, or otherwise invalid.

12 **SECTION 24.** This act becomes effective October 1, 2003.