

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 361
PROPOSED SENATE COMMITTEE SUBSTITUTE H361-PCS10442-TU-24

Short Title: Principle-Based Reserving/Revise Ins. Laws.

(Public)

Sponsors:

Referred to:

March 26, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR PRINCIPLE-BASED VALUATION IN THE LIFE
3 INSURANCE STANDARD VALUATION LAW AND STANDARD NONFORFEITURE
4 PROVISIONS IN THE NORTH CAROLINA INSURANCE LAW; TO MAKE
5 CONFORMING AND CLARIFYING CHANGES TO THE LAWS GOVERNING
6 PROFESSIONAL EMPLOYER ORGANIZATIONS, INSURANCE COMPANY
7 DEPOSITS, CONTINUING CARE RETIREMENT COMMUNITIES, HEALTH
8 INSURANCE EXTERNAL REVIEW, AND INSURANCE COMPANY NAMES; TO
9 REVISE INSURANCE POLICY RENEWAL PROVISIONS; TO AMEND THE
10 DEFINITION OF SMALL EMPLOYER; AND TO MAKE TECHNICAL
11 CORRECTIONS.

12 The General Assembly of North Carolina enacts:

13
14 **PART I. REVISIONS TO NORTH CAROLINA'S STANDARD VALUATION AND**
15 **NONFORFEITURE LAWS**

16 **SECTION 1.** G.S. 58-58-50 reads as rewritten:

17 **"§ 58-58-50. Standard Valuation Law.**

18 (a) This section shall be known as the Standard Valuation Law.

19 (a1) As used in this section:

20 (1) Appointed actuary. – A qualified actuary who is appointed in accordance
21 with the valuation manual to prepare the actuarial opinion required in
22 subsection (j1) of this section.

23 (2) Company. – An entity which has written, issued, or reinsured life insurance
24 contracts, accident and health insurance contracts, annuity contracts, pure
25 endowment contracts, or deposit-type contracts (i) in this State and has at
26 least one such policy in force or on claim or (ii) in any state and is required
27 to hold a certificate of authority to write life insurance, accident and health
28 insurance, annuity contract, pure endowment, or deposit-type contracts in
29 this State.

30 (3) Deposit-type contract. – A contract that does not incorporate mortality or
31 morbidity risks and as may be specified in the valuation manual.

32 (4) Policyholder behavior. – Any action a policyholder, contract holder, or any
33 other person with the right to elect options, such as a certificate holder, may
34 take under a policy or contract subject to this section, including, but not
35 limited to, lapse, withdrawal, transfer, deposit, premium payment, loan,
36 annuitization, or benefit elections prescribed by the policy or contract but



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1 excluding events of mortality or morbidity that result in benefits prescribed
2 in their essential aspects by the terms of the policy or contract.

3 (5) Principle-based valuation. – A reserve valuation that uses one or more
4 methods or one or more assumptions determined by the insurer and is
5 required to comply with subsection (n) of this section as specified in the
6 valuation manual.

7 (6) Qualified actuary. – An individual who is qualified to sign the applicable
8 statement of actuarial opinion in accordance with the American Academy of
9 Actuaries qualification standards for actuaries signing such statements and
10 who meets the requirements specified in the valuation manual.

11 (7) Reserves. – Reserve liabilities.

12 (8) Tail risk. – A risk that occurs either where the frequency of low probability
13 events is higher than expected under a normal probability distribution or
14 where there are observed events of very significant size or magnitude.

15 (9) Valuation manual. – The manual of valuation instructions adopted by the
16 NAIC as specified in this section or as subsequently amended.

