

GENERAL ASSEMBLY OF NORTH CAROLINA  
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HOUSE BILL 1166  
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PROPOSED SENATE COMMITTEE SUBSTITUTE H1166-PCS30445-RG-56

Short Title: Insurance Law Changes.-AB

(Public)

Sponsors:

Referred to:

April 8, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS GOVERNING INSURANCE  
3 PRODUCERS AND BROKERS, BAIL BONDSMEN, MOTOR CLUBS, PREMIUM  
4 FINANCE COMPANIES, AND COLLECTION AGENCIES, TO REQUIRE AN  
5 INSURER TO PROVIDE CERTAIN INFORMATION REGARDING A DECEASED  
6 PERSON'S LIFE INSURANCE TO A FUNERAL DIRECTOR OR ESTABLISHMENT,  
7 TO DELETE OBSOLETE REFERENCES TO ASSIGNMENTS OF ERROR, AND TO  
8 MAKE OTHER CHANGES.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 58-33-10 is amended by adding a new subdivision to read:

11 "(4a) "FINRA" means the Financial Industry Regulatory Authority or any  
12 successor entity."

13 **SECTION 2.** G.S. 58-33-26(e) reads as rewritten:

14 "(e) A variable life and variable annuity products license authorizes a resident agent to  
15 sell, solicit, or negotiate variable contracts if the agent satisfies the Commissioner that the agent  
16 has met the ~~National Association of Securities Dealers~~ FINRA requirements of the Secretary of  
17 State of North Carolina."

18 **SECTION 3.** G.S. 58-33-26(p) reads as rewritten:

19 "(p) An individual shall not simultaneously hold ~~an agent's a~~ property, casualty, or  
20 personal lines insurance license and an adjuster's license in this State. An individual who holds  
21 a ~~property and liability~~ property, casualty, or personal lines insurance license may apply for an  
22 adjuster license without having to take the adjuster examination in G.S. 58-33-30(e) if the  
23 individual applies for the adjuster license within 60 days after surrendering the ~~property and~~  
24 ~~liability~~ property, casualty, or personal lines insurance license. An individual who holds an  
25 adjuster license may apply for a property and liability insurance license without having to take  
26 the property and liability insurance agent examination in G.S. 58-33-30(e) if the individual  
27 applies for the ~~property and liability~~ property, casualty, or personal lines insurance license  
28 within 60 days after surrendering the adjuster license."

29 **SECTION 4.** Article 33 of Chapter 58 of the General Statutes is amended by  
30 adding a new section to read:

31 **"§ 58-33-48. Criminal history record checks.**



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1       (a) An applicant for an insurance producer license under this Article shall furnish the  
2 Commissioner with a complete set of the applicant's fingerprints in a manner prescribed by the  
3 Commissioner. The applicant's fingerprints shall be certified by an authorized law enforcement  
4 officer. The fingerprints of every applicant shall be forwarded to the State Bureau of  
5 Investigation for a search of the applicant's criminal history record file, if any. If warranted, the  
6 State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of  
7 Investigation for a national criminal history record check. An applicant shall pay the cost of the  
8 State and any national criminal history record check of the applicant.

9       (b) The Commissioner shall keep all information pursuant to this section privileged, in  
10 accordance with applicable State law and federal guidelines, and the information shall be  
11 confidential and shall not be a public record under Chapter 132 of the General Statutes.

12       (c) This section does not apply to a person applying for renewal or continuation of a  
13 home state insurance producer license or a nonresident insurance producer license."

14       **SECTION 5.** G.S. 58-33-32(k) reads as rewritten:

15       "(k) A producer shall report to the Commissioner any administrative action taken against  
16 the producer in another state or by another governmental agency in this State within 30 days  
17 after the final disposition of the matter. As used in this subsection, "administrative action"  
18 includes enforcement action taken against the producer by the ~~National Association of~~  
19 ~~Securities Dealers-FINRA~~. This report shall include a copy of the order or consent order and  
20 other information or documents filed in the proceeding necessary to describe the action."

21       **SECTION 6.(a)** G.S. 58-33-35 is repealed.

22       **SECTION 6.(b)** G.S. 58-33-30(e)(1) reads as rewritten:

23       "(e) Examination.

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

30       **SECTION 7.** G.S. 58-33-40(a) reads as rewritten:

31       "(a) ~~No~~ Except as provided in subsection (b) of this section, no individual who holds a  
32 valid insurance agent's license issued by the Commissioner shall, either directly or for an  
33 insurance agency, solicit, negotiate, or otherwise act as an agent for an insurer by which the  
34 individual has not been appointed."

