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PROPOSED SENATE COMMITTEE SUBSTITUTE H240-PCS70446-TP-48

Short Title: Insurance Technical/Clarifying Changes.-AB

(Public)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED

1 AN ACT TO EXPAND THE CHOICES FOR HEALTH INSURANCE IN NORTH
2 CAROLINA BY EXEMPTING HEALTH INSURANCE COMPANIES FROM
3 OUTDATED RISK EXPOSURE REQUIREMENTS; TO REMOVE A PHOTO
4 IDENTIFICATION REQUIREMENT FOR NEW DOMESTIC COMPANIES; TO HELP
5 MORTGAGE GUARANTY COMPANIES ADJUST THEIR CAPITAL AND SURPLUS
6 REQUIREMENTS; TO REVISE CERTAIN RISK-BASED CAPITAL REQUIREMENTS
7 IN ORDER TO MAINTAIN NORTH CAROLINA'S NAIC ACCREDITATION; TO
8 CLARIFY CONSUMER CHOICE IN HOMEOWNER'S COVERAGE FOR WIND AND
9 HAIL; TO CLARIFY THE CERTIFICATION REQUIREMENTS FOR AN ACTUARY
10 WHO PRESENTS A SCHEDULE OF PREMIUM RATES; TO SHORTEN CERTAIN
11 TIME PERIODS FOR AN EXTERNAL REVIEW BY THE COMMISSIONER OF
12 CERTAIN INSURER DETERMINATIONS; TO EXPAND ACCESS OF COVERAGE
13 TO BUSINESSES WHO NEED BLANKET ACCIDENT AND HEALTH COVERAGE;
14 TO MAKE CERTAIN CONFORMING CHANGES RELATED TO THE RENAMING OF
15 THE OFFICE OF MANAGED CARE PATIENT ASSISTANCE PROGRAM AS
16 HEALTH INSURANCE SMART NC; TO AMEND THE DEFINITION OF PRIVATE
17 PASSENGER MOTOR VEHICLE; TO CLARIFY WHEN AN INSURER CAN
18 COMMUNICATE WITH THE INSURED AFTER A PUBLIC ADJUSTER HAS BEEN
19 RETAINED; AND TO CLARIFY WHEN AN AUTOMATIC STAY OF PROOF OF
20 LOSS REQUIREMENTS, PREMIUM AND DEBT DEFERRALS, AND LOSS
21 ADJUSTMENTS ARE TRIGGERED; TO PROVIDE NOTICE AND AN
22 OPPORTUNITY FOR A HEARING WHEN A SUPERIOR COURT JUDGE IS CALLED
23 UPON TO SELECT AN UMPIRE IN CERTAIN PROPERTY INSURANCE DISPUTES;
24 AND TO ALLOW THE DEPARTMENT OF INSURANCE TO ENFORCE CERTAIN
25 PROVISIONS OF THE PUBLIC HEALTH SERVICE ACT BY REQUIRING
26 INSURANCE COMPANIES TO COMPLY WITH THOSE PROVISIONS WITHIN THIS
27 STATE.
28

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-3-105 reads as rewritten:

"§ 58-3-105. **Limitation of risk.**

Except as otherwise provided in Articles 1 through 64 of this Chapter, no insurer doing business in this State shall expose itself to any loss on any one risk in an amount exceeding ten percent (10%) of its surplus to policyholders. Any risk or portion of any risk which shall have



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1 been reinsured shall be deducted in determining the limitation of risk prescribed in this section.
 2 This section shall not apply to (i) life insurance-insurance, (ii) accident and health insurance,
 3 (iii) or to the insurance of marine risks, or marine protection and indemnity risks, or (iv)
 4 workers' compensation or employer's liability risks, or to and (v) certificates of title or title,
 5 guaranties of title or policies of title insurance. For the purpose of determining the limitation of
 6 risk under any provision of Articles 1 through 64 of this Chapter, "surplus to policyholders"
 7 shall

- 8 (1) Be deemed to include any voluntary reserves, or any part thereof, which are
 9 not required by or pursuant to law, and
 10 (2) Be determined from the last sworn statement of such insurer on file with the
 11 Commissioner pursuant to law, or by the last report on examination filed by
 12 the Commissioner, whichever is more recent at the time of assumption of
 13 such risk.

14 In applying the limitation of risk under any provision of Articles 1 through 64 of this
 15 Chapter to alien insurers, such provision shall be deemed to refer to the exposure to risk and to
 16 the surplus to policyholders of the United States branch of such alien insurer."

17 **SECTION 2.** G.S. 58-7-37(a) reads as rewritten:

18 **"§ 58-7-37. Background of incorporators and proposed management personnel.**

19 (a) Before a license is issued to a new domestic insurance company, each key person
 20 must furnish the Commissioner a complete set of the applicant's ~~fingerprints and a recent~~
 21 ~~passport size full face photograph of the applicant.~~ fingerprints. The applicant's fingerprints
 22 shall be certified by an authorized law enforcement officer. The fingerprints of every applicant
 23 shall be forwarded to the State Bureau of Investigation for a search of the applicant's criminal
 24 history record file, if any. If warranted, the State Bureau of Investigation shall forward a set of
 25 the fingerprints to the Federal Bureau of Investigation for a national criminal history record
 26 check. An applicant shall pay the cost of the State and any national criminal history record
 27 check of the applicant."

