

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 647

Short Title: Mutual Insurance Holding Companies. (Public)

Sponsors: Senator Rucho.

Referred to: Insurance.

April 19, 2011

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

4 The General Assembly of North Carolina enacts:

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

7 "Part 8. Mutual Insurance Holding Companies.

8 "§ 58-10-275. Definitions.

9 The following definitions apply in this Part:

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



1 will hold, at all times, one hundred percent (100%) of the stock of its
2 insurance subsidiaries.

3 (7) Majority of the voting shares of the capital stock of the reorganized
4 insurance company. – Shares of the capital stock of a reorganized insurance
5 company which carry the right to cast a majority of the votes entitled to be
6 cast by all of the outstanding shares of the capital stock of the reorganized
7 insurance company for the election of directors and on all other matters
8 submitted to a vote of the shareholders of the reorganized insurance
9 company.

10 (8) Member of the immediate family. – Any parent, spouse of a parent, child,
11 spouse of a child, spouse, brother, or sister, including step and adoptive
12 relationships.

13 (9) Mutual insurance holding company. – A holding company organized on a
14 mutual plan and incorporated under the laws of North Carolina, resulting
15 from the reorganization of a domestic mutual insurance company pursuant to
16 this Part, with one or more stock insurance holding company subsidiaries or
17 stock insurance company subsidiaries.

18 (10) Plan of reorganization. – A plan to reorganize a domestic mutual insurance
19 company by forming a mutual insurance holding company.

20 (11) Standard application. – An application by a domestic mutual insurance
21 company for reorganization to a mutual insurance holding company which
22 may sell interests in its subsidiaries to third parties.

23 (12) Stock. – Any security evidencing an equity interest in the issuing entity.

24 (13) Stock offering. – Any proposed sale, exchange, transfer, or other change of
25 ownership of stock or of securities convertible into or exchangeable or
26 exercisable for stock. For the purposes of this Article, "stock offering" shall
27 not include any of the following:

28 a. An offering of preferred stock which is not convertible or
29 exchangeable into common stock and which has no ordinary voting
30 rights.

31 b. A transfer of stock among any of the following:

32 1. A mutual insurance holding company.

33 2. An insurance company subsidiary of a mutual insurance
34 holding company.

35 3. An intermediate holding company subsidiary of a mutual
36 insurance holding company.

37 4. An insurance company subsidiary of an intermediate holding
38 company subsidiary to a mutual insurance holding company.

39 (14) Subsidiary. – Defined in G.S. 58-19-5.

40 **"§ 58-10-280. General provisions.**

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

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

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

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

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

47 (e) G.S. 58-10-10 and G.S. 58-10-12 are not applicable to a reorganization or merger of
48 interests under this Part. G.S. 58-10-10 and G.S. 58-10-12 are applicable to demutualization of
49 a mutual insurance holding company that resulted from the reorganization of a domestic mutual
50 insurance company organized under this Chapter as if the mutual insurance holding company
51 was a mutual insurance company.

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

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

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

33 **"§ 58-10-285. Application; contents; process.**

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

37 (b) The application shall be filed in triplicate with the Commissioner and shall include
38 the following information:

- 39 (1) Designation as a limited or standard application.
- 40 (2) A plan of reorganization as set forth in G.S. 58-10-290.
- 41 (3) A plan to obtain the approval of the policyholders in accordance with this
42 Part and the applicant's articles of incorporation and bylaws.
- 43 (4) A copy of the mutual insurance holding company's proposed articles of
44 incorporation and bylaws specifying all membership rights.
- 45 (5) The names, addresses, and occupational information of all corporate officers
46 and members of the initial mutual insurance holding company board of
47 directors.
- 48 (6) Information sufficient to demonstrate that the financial condition of the
49 applicant will not be diminished upon reorganization.
- 50 (7) A copy of the proposed articles of incorporation and bylaws for any
51 insurance company subsidiary or intermediate holding company subsidiary.

- 1 (8) A "Form A" filing as described in Chapter 11 of Title 11 of the North
2 Carolina Administrative Code.
- 3 (9) A statement that the application is in compliance with all pertinent North
4 Carolina General Statutes and Administrative Rules and that the
5 requirements for a plan of reorganization have been fulfilled.
- 6 (10) An index demonstrating wherein the application information supplied in
7 compliance with this subsection is found.
- 8 (11) Any other information requested by the Commissioner at any time during
9 the course of proceedings.