35       **SECTION 8.** G.S. 58-33-40(b) reads as rewritten:

36       "(b) Any insurer authorized to transact business in this State may appoint as its agent any  
37 individual who holds a valid agent's license issued by the Commissioner. To appoint an  
38 individual as its agent, the appointing insurer shall file, in a format approved by the  
39 Commissioner, a notice of appointment within 15 days after the date the first insurance  
40 application is submitted. ~~Upon the appointment, the~~The individual shall be authorized to act as  
41 an agent for the appointing insurer for all kinds of insurance for which the insurer is authorized  
42 in this State and for which the appointed agent is licensed in this State, unless specifically  
43 limited."

44       **SECTION 9.** G.S. 58-33-40(c) and (h) are repealed.

45       **SECTION 10.** G.S. 58-33-46(a)(2) and (a)(6) read as rewritten:

46       "**§ 58-33-46. Suspension, probation, revocation, or nonrenewal of licenses.**

47       (a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any  
48 license issued under this Article, in accordance with the provisions of Article 3A of Chapter  
49 150B of the General Statutes, for any one or more of the following causes:

50       ...

1 (2) Violating any insurance law of this or any other state, violating any  
2 administrative rule, subpoena, or order of the Commissioner or of another  
3 state's insurance regulator, or violating any rule of the ~~National Association~~  
4 ~~of Securities Dealers~~. FINRA.

5 ...

6 (6) Having been convicted of a ~~felony~~, felony or a misdemeanor involving  
7 dishonesty, a breach of trust, or ~~a misdemeanor involving~~ moral turpitude."

8 **SECTION 11.** G.S. 58-21-65(f) reads as rewritten:

9 "(f) A person licensed as a surplus lines licensee under the laws of a state bordering this  
10 State may be licensed as a surplus lines licensee under this Article, if: (i) the laws of the  
11 bordering state are substantially similar to the provisions of this Article and (ii) the bordering  
12 state has a law or regulation substantially similar to this subsection that permits surplus lines  
13 licensees licensed under this Article to be licensed by the bordering state and (iii) the person  
14 complies with all requirements of this Article and submits himself or herself to the  
15 Commissioner's jurisdiction. Nonresident surplus lines licensees shall be licensed in accordance  
16 with Article 33 of this Chapter."

17 **SECTION 12.** G.S. 58-71-50(a) reads as rewritten:

18 "(a) An applicant for a license as a bail bondsman or runner shall furnish the  
19 Commissioner with a complete set of the applicant's fingerprints in a manner prescribed by the  
20 Commissioner and a recent passport size full-face photograph of the applicant. The applicant's  
21 fingerprints shall be certified by an authorized law-enforcement officer. The fingerprints of  
22 every applicant shall be forwarded to the State Bureau of Investigation for a search of the  
23 applicant's criminal history record file, if any. If warranted, the State Bureau of Investigation  
24 shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national  
25 criminal history record check. An applicant shall pay the cost of the State and any national  
26 criminal history record check of the applicant."

27 **SECTION 13.** G.S. 58-71-70 reads as rewritten:

28 "**§ 58-71-70. Examination; fees.**

29 Each applicant for a license as a professional bondsman, surety bondsman, or runner shall  
30 appear in person and take ~~a written~~ an examination prepared by the Commissioner testing the  
31 applicant's ability and qualifications. Each applicant is eligible for examination 30 days after  
32 the date the application is received by the Commissioner. If an applicant is unable to complete  
33 the examination requirement within 30 days after notification from the Commissioner of the  
34 applicant's eligibility to take the examination, the applicant shall again be subject to the  
35 criminal history record check prescribed by G.S. 58-71-50(a) so that current information is  
36 available for review with the application. Each examination shall be held at a time and place as  
37 designated by the Commissioner. Each applicant shall be given notice of the designated time  
38 and place no sooner than 15 days before the examination. The Commissioner may contract with  
39 a person to process applications for the examination and administer and grade the examination  
40 in the same manner as for agent examinations under Article 33 of this Chapter.

41 The fee for each examination is twenty-five dollars (\$25.00) plus an amount that offsets the  
42 cost of any contract for examination services. This examination fee is nonrefundable.

43 An applicant who fails an examination may take a subsequent examination, but at least one  
44 year must intervene between examinations."