28 **SECTION 3.(a)** G.S. 58-10-125(l) reads as rewritten:

29 **"§ 58-10-125. Policyholders position and capital and surplus requirements.**

30 ...
 31 (l) Any waiver shall be (i) for a specified period of time not to exceed two years and
 32 (ii) subject to any terms and conditions that the Commissioner shall deem best suited to
 33 restoring the mortgage guaranty insurer's minimum policyholders position required by
 34 subsection (a) of this section. ~~Notwithstanding any other provision in this section, the~~
 35 ~~Commissioner shall not grant a waiver that would extend beyond July 1, 2015."~~

36 **SECTION 3.(b)** Section 2 of S.L. 2009-254, as rewritten by Section 2 of S.L.
 37 2010-40, reads as rewritten:

38 **"SECTION 2.** This act becomes effective July 1, 2009, and expires July 1, 2015.2009."

39 **SECTION 4.** G.S. 58-12-11(b)(3) reads as rewritten:

40 **"§ 58-12-11. Company action level event.**

41 ...
 42 (b) In the event of a company action level event, the insurer shall prepare and submit to
 43 the Commissioner a comprehensive financial plan that:

- 44 ...
 45 (3) Provides forecasts of the insurer's financial results in the current year and at
 46 least the four succeeding years (except for health organizations, which must
 47 provide forecasts in the current year and at least the two succeeding years),
 48 both in the absence of proposed corrective actions and giving effect to the
 49 proposed corrective actions, including forecasts of statutory balance sheets,
 50 operating income, net income, ~~capital, or surplus~~ capital and surplus, and
 51 risk-based capital levels (the forecasts for both new and renewal business

1 should include separate forecasts for each major line of business and
2 separately identify each significant income, expense, and benefit
3 component). ~~For a health organization, the forecasted financial results shall~~
4 ~~be for the current year and at least two succeeding years and shall include~~
5 ~~statutory balance sheets, operating income, net income, capital and surplus,~~
6 ~~and risk-based capital levels."~~

7 **SECTION 5.** G.S. 58-12-35(a) reads as rewritten:

8 **"§ 58-12-35. Confidentiality and prohibition on announcements.**

9 (a) All risk-based capital reports, to the extent the information therein is not required to
10 be set forth in a publicly available annual statement schedule, and the risk-based capital plans,
11 including the results or report of any examination or analysis of an insurer performed pursuant
12 hereto and any corrective order issued by the Commissioner pursuant to examination or
13 analysis, with respect to any domestic insurer or foreign insurer that are filed with the
14 Commissioner constitute information that shall be kept confidential by the Commissioner. This
15 information shall not be made public ~~or be and shall not be~~ subject to subpoena, discovery, or
16 admissible in evidence in any private civil action, other than by the Commissioner, and then
17 only for the purpose of enforcement actions taken by the Commissioner under this Article or
18 any other provision of this Chapter. In order to assist in the performance of the Commissioner's
19 duties, the Commissioner may share and receive confidential and privileged risk-based capital
20 information in a manner consistent with that information shared and received pursuant to
21 G.S. 58-2-132(g) and (h). Neither the Commissioner nor any person who received documents,
22 materials, or other information while acting under the authority of the Commissioner shall be
23 permitted or required to testify in any private civil action concerning any confidential
24 documents, materials, or information subject to this subsection."

25 **SECTION 6.** G.S. 58-30-60(b) reads as rewritten:

26 **"§ 58-30-60. Commissioner's summary orders and supervision proceedings.**

27 ...

28 (b) The Commissioner may consider any or all of the following standards to determine
29 whether the continued operation of any licensed insurer is hazardous to its policyholders,
30 creditors, or the general public:

- 31 (1) Adverse findings reported in financial condition and market conduct
32 examination ~~reports; reports, audit reports, and actuarial opinions, reports, or~~
33 summaries;
- 34 (2) The NAIC Insurance Regulatory Information System and its ~~related other~~
35 financial analysis solvency tools and reports;
- 36 (3) ~~The ratios of commission expense, general insurance expense, policy~~
37 ~~benefits, and reserve increases as to annual premium and net investment~~
38 ~~income that could lead to an impairment of capital and surplus;~~
39 (4) ~~Whether an insurer's asset portfolio, when viewed in light of current~~
40 ~~economic conditions, is not of sufficient value, liquidity, or diversity to~~
41 ~~assure the insurer's ability to meet its outstanding obligations as they~~
42 ~~mature; Whether the insurer has made adequate provision, according to~~
43 presently accepted actuarial standards of practice, for the anticipated cash
44 flows required by the contractual obligations and related expenses of the
45 insurer, when considered in light of the assets held by the insurer with
46 respect to such reserves and related actuarial items, including, but not
47 limited to, the investment earnings on such assets, and the considerations
48 anticipated to be received and retained under such policies and contracts;
- 49 (5) The ability of an assuming reinsurer to perform and whether the ~~ceding~~
50 insurer's reinsurance program provides sufficient protection for the insurer's
51 remaining surplus, after taking into account the insurer's cash flow and the