17 (b) This subsection applies to policies and contracts issued prior to the operative date of
18 the valuation manual. Each year the Commissioner shall value or cause to be valued the reserve
19 liabilities ("reserves")reserves for all outstanding life insurance policies, annuity contracts, and
20 pure endowment contracts—contracts, accident and health insurance contracts, and deposit-type
21 contracts of every life insurance company doing business in this State. In the case of an alien
22 company, the valuation shall be limited to its United States business. The Commissioner may
23 certify the amount of each company's reserves, specifying the mortality or morbidity tables,
24 withdrawal rates, and other assumptions regarding when, and the degree to which,
25 policyholders exercise contract options, such as full or partial withdrawal, rate or rates of
26 interest, and methods, such as net level premium method or other, used in the Commissioner's
27 calculation of the company's reserves. Group methods and approximate averages for fractions
28 of a year or otherwise may be used by the Commissioner in calculating the company's reserves,
29 and the Commissioner may accept the valuation made by the company upon evidence of its
30 correctness that the Commissioner requires. For foreign or alien insurance companies, the
31 Commissioner may accept any valuation made or caused to be made by the insurance regulator
32 of any state or other jurisdiction if (i) that valuation complies with the minimum standard
33 provided in this section and (ii) that regulator accepts as legally sufficient and valid the
34 Commissioner's certificate of valuation when that certificate states that the valuation has been
35 made in a specified manner according to which the aggregate reserves would be at least as great
36 as if they had been computed in the manner prescribed by the law of that state or
37 jurisdiction.

38 (b1) The provisions set forth in subsections (c), (d), (d1), (e), (f), (g), (h), and (k) of this
39 section shall apply to all policies and contracts, as appropriate, subject to this section issued on
40 or after the effective date of this section and prior to the operative date of the valuation manual.
41 The provisions set forth in subsections (m) and (n) of this section shall not apply to policies
42 issued prior to the operative date of the valuation manual.

43 (b2) This subsection applies to policies and contracts issued on or after the operative date
44 of the valuation manual. The Commissioner shall annually value, or cause to be valued, the
45 reserves for all outstanding life insurance contracts, annuity contracts, pure endowment
46 contracts, accident and health insurance contracts, and deposit-type contracts of every company
47 issued on or after the operative date of the valuation manual. In lieu of the valuation of the
48 reserves required of a foreign or alien company, the Commissioner may accept a valuation
49 made, or caused to be made, by the insurance supervisory official of any state or other
50 jurisdiction when that valuation complies with the minimum standard provided in this section.

1 **(b3)** The provisions set forth in subsections (m) and (n) of this section shall apply to all
2 policies and contracts issued on or after the operative date of the valuation manual.

3 (c) (1) Except as otherwise provided in subdivisions (3) and (4) of this subsection,
4 or in subsection (k) of this section, the minimum standard for the valuation
5 of all such policies and contracts issued before the effective date of this
6 section shall be that provided by the laws in effect immediately before that
7 date, except that the minimum standard for the valuation of annuities and
8 pure endowments purchased under group annuity and pure endowment
9 contracts issued before that date shall be that provided by the laws in effect
10 immediately before that date but replacing the interest rates specified in such
11 laws by an interest rate of five percent (5%) per annum, and five and
12 one-half percent (5 ½%) interest for single premium life insurance policies.

13 (2) Except as otherwise provided in subdivisions (3) and (4) of this subsection,
14 or in subsection (k) of this section, the minimum standards for the valuation
15 of all such policies and contracts issued on or after the effective date of this
16 section shall be the Commissioner's reserve valuation methods defined in
17 subsections (d), ~~(d-1)(d1), and (g),~~ and (k) of this section, five percent (5%)
18 interest for group annuity and pure endowment contracts and three and
19 one-half percent (3 ½%) interest for all other policies and contracts, or, in
20 the case of policies and contracts other than annuity and pure endowment
21 contracts, issued on or after July 1, 1975, four percent (4%) interest for such
22 policies issued prior to April 19, 1979, and four and one-half percent (4 ½%)
23 interest for such policies issued on or after April 19, 1979, and the following
24 tables:

25 ...
26 (3) Except as provided in subdivision (4) of this subsection, the minimum
27 standard ~~for the~~of valuation ~~of all~~for individual annuity and pure endowment
28 contracts issued on or after the operative date of this subdivision (3), as
29 defined herein, and for ~~all~~annuities and pure endowments purchased on or
30 after such operative date under group annuity and pure endowment
31 contracts, shall be the Commissioner's reserve valuation methods defined in
32 subsections (d) and ~~(d-1)(d1)~~ of this section and the following tables and
33 interest rates:

34 ...
35 After July 1, 1975, any company may file with the Commissioner a
36 written notice of its election to comply with the provisions of this
37 subdivision (3) after a specified date before January 1, 1979, which shall be
38 the operative date of this subdivision for such company, provided, a
39 company may elect a different operative date for individual annuity and pure
40 endowment contracts from that elected for group annuity and pure
41 endowment contracts. If a company makes no such election, the operative
42 date of this subdivision for such company shall be January 1, 1979.