45 **SECTION 14.** G.S. 58-71-45 reads as rewritten:

46 "**§ 58-71-45. Terms of licenses.**

47 A license issued to a bail bondsman or to a runner authorizes the licensee to act in that  
48 capacity until the license is suspended or revoked. Upon the suspension or revocation of a  
49 license, the licensee shall return the license to the Commissioner. A license of a bail bondsman  
50 and a license of a runner shall be renewed on July 1 of each year upon payment of the  
51 applicable renewal fee under G.S. 58-71-75. The Commissioner is not required to print renewal

1 licenses. After notifying the Commissioner in writing, a professional bondsman who employs a  
2 runner may cancel ~~the runner's license and the runner's authority to act for the professional~~  
3 ~~bondsman.~~"

4 **SECTION 15.** G.S. 58-71-120 reads as rewritten:

5 "**§ 58-71-120. Bail bondsman to give notice of discontinuance of business; cancellation of**  
6 **license.**

7 Any bail bondsman who discontinues writing bail bonds during the period for which ~~he the~~  
8 ~~bail bondsman~~ is licensed shall ~~notify the clerks of the superior court with whom he is~~  
9 ~~registered and return his the~~ license to the Commissioner for cancellation within 30 days after  
10 ~~such the~~ discontinuance."

11 **SECTION 16.** G.S. 58-70-40(b) reads as rewritten:

12 "(b) If an individual proprietor, officer, or partner of the collection agency has been  
13 convicted in any court of competent jurisdiction for any crime involving dishonesty or breach  
14 of trust, the collection agency shall notify the Commissioner in writing of the conviction within  
15 10 days after the date of the conviction. As used in this subsection, "conviction" includes an  
16 adjudication of guilt, a plea of guilty, or a plea of nolo contendere. The conviction by a court of  
17 competent jurisdiction of any permittee for a violation of this Article shall automatically have  
18 the effect of suspending the permit of that permittee until such time that the permit is reinstated  
19 by the Commissioner. As used in this subsection, "conviction" includes an adjudication of guilt,  
20 a plea of guilty, and a plea of nolo contendere."

21 **SECTION 17.** G.S. 58-70-40 is amended by adding a new subsection to read:

22 "(e) A collection agency shall report to the Commissioner any administrative action  
23 taken against the collection agency by another state or by another governmental agency in this  
24 State within 30 days after the final disposition of the matter. This report shall include a copy of  
25 the order or consent order and other information or documents filed in the proceeding necessary  
26 to describe the action."

27 **SECTION 18.** Article 69 of Chapter 58 of the General Statutes is amended by  
28 adding a new section to read:

29 "**§ 58-69-60. Notification of criminal or administrative actions.**

30 (a) If an individual proprietor, officer, or partner of a motor club has been convicted in  
31 any court of competent jurisdiction for any crime involving dishonesty or breach of trust, the  
32 motor club shall notify the Commissioner in writing of the conviction within 10 days after the  
33 date of the conviction. As used in this subsection, "conviction" includes an adjudication of  
34 guilt, a plea of guilty, or a plea of nolo contendere.

35 (b) A motor club shall report to the Commissioner any administrative action taken  
36 against the motor club by another state or by another governmental agency in this State within  
37 30 days after the final disposition of the matter. This report shall include a copy of the order or  
38 consent order and other information or documents filed in the proceeding necessary to describe  
39 the action."

40 **SECTION 19.** Article 35 of Chapter 58 of the General Statutes is amended by  
41 adding a new section to read:

42 "**§ 58-35-22. Notification of criminal or administrative actions.**

43 (a) If an individual proprietor, officer, or partner of an insurance premium finance  
44 company has been convicted in any court of competent jurisdiction for any crime involving  
45 dishonesty or breach of trust, the premium finance company shall notify the Commissioner in  
46 writing of the conviction within 10 days after the date of the conviction. As used in this  
47 subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo  
48 contendere.

49 (b) An insurance premium finance company shall report to the Commissioner any  
50 administrative action taken against the premium finance company, including any branch office,  
51 by another state or by another governmental agency in this State within 30 days after the final

1 disposition of the matter. This report shall include a copy of the order or consent order and  
2 other information or documents filed in the proceeding necessary to describe the action."