- 1 classes of business written as well as the financial condition of the assuming
2 reinsurer;
- 3 (6) Whether an insurer's operating loss in the last 12-month period or any
4 shorter period of time, including including, but not limited to, net capital
5 gain or loss, changes in nonadmitted assets, and cash dividends paid to
6 shareholders, is greater than fifty percent (50%) of the insurer's remaining
7 policyholders' surplus in excess of the minimum required;
- 8 (6a) Whether the insurer's operating loss in the last 12-month period or any
9 shorter period of time, excluding net capital gains, is greater than twenty
10 percent (20%) of the insurer's remaining policyholders' surplus in excess of
11 the minimum required;
- 12 (7) Whether a reinsurer, obligor, or any affiliate, subsidiary, or reinsurer entity
13 within the insurer's insurance holding company system is insolvent,
14 threatened with insolvency, or delinquent in payment of its monetary or any
15 other obligation; obligation and which in the opinion of the Commissioner
16 may affect the solvency of the insurer;
- 17 (8) Contingent liabilities, pledges, or guaranties that either individually or
18 collectively involve a total amount that in the Commissioner's opinion may
19 affect an insurer's solvency;
- 20 (9) Whether any controlling person of an insurer is delinquent in the
21 transmitting to or payment of net premiums to the insurer;
- 22 (10) The age and collectibility of receivables;
- 23 (11) Whether the management of an insurer, including officers, directors, or any
24 other person who directly or indirectly controls the operation of the insurer,
25 fails to possess ~~or~~ and demonstrate the competence, fitness, or reputation
26 considered by the Commissioner to be necessary to serve the insurer in that
27 position;
- 28 (12) Whether the management of an insurer has failed to respond to the
29 Commissioner's inquiries about the condition of the insurer or has furnished
30 false and misleading information in response to an inquiry by the
31 Commissioner;
- 32 (12a) Whether the insurer has failed to meet financial and holding company filing
33 requirements in the absence of a reason satisfactory to the Commissioner;
- 34 (13) Whether the management of an insurer has filed any false or misleading
35 sworn financial statement, has released a false or misleading financial
36 statement to a lending institution or to the general public, or has made a false
37 or misleading entry or omitted an entry of material amount in the insurer's
38 books;
- 39 (14) Whether the insurer has grown so rapidly and to such an extent that it lacks
40 adequate financial and administrative capacity to meet its obligations in a
41 timely manner; ~~or~~
- 42 (15) Whether the insurer has experienced or will experience in the foreseeable
43 future cash flow or liquidity ~~problems~~ problems;
- 44 (16) Whether management has established reserves that do not comply with
45 minimum standards established by State insurance laws, regulations,
46 statutory accounting standards, sound actuarial principles, and standards of
47 practice;
- 48 (17) Whether management persistently engages in material under reserving that
49 results in adverse development;
- 50 (18) Whether transactions among affiliates, subsidiaries, or controlling persons
51 for which the insurer receives assets or capital gains, or both, do not provide

1 sufficient value, liquidity, or diversity to assure the insurer's ability to meet
 2 its outstanding obligations as they mature; or

3 (19) Any other finding determined by the Commissioner to be hazardous to the
 4 insurer's policyholders, creditors, or general public.

5 To determine an insurer's financial condition under this Article, the Commissioner may:
 6 disregard any credit or amount receivable resulting from transactions with a reinsurer that is
 7 insolvent, impaired, or otherwise subject to a delinquency proceeding; make appropriate
 8 adjustments to asset values attributable to investments in or transactions with parents,
 9 subsidiaries, or affiliates of an insurer; refuse to recognize the stated value of accounts
 10 receivable if the insurer's ability to collect receivables is highly speculative in view of the age
 11 of the account or the financial condition of the debtor; or increase the insurer's liability in an
 12 amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is
 13 a substantial risk that the insurer will be called upon to meet the obligation undertaken within
 14 the next 12-month period.

15 If upon examination or at any other time the Commissioner has reasonable cause to believe
 16 that any domestic insurer is in such condition as to render the continuance of its business
 17 hazardous to the public or to holders of its policies or certificates of insurance, or if the
 18 domestic insurer gives its consent, then the Commissioner shall upon the Commissioner's
 19 determination:

20 (1) ~~Notify~~ Issue an order notifying the insurer of that determination; and

21 (2) Furnish to the insurer a written list of the Commissioner's requirements to
 22 abate that ~~determination~~ determination that may include any of the
 23 following:

24 ~~The written list may include requirements that the insurer: reduce~~

25 a. A reduction in the total amount of present and potential liability for
 26 policy benefits by ~~reinsurance; reinsurance.~~

27 b. ~~reduce, suspend, or limit~~ A reduction, suspension, or limitation of the
 28 volume of insurance being accepted or ~~renewed; renewed.~~

29 c. ~~reduce~~ A reduction in general insurance and commission expenses by
 30 specified ~~methods; methods.~~

31 d. An increase ~~its~~ in the insurer's capital and ~~surplus; surplus.~~

32 e. ~~suspend or limit its~~ A suspension or limitation in the insurer's
 33 declaration and payment of dividends to its stockholders or
 34 ~~policyholders; policyholders.~~

35 f. ~~file reports~~ The filing of reports in a form acceptable to the
 36 Commissioner concerning the market value of its ~~assets; assets.~~

37 g. ~~limit or withdraw~~ A limitation or withdrawal from certain
 38 investments or ~~discontinue~~ the discontinuance of certain investment
 39 practices to the extent the Commissioner considers ~~to be~~
 40 ~~necessary; necessary.~~

41 h. ~~document~~ Documentation of the adequacy of premium rates in
 42 relation to the risks ~~insured; insured.~~

43 i. ~~or file~~ The filing, in addition to regular annual financial statements,
 44 of interim financial reports on the form adopted by the NAIC or on
 45 such format prescribed by the ~~Commissioner; Commissioner.~~

46 j. The correction of corporate governance practice deficiencies.

47 k. The adoption and utilization of governance practices acceptable to
 48 the Commissioner.

49 l. The provision of a business plan to the Commissioner in order to
 50 continue to transact business in the State.

1 Notwithstanding any other provision of law limiting the frequency or amount of premium
2 rate adjustments, the Commissioner may adjust rates for any nonlife insurance product include
3 ~~in the list of requirements any rate adjustments for any kinds of insurance~~ written by the insurer
4 that the Commissioner considers necessary to improve the financial condition of the insurer."

5 **SECTION 7.** G.S. 58-31-45 reads as rewritten:

6 "**§ 58-31-45. Report required of Commissioner.**

7 The Commissioner must submit to the Governor a full report of his official action under
8 this Article, with such recommendations as commend themselves to ~~him, and it shall be~~
9 ~~embodied in or attached to his biennial report to the General Assembly.~~ the Commissioner."