43 (4) a. Applicability of ~~This Subdivision~~this subdivision. The interest rates
44 used in determining the minimum standard for the valuation of:
45 1. ~~All life~~Life insurance policies issued in a particular calendar
46 year, on or after the operative date of subdivision (e)(4) of
47 G.S. 58-58-55,
48 2. ~~All individual~~Individual annuity and pure endowment
49 contracts issued in a particular calendar year on or after
50 January 1, 1982,

1 partnership or sole proprietorship) or by an employee organization, or by both, other than a
2 plan providing individual retirement accounts or individual retirement annuities under section
3 408 of the Internal Revenue Code, as now or hereafter amended; (iii) disability and accidental
4 death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and
5 endowment benefits in life insurance policies and benefits provided by all other annuity and
6 pure endowment contracts, shall be calculated by a method consistent with the principles of this
7 subsection except that any extra premiums charged because of impairments or special hazards
8 shall be disregarded in the determination of modified net premiums.

9 ~~(d-1)~~(d1) This subsection shall apply to all annuity and pure endowment contracts other
10 than group annuity and pure endowment contracts purchased under a retirement plan or plan of
11 deferred compensation, established or maintained by an employer (including a partnership or
12 sole proprietorship) or by an employee organization, or by both, other than a plan providing
13 individual retirement accounts or individual retirement annuities under section 408 of the
14 Internal Revenue Code, as now or hereafter amended.

15 Reserves according to the Commissioner's annuity reserve method for benefits under
16 annuity or pure endowment contracts, excluding any disability and accidental death benefits in
17 such contracts, shall be the greatest of the respective excesses of the present values, at the date
18 of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits,
19 provided for by such contracts at the end of each respective contract year, over the present
20 value, at the date of valuation, of any future valuation considerations derived from future gross
21 considerations, required by the terms of such contract, that become payable prior to the end of
22 such respective contract year. The future guaranteed benefits shall be determined by using the
23 mortality table, if any, and the interest rate, or rates, specified in such contracts for determining
24 guaranteed benefits. The valuation considerations are the portions of the respective gross
25 considerations applied under the terms of such contracts to determine nonforfeiture values.

26 (e) In no event shall a company's aggregate reserves for all life insurance policies,
27 excluding disability and accidental death benefits, issued on or after the effective date of this
28 section, be less than the aggregate reserves calculated in accordance with the methods set forth
29 in subsections (d), ~~(d-1)~~,(d1), (g) and (h) of this section and the mortality table or tables and
30 rate or rates of interest used in calculating nonforfeiture benefits for such policies. In no event
31 shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate
32 reserves determined by the ~~qualified~~appointed actuary to be necessary to render the opinion
33 required by subsection (i) or subsection (j1) of this section.

34 (f) Reserves for all policies and contracts issued before the effective date of this section
35 may be calculated, at the option of the company, according to any standards that produce
36 greater aggregate reserves for those policies and contracts than the minimum reserves required
37 by the laws in effect immediately before that date.

38 Reserves for any category of policies, contracts or benefits as established by the
39 Commissioner, issued on or after the effective date of this section may be calculated, at the
40 option of the company, according to any standards that produce greater aggregate reserves for
41 such category than those calculated according to the minimum standard herein provided, but
42 the rate or rates of interest used for policies and contracts, other than annuity and pure
43 endowment contracts, shall not be ~~higher~~greater than the corresponding rate or rates of interest
44 used in calculating any nonforfeiture benefits ~~provided for therein in the policies or contracts.~~

45 Any such company that adopts any standard of valuation producing greater aggregate
46 reserves than those calculated according to the minimum standard herein provided may, with
47 the approval of the Commissioner, adopt any lower standard of valuation, but not lower than
48 the minimum ~~herein provided.~~provided in this section. Provided, however, that for the purposes
49 of this section, the holding of additional reserves previously determined by a ~~qualified~~the
50 appointed actuary to be necessary to render the opinion required by subsection ~~(e)~~(i) or (j1) of
51 this section shall not be deemed to be the adoption of a higher standard of valuation.