3 **SECTION 20.** G.S. 58-2-69(b) reads as rewritten:

4 "(b) Every applicant for a license shall inform the Commissioner of the applicant's  
5 residential ~~address~~ address and provide the applicant's e-mail address to which the  
6 Commissioner can send electronic notifications and other messages. Every licensee shall give  
7 written notification to the Commissioner of any change of the licensee's residential or e-mail  
8 address within 10 business days after the licensee moves into the licensee's new  
9 residence ~~residence~~ or obtains a different e-mail address. This requirement applies if the change  
10 of residential address is by governmental action and there has been no actual change of  
11 residence location; in which case the licensee shall notify the Commissioner within 10 business  
12 days after the effective date of the change. A violation of this subsection is not a ground for  
13 revocation, suspension, or nonrenewal of the license or for the imposition of any other penalty  
14 by the Commissioner, though a licensee who violates this subsection shall pay an  
15 administrative fee of fifty dollars (\$50.00) to the Commissioner."

16 **SECTION 21.** G.S. 58-70-5 is amended by adding two new subsections to read:

17 "(r) If the applicant is a subsidiary in a holding company system and if the applicant's  
18 ultimate parent regularly files financial information with the U.S. Securities and Exchange  
19 Commission, in lieu of complying with subsection (k) of this section, the applicant may file the  
20 ultimate parent company's balance sheet as of the most recent fiscal year-end, as certified by  
21 the ultimate parent's independent auditors, and accompanied by a guarantee of the applicant's  
22 performance from the ultimate parent company for the benefit of the Department, limited to  
23 those portions of this Article that are applicable to the applicant.

24 (s) After a permit is issued by the Commissioner, the permittee's ultimate parent, as  
25 specified in subsection (r) of this section, shall remain responsible for the guarantee of  
26 performance as provided in subsection (r) of this section notwithstanding any change in the  
27 corporate structure of the ultimate parent company. If the permittee is acquired by any other  
28 person that has control over the permittee, the controlling person shall provide its own  
29 guarantee of performance as provided in subsection (r) of this section for the permittee to retain  
30 its permit. If the permittee does not have an ultimate parent company, it shall file its own  
31 balance sheet as specified in subsection (k) of this section."

32 **SECTION 22.** Article 70 of Chapter 58 of the General Statutes is amended by  
33 adding a new section to read:

34 "**§ 58-70-6. Definitions.**

35 For purposes of G.S. 58-70-5 and this section, the following definitions apply:

- 36 (1) An "affiliate" of or a person "affiliated" with a specific person. – A person  
37 that indirectly through one or more intermediaries or directly controls, is  
38 controlled by, or is under common control with the person specified.
- 39 (2) Control, including the terms "controlling," "controlled by," and "under  
40 common control with." – The direct or indirect possession of the power to  
41 direct or cause the direction of the management and policies of a person,  
42 whether through the ownership of voting securities, by contract other than a  
43 commercial contract for goods or nonmanagement services, or otherwise.  
44 Control is presumed to exist if any person directly or indirectly owns,  
45 controls, holds with the power to vote, or holds proxies representing ten  
46 percent (10%) or more of the voting securities of any other person.
- 47 (3) Holding company system. – An entity comprising two or more affiliated  
48 persons.
- 49 (4) Person. – An individual, corporation, partnership, limited liability company,  
50 association, joint stock company, trust, unincorporated organization, or any  
51 similar entity or any combination of the foregoing acting in concert.

- 1           (5) Subsidiary of a specified person. – An affiliate controlled by that person  
2           indirectly through one or more intermediaries or directly.  
3           (6) Voting security. – Includes any security convertible into or evidencing a  
4           right to acquire a voting security."

5           **SECTION 23.** Article 58 of Chapter 58 of the General Statutes is amended by  
6 adding a new section to read:

7 **"§ 58-58-97. Provision of life insurance information upon notification of insured's death.**

8           (a) Any person licensed to practice funeral directing or any employee of a funeral  
9 establishment licensed under the provisions of Article 13A of Chapter 90 of the General  
10 Statutes providing funeral service, as that term is defined in G.S. 90-210.20, for a deceased  
11 person insured or believed to be insured under a contract of life insurance may request  
12 information regarding the deceased person's life insurance contracts by providing an insurer  
13 with (i) a copy of a notification of death filed pursuant to G.S. 130A-112 and (ii) written  
14 authorization from the person or persons with legal authority to direct disposition of the  
15 deceased's body as prescribed under G.S. 90-210.124 or G.S. 130A-420. As soon as possible  
16 after receipt of the request, the life insurance company shall inform the person authorized by  
17 this section to make an inquiry of the following:

- 18           (1) The existence of any contract insuring the life of the deceased person.  
19           (2) Any beneficiaries on record under any life insurance contract insuring the  
20 life of the deceased person.  
21           (3) The amount of any liens or loans outstanding on the policy.  
22           (4) The amount of benefits payable to the beneficiaries.  
23           (5) Whether the policy has been reinstated within the last 24 months.