10 **SECTION 8.** G.S. 58-36-42 reads as rewritten:

11 "**§ 58-36-42. Development of policy form or endorsement for residential property**
12 **insurance that does not include coverage for perils of windstorm or hail.**

13 With respect to residential property insurance under its jurisdiction, the Bureau shall
14 develop an optional policy form or endorsement to be filed with the Commissioner for approval
15 that provides residential property insurance coverage in the coastal and beach areas defined in
16 G.S. 58-45-5(2) and (2b) without coverage for the perils of windstorm or hail. Insurers that sell
17 such policies shall comply with the provisions of G.S. 58-44-60 and through such compliance
18 shall be deemed to have given notice to all insured and persons claiming benefits under such
19 policies that such policies do not include coverage for the perils of windstorm or hail."

20 **SECTION 9.** G.S. 58-50-131(a) reads as rewritten:

21 "**§ 58-50-131. Premium rates for health benefit plans; approval authority; hearing.**

22 (a) No schedule of premium rates for coverage for a health benefit plan subject to this
23 act, or any amendment to the schedule, shall be used in conjunction with any such health
24 benefit plan until a copy of the schedule of premium rates or premium rate amendment has
25 been filed with and approved by the Commissioner. Any schedule of premium rates or
26 premium rate amendment filed under this section shall be established in accordance with
27 G.S. 58-50-130(b). The schedule of premium rates shall not be excessive, unjustified,
28 inadequate, or unfairly discriminatory and shall exhibit a reasonable relationship to the benefits
29 provided by the contract of insurance. Each filing shall include a certification by ~~an individual~~
30 ~~who is a member in good standing with the Society of Actuaries,~~ an actuary who is a member of
31 the American Academy of Actuaries and qualified to provide such certifications as described in
32 the U.S. Qualifications Standards promulgated by the American Academy of Actuaries
33 pursuant to its Code of Professional Conduct."

34 **SECTION 10.** G.S. 58-50-82 reads as rewritten:

35 "**§ 58-50-82. Expedited external review.**

36 ...

37 (b) Within ~~three business~~ two days ~~of after~~ receiving a request for an expedited external
38 review, the Commissioner shall complete all of the following:

39 ...

40 (c) As soon as possible, but within the same ~~business~~ day ~~of after~~ receiving notice
41 under subdivision (b)(2) of this section that the request has been assigned to a review
42 organization, the insurer or its designee utilization review organization shall provide or transmit
43 all documents and information considered in making the noncertification appeal decision or the
44 second-level grievance review decision to the assigned review organization electronically or by
45 telephone or facsimile or any other available expeditious method. A copy of the same
46 information shall be sent by the same means or other expeditious means to the covered person
47 or the covered person's representative who made the request for expedited external review.

48 ...

49 (e) As expeditiously as the covered person's medical condition or circumstances
50 require, but not more than ~~four business~~ three days after the date of receipt of the request for an
51 expedited external review, the assigned organization shall make a decision to uphold or reverse

1 the noncertification, noncertification appeal decision, or second-level grievance review
2 decision and notify the covered person, the covered person's provider who performed or
3 requested the service, the insurer, and the Commissioner of the decision. In reaching a decision,
4 the assigned organization is not bound by any decisions or conclusions reached during the
5 insurer's utilization review process or internal grievance process under G.S. 58-50-61 and
6 G.S. 58-50-62.

7"

8 **SECTION 11.** G.S. 143-730 reads as rewritten:

9 "**§ 143-730. ~~Managed Care Patient Assistance Program.~~Health Insurance Smart NC.**

10 (a) The Office of Managed Care Patient Assistance Program ~~is established in the~~
11 ~~Department of Insurance.~~shall hereafter be known as the Health Insurance Smart NC.

12 (b) The ~~Managed Care Patient Assistance Program~~Health Insurance Smart NC shall
13 provide information and assistance to individuals enrolled in ~~managed health care plans.~~
14 ~~The Managed Care Patient Assistance Program shall have expertise and experience in both health~~
15 ~~care and advocacy and will assume the specific duties and responsibilities set forth in~~
16 ~~subsection (c) of this section.~~

17 (c) ~~The duties and responsibilities of the Managed Care Patient Assistance Program are~~
18 ~~as follows:~~Health Insurance Smart NC shall have the responsibility and duty to:

- 19 (1) Develop and distribute educational and informational materials for
20 consumers, explaining their rights and responsibilities as ~~managed health~~
21 ~~care plan enrollees.~~
- 22 (2) Answer inquiries posed by consumers ~~and refer inquiries of a regulatory~~
23 ~~nature to staff within the Department of Insurance.~~consumers.
- 24 (3) Advise ~~managed health care plan enrollees~~ about the utilization review
25 process.
- 26 (4) Assist enrollees with the grievance, appeal, and external review procedures
27 established by Article 50 of Chapter 58 of the General Statutes.
- 28 (5) Publicize the ~~Office of the Managed Care Patient Assistance Program.~~Health
29 Insurance Smart NC.
- 30 (6) Compile data on the activities of the Office and evaluate such data to make
31 recommendations as to the needed activities of the Office.

32 (d) ~~The Director of the Managed Care Patient Assistance Program shall annually report~~
33 ~~the activities of the Managed Care Patient Assistance Program, including the types of appeals,~~
34 ~~grievances, and complaints received and the outcome of these cases. The report shall be~~
35 ~~submitted to the General Assembly, upon its convening or reconvening, and shall make~~
36 ~~recommendations as to efforts that could be implemented to assist managed care consumers.~~

37 (e) All health information in the possession of the ~~Managed Care Patient Assistance~~
38 ~~Program~~Health Insurance Smart NC is confidential and is not a public record pursuant to
39 G.S. 132-1 or any other applicable statute.