1 (g) If in any contract year the gross premium charged by any ~~life insurance~~ company on
2 any policy or contract is less than the valuation net premium for the policy or contract
3 calculated by the method used in calculating the reserve thereon but using the minimum
4 valuation standards of mortality and rate of interest, the minimum reserve required for such
5 policy or contract shall be the greater of either the reserve calculated according to the mortality
6 table, rate of interest, and method actually used for such policy or contract, or the reserve
7 calculated by the method actually used for such policy or contract but using the minimum
8 valuation standards of mortality and rate of interest and replacing the valuation net premium by
9 the actual gross premium in each contract year for which the valuation net premium exceeds
10 the actual gross premium. The minimum valuation standards of mortality and rate of interest
11 referred to in this subsection are those standards stated in subdivisions (1), (2) and (4) of
12 subsection (c).

13 Provided that for any life insurance policy issued on or after January 1, 1985, for which the
14 gross premium in the first policy year exceeds that of the second year and for which no
15 comparable additional benefit is provided in the first year for such excess and which provides
16 an endowment benefit or a cash surrender value or a combination thereof in an amount greater
17 than such excess premium, the foregoing provisions of this subsection ~~(g)~~ shall be applied as if
18 the method actually used in calculating the reserve for such policy were the method described
19 in subsection (d), ignoring the second paragraph of subsection (d). The minimum reserve at
20 each policy anniversary of such a policy shall be the greater of the minimum reserve calculated
21 in accordance with subsection (d), including the second paragraph of that subsection, and the
22 minimum reserve calculated in accordance with this ~~subsection (g)~~ subsection.

23 (h) In the case of any plan of life insurance which provides for future premium
24 determination, the amounts of which are to be determined by the insurance company based on
25 then estimates of future experience, or in the case of any plan of life insurance or annuity which
26 is of such a nature that the minimum reserves cannot be determined by the methods described
27 in subsections (d), ~~(d-1)~~, (d1) and (g), the reserves which are held under any such plan must:

- 28 (1) Be appropriate in relation to the benefits and the pattern of premiums for that
29 plan, and
- 30 (2) Be computed by a method which is consistent with the principles of this
31 Standard Valuation Law, as determined by regulations promulgated by the
32 Commissioner.

33 (i) ~~Every~~ Prior to the operative date of the valuation manual as specified in
34 G.S. 58-58-51, every life insurance company doing business in this State shall annually submit
35 the opinion of a qualified actuary as to whether the reserves and related actuarial items held in
36 support of the policies and contracts specified by the Commissioner by rule are computed
37 appropriately, are based on assumptions that satisfy contractual provisions, are consistent with
38 previously reported amounts, and comply with applicable laws of this State. The Commissioner
39 by rule shall define the specifics of this opinion and add any other items deemed to be
40 necessary to its scope. Every life insurance company, except as exempted by or pursuant to
41 rule, shall also annually include in the opinion required by this subsection, an opinion of the
42 same qualified actuary as to whether the reserves and related actuarial items held in support of
43 the policies and contracts specified by the Commissioner by rule, when considered in light of
44 the assets held by the company with respect to the reserves and related actuarial items,
45 including but not limited to the investment earnings on the assets and the considerations
46 anticipated to be received and retained under the policies and contracts, make adequate
47 provision for the company's obligations under the policies and contracts, including but not
48 limited to the benefits under and expenses associated with the policies and contracts. The
49 Commissioner may provide by rule for a transition period for establishing any higher reserves
50 that the qualified actuary may deem to be necessary in order to render the opinion required by
51 this subsection.

1 (j) Each opinion required by subsection (i) of this section shall be governed by the
2 following provisions:

3 ...

4 ~~(7) For the purposes of this section, "qualified actuary" means a member in good
5 standing of the American Academy of Actuaries who meets the requirement
6 set forth in such rules.~~

7 ...

8 (j1) On or after the operative date of the valuation manual, every company with
9 outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and
10 health insurance contracts, or deposit-type contracts in this State and subject to regulation by
11 the Commissioner shall annually submit the opinion of the appointed actuary as to whether the
12 reserves and related actuarial items held in support of the policies and contracts are computed
13 appropriately, are based on assumptions that satisfy contractual provisions, are consistent with
14 previously reported amounts, and comply with applicable laws of this State. The valuation
15 manual shall prescribe the specifics of this opinion, including any items deemed to be
16 necessary to its scope. Every company with outstanding life insurance contracts, annuity
17 contracts, pure endowment contracts, accident and health insurance contracts, or deposit-type
18 contracts in this State and subject to regulation by the Commissioner, except as exempted in the
19 valuation manual, shall also annually include in the opinion required by this subsection an
20 opinion of the same appointed actuary as to whether the reserves and related actuarial items
21 held in support of the policies and contracts specified in the valuation manual, when considered
22 in light of the assets held by the company with respect to the reserves and related actuarial
23 items, including, but not limited to, the investment earnings on the assets and the considerations
24 anticipated to be received and retained under the policies and contracts, make adequate
25 provision for the company's obligations under the policies and contracts, including, but not
26 limited to, the benefits under and expenses associated with the policies and contracts.

