

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

**H**

**D**

**HOUSE DRH30115-LN-87 (2/14)**

Short Title: Ins. Commr./Approval of Med Mal Rates. (Public)

---

Sponsors: Representative Faison.

---

Referred to:

---

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO  
CONSIDER CERTAIN CIRCUMSTANCES WHEN REVIEWING PROPOSED  
RATES SUBMITTED BY MEDICAL MALPRACTICE INSURERS FOR  
MALPRACTICE INSURANCE COVERAGE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-40-25 reads as rewritten:

**"§ 58-40-25. Rating methods.**

In determining whether rates comply with the standards under G.S. 58-40-20, the following criteria shall be applied:

(1) Due consideration shall be given to past and prospective loss and expense experience within this State, to catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to trends within this State, to dividends or savings to be allowed or returned by insurers to their policyholders, members, or subscribers, and to all other relevant factors, including judgment factors; however, regional or countrywide expense or loss experience and other regional or countrywide data may be considered only when credible North Carolina expense or loss experience or other data is not available.

(2) ~~Risks~~ Except as authorized under subdivision (2a) of this section, risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Those standards may measure any differences among risks that have probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be

1 established based upon size, expense, management, individual  
2 experience, location or dispersion of hazard, or any other reasonable  
3 considerations. Those classifications and modifications shall apply to  
4 all risks under the same or substantially the same circumstances or  
5 conditions.

6 (2a) The impact of medical malpractice insurance rates on the cost and  
7 availability of malpractice insurance for certain classes of health care  
8 providers. In reviewing rates proposed by a medical malpractice  
9 insurer, the Commissioner may require that the risks related to all  
10 medical malpractice claims shall be spread among all classes of health  
11 care providers regardless of the claims experience for a given class of  
12 health care provider.

13 (3) The expense provisions included in the rates to be used by an insurer  
14 may reflect the operating methods of the insurer and, as far as it is  
15 credible, its own expense experience.

16 (4) In the case of property insurance rates under this Article, consideration  
17 shall be given to the insurance public protection classifications of fire  
18 districts established by the Commissioner. The Commissioner shall  
19 establish and modify from time to time insurance public protection  
20 districts for all rural areas of the State and for cities with populations  
21 of 100,000 or fewer, according to the most recent annual population  
22 estimates certified by the State Budget Officer. In establishing and  
23 modifying these districts, the Commissioner shall use standards at least  
24 equivalent to those used by the Insurance Services Office, Inc., or any  
25 successor organization. The standards developed by the Commissioner  
26 are subject to Article 2A of Chapter 150B of the General Statutes. The  
27 insurance public protection classifications established by the  
28 Commissioner issued pursuant to the provisions of this Article shall be  
29 subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions  
30 stated in G.S. 58-2-75(a) do not apply."

31 **SECTION 2.** This act is effective when it becomes law and applies to rates  
32 filed for approval by the Commissioner of Insurance on and after that date.