40 For purposes of this section, "health information" means any of the following:

- 41 (1) Information relating to the past, present, or future physical or mental health
42 or condition of an individual.
- 43 (2) Information relating to the provision of health care to an individual.
- 44 (3) Information relating to the past, present, or future payment for the provision
45 of health care to an individual.
- 46 (4) Information, in any form, that identifies or may be used to identify an
47 individual, that is created by, provided by, or received from any of the
48 following:
 - 49 a. An individual or an individual's spouse, parent, legal guardian, or
50 designated representative.

b. A health care provider, health plan, employer, health care clearinghouse, or an entity doing business with these entities."

SECTION 12. G.S. 58-6-25(d)(4) reads as rewritten:

"§ 58-6-25. Insurance regulatory charge.

...

(4) Money appropriated for the office of ~~Managed Care Patient Assistance Program~~Health Insurance Smart NC established under G.S. 143-730 to pay the actual costs of administering the program."

SECTION 13. G.S. 58-50-61(h) reads as rewritten:

"§ 58-50-61. Utilization review.

...

(h) Notice of Noncertification. – A written notification of a noncertification shall include all reasons for the noncertification, including the clinical rationale, the instructions for initiating a voluntary appeal or reconsideration of the noncertification, and the instructions for requesting a written statement of the clinical review criteria used to make the noncertification. An insurer shall provide the clinical review criteria used to make the noncertification to any person who received the notification of the noncertification and who follows the procedures for a request. An insurer shall also inform the covered person in writing about the availability of assistance from ~~the Managed Care Patient Assistance Program~~Health Insurance Smart NC, including the telephone number and address of the Program."

SECTION 14. G.S. 58-50-61(k)(6) reads as rewritten:

"§ 58-50-61. Utilization review.

...

(6) Notice of the availability of assistance from ~~the Managed Care Patient Assistance Program~~Health Insurance Smart NC, including the telephone number and address of the Program."

SECTION 15. G.S. 58-50-61(m) reads as rewritten:

"§ 58-50-61. Utilization review.

...

(m) Disclosure Requirements. – In the certificate of coverage and member handbook provided to covered persons, an insurer shall include a clear and comprehensive description of its utilization review procedures, including the procedures for appealing noncertifications and a statement of the rights and responsibilities of covered persons, including the voluntary nature of the appeal process, with respect to those procedures. An insurer shall also include in the certificate of coverage and the member handbook information about the availability of assistance from ~~the Managed Care Patient Assistance Program~~Health Insurance Smart NC, including the telephone number and address of the Program. An insurer shall include a summary of its utilization review procedures in materials intended for prospective covered persons. An insurer shall print on its membership cards a toll-free telephone number to call for utilization review purposes."

SECTION 16. G.S. 58-50-62 reads as rewritten:

"§ 58-50-62. Insurer grievance procedures.

...

(c) Grievance Procedures. – Every insurer shall have written procedures for receiving and resolving grievances from covered persons. A description of the grievance procedures shall be set forth in or attached to the certificate of coverage and member handbook provided to covered persons. The description shall include a statement informing the covered person that the grievance procedures are voluntary and shall also inform the covered person about the availability of the Commissioner's office for assistance, including the telephone number and address of the office. ~~The description shall also inform the covered person about the availability~~

1 of assistance from the Managed Care Patient Assistance Program, including the telephone
2 number and address of the Program.

3 ...
4 (e) First-Level Grievance Review. – A covered person or a covered person's provider
5 acting on the covered person's behalf may submit a grievance.

6 ...
7 (2) An insurer shall issue a written decision, in clear terms, to the covered
8 person and, if applicable, to the covered person's provider, within 30 days
9 after receiving a grievance. The person or persons reviewing the grievance
10 shall not be the same person or persons who initially handled the matter that
11 is the subject of the grievance and, if the issue is a clinical one, at least one
12 of whom shall be a medical doctor with appropriate expertise to evaluate the
13 matter. Except as provided in subdivision (3) of this subsection, if the
14 decision is not in favor of the covered person, the written decision issued in
15 a first-level grievance review shall contain:

16 ...
17 f. Notice of the availability of assistance from ~~the Managed Care~~
18 ~~Patient Assistance Program~~, Health Insurance Smart NC, including
19 the telephone number and address of the Program.

20 ...
21 (f) Second-Level Grievance Review. – An insurer shall establish a second-level
22 grievance review process for covered persons who are dissatisfied with the first-level grievance
23 review decision or a utilization review appeal decision. A covered person or the covered
24 person's provider acting on the covered person's behalf may submit a second-level grievance.

25 (1) An insurer shall, within 10 business days after receiving a request for a
26 second-level grievance review, make known to the covered person:

27 ...
28 c. The availability of assistance from ~~the Managed Care Patient~~
29 ~~Assistance Program~~, Health Insurance Smart NC, including the
30 telephone number and address of the Program.

31"
32 **SECTION 17.** G.S. 58-50-62(h)(9) reads as rewritten:

33 **"§ 58-50-62. Insurer grievance procedures.**

34 ...
35 (9) Notice of the availability of assistance from ~~the Managed Care Patient~~
36 ~~Assistance Program~~, Health Insurance Smart NC, including the telephone
37 number and address of the Program."