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

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

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

22 **§ 58-10-290. Plan of reorganization.**

- 23 (a) A limited application plan of reorganization shall include the following provisions:
- 24 (1) Establishing a mutual insurance holding company with at least one stock
25 insurance company subsidiary or one intermediary stock holding company
26 with a stock insurance company subsidiary, the shares of which shall be held
27 exclusively by the mutual insurance holding company.
- 28 (2) Protecting the interests of existing policyholders.
- 29 (3) Ensuring immediate membership in the mutual insurance holding company
30 of all existing policyholders of the reorganizing domestic mutual insurance
31 company.
- 32 (4) Describing a plan providing for membership interests of future
33 policyholders.
- 34 (5) Describing the number of members of the board of directors of the mutual
35 insurance holding company required to be policyholders.
- 36 (6) Demonstrating that, in the event of proceedings under Article 30 of this
37 Chapter involving a stock insurance company subsidiary of the mutual
38 insurance holding company which resulted from the reorganization of a
39 domestic mutual insurance company, the assets of the mutual insurance
40 holding company will be available to satisfy the policyholder obligations of
41 the stock insurance company.
- 42 (7) Describing how any accumulation or prospective accumulation of earnings
43 by the mutual insurance holding company in excess of that determined by
44 the board of directors of the mutual insurance holding company to be
45 necessary shall inure to the exclusive benefit of the policyholders of its
46 insurance company subsidiaries who are members.
- 47 (8) Describing the nature and content of the annual report and financial
48 statement to be sent to each member.
- 49 (9) Describing any other relevant matters the applicant deems appropriate.
- 50 (b) A standard application plan of reorganization shall include the following provisions:

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

34 "**§ 58-10-295. Powers of the Commissioner.**

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

38 (b) Following any public comment period or hearing pursuant to G.S. 58-10-285, the
39 Commissioner by order shall approve, conditionally approve, or deny an application. The
40 Commissioner may require, as a condition of approval of the proposed reorganization,
41 modifications of the proposed plan of reorganization that the Commissioner finds necessary.
42 The applicant shall accept the required modifications by filing appropriate amendments to the
43 proposed plan of reorganization with the Commissioner within 30 days of the date of the
44 Commissioner's order requiring the modifications. If the applicant does not accept the required
45 modifications by failing to file the required amendments to the proposed plan of reorganization
46 within 30 days, the proposed reorganization shall be deemed denied.

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

50 (d) The Commissioner may revoke approval or conditional approval of an applicant's
51 plan of reorganization in the event the Commissioner finds the applicant has failed to comply

1 with the plan of reorganization. The Commissioner may compel completion of a plan of
2 reorganization unless the plan is abandoned in its entirety, in accordance with the applicant's
3 provisions for governance.

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

6 **"§ 58-10-300. Special financial requirements.**

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

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

15 (c) Each mutual insurance holding company shall supply to the Commissioner, by April
16 1 of each year, an annual statement consisting of the following:

17 (1) An income statement.

18 (2) A balance sheet.

19 (3) A cash flow statement.

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

22 (5) An investment plan covering all assets.

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

26 (d) The aggregate cost of investments made by a mutual insurance holding company in
27 noninsurance company subsidiaries shall not exceed fifty percent (50%) of the net worth of the
28 mutual insurance holding company, based upon generally accepted accounting practices
29 (GAAP). The Commissioner may waive the fifty percent (50%) limitation upon a showing of
30 good cause.

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

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

40 **"§ 58-10-305. Reorganization of domestic mutual insurer with mutual insurance holding
41 company.**

42 A domestic mutual insurance company may apply to reorganize by merging its
43 policyholders' membership interests into a mutual insurance holding company by filing with the
44 Commissioner a joint application with the mutual insurance holding company complying with
45 the provisions of G.S. 58-10-285.

46 **"§ 58-10-310. Mergers of mutual insurance holding companies.**

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

50 **"§ 58-10-315. Stock offerings.**

1 (a) No stock offering by a mutual insurance holding company, an insurance company
2 subsidiary of a mutual insurance holding company, an intermediate holding company
3 subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an
4 intermediate holding company subsidiary to a mutual insurance holding company shall occur
5 without the prior approval of the Commissioner.

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

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

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

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

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

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

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

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

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

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

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

45 (2) Requiring that, after the initial stock offering, a majority of the board of
46 directors of the mutual insurance holding company be persons who are not
47 interested persons of the mutual insurance holding company or of an
48 affiliated person of the company. For purposes of this subdivision, a member
49 of the mutual insurance holding company or a policyholder of any of its
50 insurance company subsidiaries shall not be considered an "interested

1 person" or an "affiliated person." The Commissioner may waive this
2 requirement upon a showing of good cause.