24 The insurer shall provide a claim form to any person or assignee making the request.

25           (b) If any person making a written request under subsection (a) of this section who has  
26 provided all the information required by subsection (a) of this section does not receive a timely  
27 response from the insurer, then the person may refer the request to the Consumer Services  
28 Division of the Department, which shall treat the referral as a consumer complaint. The referral  
29 shall include all the information provided to the insurer under subsection (a) of this section as  
30 well as copies of all communications and information received from the insurer regarding the  
31 request for information.

32           (c) If the beneficiary of record under the life insurance contract is not the estate of the  
33 deceased, then any person authorized to request information under subsection (a) of this section  
34 shall make reasonable efforts to locate the beneficiaries within 100 hours of receiving  
35 information from the insurance carrier regarding any life insurance contracts and shall provide  
36 to all beneficiaries all documents and information obtained from the insurance carrier. The  
37 person obtaining the information also shall inform all beneficiaries in writing in bold print that  
38 "THE BENEFICIARY OF A LIFE INSURANCE POLICY HAS NO LEGAL DUTY OR  
39 OBLIGATION TO SPEND ANY OF THAT MONEY ON THE FUNERAL, DEBTS, OR  
40 OBLIGATIONS OF THE DECEASED" and shall do so before discussing with the  
41 beneficiaries financial arrangements for burial of the deceased.

42           (d) Any licensee or employee of a funeral establishment licensed under Article 13A of  
43 Chapter 90 of the General Statutes who makes a false request for information under this section  
44 or fails to do that required by subsection (c) of this section shall be deemed guilty of fraud or  
45 misrepresentation in the practice of funeral service as defined in G.S. 90-210.25(e)(1)b. and  
46 unfit to practice funeral service."

47           **SECTION 24.** G.S. 58-39-75 is amended by adding a new subdivision to read:

- 48           "(4a) To a person making an inquiry under G.S. 58-58-97 when providing funeral  
49 service to a deceased insured; or"

50           **SECTION 25.** The Department shall report to the Chairs of the House Insurance  
51 Committee and the Senate Commerce Committee by March 1, 2011, the number of insurance

1 policy beneficiary information inquiries referred to it under G.S. 58-58-97, as enacted by this  
2 act; the identity of the insurers whose refusal or delay resulted in the referrals; the reasons the  
3 insurers were unable to respond to the inquiries; and any recommendations for administrative,  
4 legislative, or regulatory changes needed to enhance the ability of individuals arranging for  
5 funeral services to obtain timely access to information about life insurance policies held by a  
6 deceased person.

7 **SECTION 26.** G.S. 58-2-85 reads as rewritten:

8 "**§ 58-2-85. Procedure on appeal under § 58-2-80.**

9 Appeals to the North Carolina Court of Appeals pursuant to G.S. 58-2-80 shall be subject to  
10 the following provisions:

- 11 (1) No party to a proceeding before the Commissioner may appeal from any  
12 final order or decision of the Commissioner unless within 30 days after the  
13 entry of such final order or decision, or within such time thereafter as may  
14 be fixed by the Commissioner, by order made within 30 days, the party  
15 aggrieved by such decision or order shall file with the Commissioner notice  
16 of ~~appeal, appeal and exceptions which shall set forth specifically the ground~~  
17 ~~or grounds on which the aggrieved party considers said decision or order to~~  
18 ~~be unlawful, unjust, unreasonable or unwarranted, and including errors~~  
19 ~~alleged to have been committed by the Commissioner.~~
- 20 (2) Any party may appeal from all or any portion of any final order or decision  
21 of the Commissioner in the manner herein provided. Copy of the notice of  
22 appeal shall be mailed by the appealing party at the time of filing with the  
23 Commissioner, to each party to the proceeding to the addresses as they  
24 appear in the files of the Commissioner in the proceeding. The failure of any  
25 party, other than the Commissioner, to be served with or to receive a copy of  
26 the notice of appeal shall not affect the validity or regularity of the appeal.
- 27 (3) ~~The Commissioner may on motion of any party to the proceeding or on its~~  
28 ~~own motion set the exceptions to the final order upon which such appeal is~~  
29 ~~based for further hearing before the Commissioner.~~
- 30 (4) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The  
31 procedure for the appeal shall be as provided by the rules of appellate  
32 procedure.
- 33 (5), (6) Repealed by Session Laws 1975, c. 391, s. 11.
- 34 (7) The Court of Appeals shall hear and determine all matters arising on such  
35 appeal, as in this Article provided, and may in the exercise of its discretion  
36 assign the hearing of said appeal to any panel of the Court of Appeals.
- 37 (8) Unless otherwise provided by the rules of appellate procedure, the cause on  
38 appeal from the Commissioner of Insurance shall be entitled "State of North  
39 Carolina ex rel. Commissioner of Insurance (here add any additional parties  
40 in support of the Commissioner's order and their capacity before the  
41 Commissioner). Appellee(s) v. (here insert name of appellant and his  
42 capacity before the Commissioner), Appellant." Appeals from the Insurance  
43 Commissioner pending in the superior courts on January 1, 1972, shall  
44 remain on the civil issue docket of such superior court and shall have  
45 priority over other civil actions. Appeals to the Court of Appeals under  
46 G.S. 7A-29 shall be docketed in accordance with the rules of appellate  
47 procedure.
- 48 (9) In any appeal to the Court of Appeals, the complainant in the original  
49 complaint before the Commissioner shall be a party to the record and each of  
50 the parties to the proceeding before the Commissioner shall have a right to  
51 appear and participate in said appeal.

1 (10) An appeal under this section shall operate as a stay of the Commissioner's  
2 order or decision until said appeal has been dismissed or the questions raised  
3 by the appeal determined according to law."

4 **SECTION 27.** G.S. 58-2-90 reads as rewritten:

5 "**§ 58-2-90. Extent of review under § 58-2-80.**

6 (a) On appeal the court shall review the record ~~and the exceptions and assignments of~~  
7 ~~error~~ in accordance with the rules of the Court of Appeals, and any alleged irregularities in  
8 procedures before the Commissioner, not shown in the record, shall be considered under the  
9 rules of the Court of Appeals.

10 (b) So far as necessary to the decision and where presented, the court shall decide all  
11 relevant questions of law, interpret constitutional and statutory provisions, and determine the  
12 meaning and applicability of the terms of any action of the Commissioner. The court may  
13 affirm or reverse the decision of the Commissioner, declare the same null and void, or remand  
14 the case for further proceedings; or it may reverse or modify the decision if the substantial  
15 rights of the appellants have been prejudiced because the Commissioner's findings, inferences,  
16 conclusions or decisions are:

17 (1) In violation of constitutional provisions, or

18 (2) In excess of statutory authority or jurisdiction of the Commissioner, or

19 (3) Made upon unlawful proceedings, or

20 (4) Affected by other errors of law, or

21 (5) Unsupported by material and substantial evidence in view of the entire  
22 record as submitted, or

23 (6) Arbitrary or capricious.

24 (c) In making the foregoing determinations, the court shall review the whole record or  
25 such portions thereof as may be cited by any party and due account shall be taken of the rule of  
26 prejudicial error. ~~The appellant shall not be permitted to rely upon any grounds for relief on~~  
27 ~~appeal which were not set forth specifically in his notice of appeal filed with the~~  
28 ~~Commissioner.~~

29 (d) The court shall also compel action of the Commissioner unlawfully withheld or  
30 unlawfully or unreasonably delayed.

31 (e) Upon any appeal, the rates fixed or any rule, regulation, finding, determination, or  
32 order made by the Commissioner under the provisions of Articles 1 through 64 of this Chapter  
33 shall be prima facie correct."

34 **SECTION 28.** If Senate Bill 660 becomes law, then Section 3 of that act reads as  
35 rewritten:

36 "**SECTION 3.** This act becomes effective ~~October 1, 2009,~~ January 1, 2010, and applies to  
37 motor vehicle liability insurance policies issued or renewed on or after that date."

38 **SECTION 29.** Section 4 of this act becomes effective October 1, 2010, and applies  
39 to applications made on or after that date. Sections 16, 17, 18, and 19 of this act become  
40 effective October 1, 2009. Section 20 of this act becomes effective January 1, 2010. Sections  
41 23, 24, and 25 of this act become effective October 1, 2010. Sections 26 and 27 of this act  
42 become effective October 1, 2009, and apply to appeals filed on or after that date. The  
43 remainder of this act is effective when it becomes law.