38 **SECTION 18.** G.S. 58-50-80(b)(3) reads as rewritten:
39 **"§ 58-50-80. Standard external review.**

40 ...
41 (3) Notify in writing the covered person and the covered person's provider who
42 performed or requested the service whether the request is complete and
43 whether the request has been accepted for external review. If the request is
44 complete and accepted for external review, the notice shall include a copy of
45 the information that the insurer provided to the Commissioner pursuant to
46 subdivision (b)(1) of this section, and inform the covered person that the
47 covered person may submit to the assigned independent review organization
48 in writing, within seven days after the receipt of the notice, additional
49 information and supporting documentation relevant to the initial denial for
50 the organization to consider when conducting the external review. If the
51 covered person chooses to send additional information to the assigned

1 independent review organization, then the covered person shall at the same
2 time and by the same means, send a copy of that information to the insurer.
3 The Commissioner shall also notify the covered person in writing of the
4 availability of assistance from ~~the Managed Care Patient Assistance~~
5 Program, Health Insurance Smart NC, including the telephone number and
6 address of ~~the Program, Health Insurance Smart NC.~~"

7 **SECTION 19.** G.S. 58-51-75 reads as rewritten:

8 "**§ 58-51-75. Blanket accident and health insurance defined.**

9 (a) Any policy or contract of insurance against death or injury resulting from accident
10 or from accidental means which insures a group of persons conforming to the requirements of
11 one of the following subdivisions (1) to (7), inclusive, shall be deemed a blanket accident
12 policy. Any policy or contract which insures a group of persons conforming to the requirements
13 of one of the following subdivisions (3), (5), (6) or (7) against total or partial disability,
14 excluding such disability from accident or from accidental means, shall be deemed a blanket
15 health insurance policy. Any policy or contract of insurance which combines the coverage of
16 blanket accident insurance and of blanket health insurance on such a group of persons shall be
17 deemed a blanket accident and health insurance policy:

18 ~~(1) Under a policy or contract issued to any railroad, steamship, motorbus or~~
19 ~~airplane carrier of passengers, which shall be deemed the policyholder, a~~
20 ~~group defined as all persons who may become such passengers may be~~
21 ~~insured against death or bodily injury either while, or as a result of, being~~
22 ~~such passengers.~~

23 (1) Under a policy or contract issued to any common carrier or to any operator,
24 owner, or lessee of a means of transportation, who or which shall be deemed
25 the policyholder, covering a group defined as all persons or all persons of a
26 class who may become passengers on the common carrier or the means of
27 transportation.

28 (2) Under a policy or contract issued to an employer, or the trustee of a fund
29 established by the employer, who shall be deemed the policyholder, covering
30 any group of employees defined by reference to exceptional hazards incident
31 to such employment, insuring such employee against death or bodily injury
32 resulting while, or from, being exposed to such exceptional hazard.

33 (3) Under a policy or contract issued to a college, school or other institution of
34 learning or to the head or principal thereof, who or which shall be deemed
35 the policyholder.

36 (4) Under a policy or contract issued in the name of any volunteer fire
37 department, emergency medical service, rescue first aid, civil defense, or any
38 other such volunteer organization, which shall be deemed the policyholder,
39 covering all of the any group of members or other participants defined by
40 reference to specified hazards incident to any activities or operations
41 sponsored or supervised by such policyholder of such department.

42 (5) Under a policy or contract issued to and in the name of an incorporated or
43 unincorporated association of persons having a common interest or calling,
44 which association shall be deemed the policyholder, having not less than 25
45 members, and formed for purposes other than obtaining insurance, covering
46 all of the members of such association.

47 (6) Under a policy or contract issued to the head of a ~~family, household,~~
48 shall be deemed the policyholder, whereunder the benefits thereof shall
49 provide for the payment by the insurer of amounts for expenses incurred by
50 the policyholder on account of hospitalization or medical or surgical aid for

- 1 ~~himself,~~ the policyholder, his or her spouse, his or her child or children, or
 2 other persons chiefly dependent on him or her for support and maintenance.
 3 (7) Under a policy or contract issued to or in the name of any municipal or
 4 county recreation commission or ~~department~~ department, sports team,
 5 league, tournament, or sponsor thereof, which shall be deemed the
 6 ~~policyholder.~~ policyholder, covering participants, members, coaches,
 7 counselors, employees, officials, or supervisors defined by reference to
 8 specified hazards incident to activities or operations sponsored or supervised
 9 by such policyholder or on the premises of such policyholder.
 10 (8) Under a policy or contract issued to any incorporated or unincorporated
 11 religious, charitable, recreational, educational, athletic, or civic organization
 12 or branch thereof, which shall be deemed the policyholder, covering any
 13 group of members, participants, or volunteers defined by reference to
 14 specified hazards incident to activities or operations sponsored or supervised
 15 by such policyholder or on the premises of such policyholder.
 16 (9) Under a policy or contract issued to any overnight, day, religious, equestrian,
 17 adventure, wilderness, athletic, or other camp, or the sponsor thereof, which
 18 shall be deemed the policyholder, covering any group of campers,
 19 participants, counselors, employees, volunteers, or supervisors defined by
 20 reference to specified hazards incident to activities or operations sponsored
 21 or supervised by such policyholder or on the premises of such policyholder.
 22 (10) Under a policy or contract issued to any bank, credit union, or other financial
 23 institution, which shall be deemed the policyholder, to insure any group of
 24 account holders or members of the policyholder and as defined by reference
 25 in the policy or contract, in which premiums for such insurance are paid by
 26 the policyholder, as authorized by the account holder or member from
 27 account holder or member funds on deposit with the policyholder, collected
 28 from the account holders or members by way of account billing or member
 29 billing, or by the policyholder and account holders jointly.
 30 (11) Any other risk or class of risks which, in the discretion of the Commissioner,
 31 may be properly eligible for blanket accident, health, or accident and health
 32 insurance. The discretion of the Commissioner may be exercised on an
 33 individual risk basis or class of risks or both after the Commissioner has
 34 made the following findings:
 35 a. The issuance of the blanket policy is not contrary to the best interest
 36 of the public.
 37 b. The issuance of the blanket policy would result in economies of
 38 acquisition or administration.
 39 c. The benefits are reasonable in relation to the premiums charged.
 40 (b) All benefits under any blanket accident, blanket health or blanket accident and
 41 health insurance policy shall be payable to the person insured, or to his designated beneficiary
 42 or beneficiaries, or to his estate, or to a person or persons chiefly dependent upon the person
 43 insured for support and maintenance, except that if the person insured be a minor, such benefits
 44 may be made payable to his parent, guardian, or other person actually supporting ~~him,~~ or to a
 45 person or persons chiefly dependent upon him for support and maintenance.~~the minor.~~
 46"