3 (3) For the mutual insurance holding company to adopt articles of incorporation
4 prohibiting any waiver of dividends from stock subsidiaries except under
5 conditions specified in its articles of incorporation and after approval of the
6 waiver by the board of directors of the mutual insurance holding company
7 and the Commissioner.

8 (4) Requiring that, after the initial stock offering by an insurance company
9 subsidiary of a mutual insurance holding company, an intermediate holding
10 company subsidiary of a mutual insurance holding company, or an insurance
11 company subsidiary of an intermediate holding company subsidiary of a
12 mutual insurance holding company, the boards of directors of each insurance
13 company or intermediate holding company include at least three directors
14 who are not interested persons of the mutual insurance holding company.
15 The Commissioner may waive this requirement upon a showing of good
16 cause.

17 (5) Establishing, within the board of directors of the corporation offering stock,
18 a pricing committee consisting exclusively of directors who are not members
19 of management of the insurance company subsidiary whose responsibility is
20 to evaluate and approve the price of any stock offering.

21 (d) An insurance company subsidiary of a mutual insurance holding company, an
22 intermediate holding company subsidiary of a mutual insurance holding company, or an
23 insurance company subsidiary of an intermediate holding company subsidiary to a mutual
24 insurance holding company may issue more than one class of stock, provided, however, that the
25 issuer complies with all of the following requirements:

26 (1) At all times a majority of the voting stock is held by the mutual insurance
27 holding company or its subsidiary.

28 (2) No class of common stock may possess greater dividend or other rights than
29 the class held by the mutual insurance holding company or its subsidiary.

30 (e) The Commissioner may retain, at the expense of the person filing the application,
31 any attorneys, actuaries, economists, accountants, consultants, or other professional advisors
32 not otherwise a part of the Commissioner's staff to assist the Commissioner in reviewing the
33 application. These contracts are personal professional service contracts exempt from Articles 3
34 and 3C of Chapter 143 of the General Statutes.

35 (f) The expenses of mailing any notices and other materials required by this section
36 shall be borne by the person filing the application.

37 (g) Upon receipt and review by the Commissioner of all information provided under
38 this section, the Commissioner may establish a period during which the Department will
39 receive and consider public comments about the proposed offering. The Commissioner shall
40 inform the public of the offering by posting information about the application in a manner
41 deemed appropriate by the Commissioner. The Commissioner may hold a public hearing
42 concerning the application or the proposed offering. Following any public comment period or
43 hearing, if applicable, the Commissioner may approve, conditionally approve, or deny the
44 application. The Commissioner may approve the application if the following apply:

45 (1) The offering complies with this Part and other provisions of law.

46 (2) The method for establishing the price of a stock offering is consistent with
47 generally accepted market or industry practices for establishing stock
48 offering prices in similar transactions.

49 (3) The plan and offering will not unfairly impact the interests of members of
50 the mutual insurance holding company.

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

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

15 (1) The total number of shares intended to be offered.

16 (2) The intended date of sale.

17 (3) Evidence the stock is regularly traded on one of the public exchanges
18 specified in this subsection.

19 (4) A record of the trading price and trading volume of the stock during the prior
20 52 weeks.

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

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

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

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

35 (1) Borrow funds from the mutual insurance holding company, or its
36 subsidiaries and affiliates, to finance the purchase of any portion of a stock
37 offering.

38 (2) Pay any commissions, "special fees," or any other special payments or
39 extraordinary compensation to officers, directors, interested persons, and
40 affiliates for arranging, promoting, aiding, or assisting in reorganization to a
41 mutual insurance holding company or for arranging, promoting, aiding,
42 assisting, or participating in the structuring and placement of a stock
43 offering.

44 (3) Enter into an understanding or agreement transferring legal or beneficial
45 ownership of stock to another person to avoid the requirements of this Part.

46 **"§ 58-10-320. Regulation of holding company system.**

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

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

6 **"§ 58-10-325. Reporting of stock ownership and transactions.**

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

13 (b) A mutual insurance holding company, and its subsidiaries and affiliates, shall file
14 with the Commissioner, within 15 days of receipt, copies of Form 3, Form 4, and Schedule
15 13D, or any equivalent filings, such filings made under the federal Securities Exchange Act of
16 1934, as amended."

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