47 **SECTION 20.** G.S. 58-40-10(1)b. reads as rewritten:

48 "**§ 58-40-10. Other definitions.**

49 As used in this Article and in Articles 36 and 37 of this Chapter:

- 50 (1) "Private passenger motor vehicle" means:

- a. A motor vehicle of the private passenger or station wagon type that is owned or hired under a long-term contract by the policy named insured and that is neither used as a public or livery conveyance for passengers nor rented to others without a driver; or
- b. A motor vehicle that is a pickup truck or van that is owned by an individual or by husband and wife or individuals who are residents of the same household if it:
 - 1. Has a gross vehicle weight as specified by the manufacturer of less than ~~10,000~~14,000 pounds; and
 - 2. Is not used for the delivery or transportation of goods or materials unless such use is (i) incidental to the insured's business of installing, maintaining, or repairing furnishings or equipment, or (ii) for farming or ranching.

Such vehicles owned by a family farm copartnership or a family farm corporation shall be considered owned by an individual for the purposes of this section; or
- c. A motorcycle, motorized scooter or other similar motorized vehicle not used for commercial purposes.

...."

SECTION 21. G.S. 58-33A-65(f)(3) reads as rewritten:

"§ 58-33A-65. Contract between public adjuster and insured.

(f) Before the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

- (3) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim. ~~Once a public adjuster has been retained, the company adjuster or other insurance representative may not communicate directly with the insured without the permission or consent of the public adjuster or the insured's legal counsel.~~

...."

SECTION 22.(a) G.S. 58-2-46 reads as rewritten:

"§ 58-2-46. State of emergencydisaster automatic stay of proof of loss requirements; premium and debt deferrals; loss adjustments for separate windstorm policies.

Whenever (i) a state of ~~emergency~~disaster is proclaimed for the State or for an area within the State under G.S. 166A-19.21 ~~G.S. 166A-19.20~~ or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq., as ~~amended~~amended and (ii) if the Commissioner has issued an order declaring subdivisions (1) through (4) of this section effective for the specific disaster:

- (1) The application of any provision in an insurance policy insuring real property and its contents that are located within the geographic area designated in the proclamation or declaration, which provision requires an insured to file a proof of loss within a certain period of time after the occurrence of the loss, shall be stayed for the time period not exceeding the earlier of (i) the expiration of the disaster proclamation or declaration and all renewals of the proclamation or 45 days, whichever is later, proclamation or (ii) the expiration of the Commissioner's order declaring subdivisions (1) through (4) of this section effective for the specific disaster, as determined by the Commissioner.

1 (2) As used in this subdivision, "insurance company" includes a service
2 corporation, HMO, MEWA, surplus lines insurer, and the underwriting
3 associations under Articles 45 and 46 of this Chapter. All insurance
4 companies, premium finance companies, collection agencies, and other
5 persons subject to this Chapter shall give their customers who reside within
6 the geographic area designated in the proclamation or declaration the option
7 of deferring premium or debt payments that are due during the earlier of (i)
8 the time period covered by the proclamation or declaration.~~declaration or (ii)~~
9 the time period prior to the expiration of the Commissioner's order declaring
10 subdivisions (1) through (4) of this section effective for the specific disaster,
11 as determined by the Commissioner. This deferral period shall be 30 days
12 from the last day the premium or debt payment may be made under the terms
13 of the policy or contract. This deferral period shall also apply to any statute,
14 rule, or other policy or contract provision that imposes a time limit on an
15 insurer, insured, claimant, or customer to perform any act during the time
16 period covered by the proclamation or declaration, including the transmittal
17 of information, with respect to insurance policies or contracts, premium
18 finance agreements, or debt instruments when the insurer, insured, claimant,
19 or customer resides or is located in the geographic area designated in the
20 proclamation or declaration. Likewise, the deferral period shall apply to any
21 time limitations imposed on insurers under the terms of a policy or contract
22 or provisions of law related to individuals who reside within the geographic
23 area designated in the proclamation or declaration. Likewise, the deferral
24 period shall apply to any time limitations imposed on insurers under the
25 terms of a policy or contract or provisions of law related to individuals who
26 reside within the geographic area designated in the proclamation or
27 declaration. The Commissioner may extend any deferral period in this
28 subdivision, depending on the nature and severity of the proclaimed or
29 declared disaster. No additional rate or contract filing shall be necessary to
30 effect any deferral period.

31 (3) With respect to health benefit plans, after a deferral period has expired, all
32 premiums in arrears shall be payable to the insurer. If premiums in arrears
33 are not paid, coverage shall lapse as of the date premiums were paid up, and
34 preexisting conditions shall apply as permitted under this Chapter; and the
35 insured shall be responsible for all medical expenses incurred since the
36 effective date of the lapse in coverage.

37 (4) In addition to the requirements of G.S. 58-45-35(e), for separate windstorm
38 policies that are written by an insurer other than the Underwriting
39 Association, losses shall be adjusted by the insurer that issued the property
40 insurance and not by the insurer that issued the windstorm policy. The
41 insurer that issued the windstorm policy shall reimburse the insurer that
42 issued the property insurance for reasonable expenses incurred by that
43 insurer in adjusting the windstorm losses."

44 **SECTION 22.(b)** G.S. 58-2-47 reads as rewritten:

45 **"§ 58-2-47. Incident affecting operations of the Department; stay of deadlines and deemer**
46 **provisions.**

47 Regardless of whether a state of emergency or disaster has been proclaimed under
48 G.S. 166A-19.20 or G.S. 166A-19.21 or declared under the Stafford Act, whenever an incident
49 beyond the Department's reasonable control, including an act of God, insurrection, strike, fire,
50 power outage, or systematic technological failure, substantially affects the daily business
51 operations of the Department, the Commissioner may issue an order, effective immediately, to

1 stay the application of any deadlines and deemer provisions imposed by law or rule upon the
2 Commissioner or Department or upon persons subject to the Commissioner's jurisdiction,
3 which deadlines and deemer provisions would otherwise operate during the time period for
4 which the operations of the Department have been substantially affected. The order shall
5 remain in effect for a period not exceeding 30 days. The order may be renewed by the
6 Commissioner for successive periods not exceeding 30 days each for as long as the operations
7 of the Department remain substantially affected, up to a period of one year from the effective
8 date of the initial order."

9 **SECTION 22.(c)** G.S. 58-33-70(e) reads as rewritten:

10 **"§ 58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

11 ...

12 (e) The Commissioner may permit an experienced adjuster, who regularly adjusts in
13 another state and who is licensed in the other state (if that state requires a license), to act as an
14 adjuster in this State without a North Carolina license only for an insurance company
15 authorized to do business in this State, for emergency insurance adjustment work, for a period
16 to be determined by the Commissioner, done for an employer who is an adjuster licensed by
17 this State or who is a regular employer of one or more adjusters licensed by this State; provided
18 that the employer shall furnish to the Commissioner a notice in writing immediately upon the
19 beginning of any such emergency insurance adjustment work. As used in this subsection,
20 "emergency insurance adjustment work" includes, but is not limited to, (i) adjusting of a single
21 loss or losses arising out of an event or catastrophe common to all of those losses or (ii)
22 adjusting losses in any area declared to be a state of emergency or disaster by the Governor
23 under G.S. 166A-19.20 or G.S. 166A-19.21 or by the President of the United States under
24 applicable federal law."

25 **SECTION 22.(d)** G.S. 58-44-70(a) reads as rewritten:

26 "Part 2. Mediation of Emergency or Disaster-Related Property Insurance Claims.

27 **"§ 58-44-70. Purpose and scope.**

28 (a) This Part provides for a nonadversarial alternative dispute resolution procedure for a
29 facilitated claim resolution conference prompted by the critical need for effective, fair, and
30 timely handling of insurance claims arising out of damages to residential property as the result
31 of an event for which there is a state of ~~emergency~~disaster declared within 60 days of the event.
32 This Part applies only (i) if a state of ~~emergency~~disaster has been proclaimed for the State or
33 for an area within the State by the Governor or by a resolution of the General Assembly under
34 ~~G.S. 166A-19.20;G.S. 166A-19.21~~ or (ii) if the President of the United States has issued a
35 major disaster declaration for the State or for an area within the State under the Robert T.
36 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended;
37 and (iii) if the Commissioner issues an order establishing the mediation procedure authorized
38 by this Part."

39 **SECTION 22.(e)** G.S. 58-44-75(2) reads as rewritten:

40 **"§ 58-44-75. Definitions.**

41 As used in this Part:

42 ...

43 ~~(2) Disaster.—As the term "emergency" is defined in G.S. 166A-19.3(6)."~~

44 **SECTION 23.** G.S. 58-44-35 reads as rewritten:

45 **"§ 58-44-35. Judge to select umpire.**

46 ~~The~~ Any resident judge of the superior court of the district in which the property insured is
47 located is designated as the judge of the court of record to select the umpire referred to in the
48 standard form of ~~policy~~policy as set forth in G.S. 58-44-16(f)(14). The judge may not select
49 the umpire until all of the following conditions have been met:

50 (1) Proof of notice to all parties of record has been filed with the court, and at
51 least 15 days have passed since the filing of the proof of notice.

1 (2) Upon the request of any party of record, the judge has conducted a hearing.
2 The hearing by the judge shall be governed by the practice for hearings in
3 other civil actions before a judge without a jury and shall be limited to the
4 issue of umpire selection."

5 **SECTION 24.** Article 3 of Chapter 58 of the General Statutes is amended by
6 adding a new section to read as follows:

7 **"§ 58-3-300. Health insurance issuers subject to certain requirements of federal law.**

8 Pursuant to the authority granted to the states under 42 U.S.C. § 300gg-22(a)(1), health
9 insurance issuers that issue, sell, renew, or offer health benefit plans, as defined in
10 G.S. 58-3-167(a)(1), in the State in the individual or group market shall meet the requirements
11 of Part A of Subchapter XXV of Chapter 6A of Title 42 of the United States Code and
12 regulations issued thereunder."

13 **SECTION 25.** Section 10 of this act becomes effective January 1, 2016. Section 20
14 of this act becomes effective January 1, 2015, and applies to policies whose effective date is on
15 or after that date. Sections 22 and 24 of this act are effective when they become law. Section 23
16 of this act becomes effective October 1, 2013. The remainder of this act becomes effective July
17 1, 2013.