27 (j2) Each opinion required by subsection (j1) of this section shall be governed by the
28 following provisions:

29 (1) A memorandum, in form and substance as specified in the valuation manual
30 and acceptable to the Commissioner, shall be prepared to support each
31 actuarial opinion.

32 (2) If the company fails to provide a supporting memorandum at the request of
33 the Commissioner within a period specified in the valuation manual, or the
34 Commissioner determines that the supporting memorandum provided by the
35 company fails to meet the standards prescribed by the valuation manual or is
36 otherwise unacceptable to the Commissioner, the Commissioner may engage
37 a qualified actuary at the expense of the company to review the opinion and
38 the basis for the opinion and prepare such supporting memorandum as is
39 required by the Commissioner.

40 (3) The opinion shall be in form and substance as specified in the valuation
41 manual and acceptable to the Commissioner.

42 (4) The opinion shall be submitted with the annual statement reflecting the
43 valuation of such reserve liabilities for each year ending on or after the
44 operative date of the valuation manual.

45 (5) The opinion shall apply to all policies and contracts subject to subsection
46 (j1) of this section plus other actuarial liabilities as specified in the valuation
47 manual.

48 (6) The opinion shall be based on standards adopted from time to time by the
49 Actuarial Standards Board or its successor and on such additional standards
50 as may be prescribed in the valuation manual.

1 (7) In the case of an opinion required to be submitted by a foreign or alien
2 company, the Commissioner may accept the opinion filed by that company
3 with the insurance supervisory official of another state if the Commissioner
4 determines that the opinion reasonably meets the requirements applicable to
5 a company domiciled in this State.

6 (8) Except in cases of fraud or willful misconduct, the appointed actuary shall
7 not be liable for damages to any person (other than the company and the
8 Commissioner) for any act, error, omission, decision, or conduct with
9 respect to the appointed actuary's opinion.

10 (9) Disciplinary action by the Commissioner against the company or the
11 appointed actuary shall be defined in rules by the Commissioner.

12 (k) The Commissioner shall adopt rules containing the minimum standards applicable
13 to the valuation of ~~plans~~ accident and health insurance contracts issued prior to the operative
14 date of the valuation manual. The Commissioner may also adopt rules for the purpose of
15 recognizing new annuity mortality tables for use in determining reserve liabilities for annuities
16 and may adopt rules that govern minimum valuation standards for reserves of life insurance
17 companies. In adopting these rules, the Commissioner may consider model laws and
18 regulations promulgated and amended from time to time by the NAIC.

19 (1) The Commissioner may adopt rules for life insurers for the following matters:

20 (1) Reserves for contracts issued by insurers.

21 (2) Optional smoker-nonsmoker mortality tables permitted for use in
22 determining minimum reserve liabilities and nonforfeiture benefits.

23 (3) Optional blended gender mortality tables permitted for use in determining
24 nonforfeiture benefits for individual life policies.

25 (4) Optional tables acceptable for use in determining reserves and minimum
26 cash surrender values and amounts of paid-up nonforfeiture benefits.

27 (5) Assumptions for policyholder withdrawal rates for use in determining
28 minimum reserve liabilities.

29 In adopting these rules, the Commissioner may consider model laws and regulations
30 promulgated and amended from time to time by the NAIC.

31 (m) The valuation manual shall apply as described in this subsection.

32 (1) For policies issued on or after the operative date of the valuation manual, the
33 standard prescribed in the valuation manual is the minimum standard of
34 valuation required under subsections (b2) and (b3) of this section, except as
35 provided under subdivision (5) or (7) of this subsection.

36 (2) The operative date of the valuation manual is specified in G.S. 58-58-51(b).

37 (3) Unless a change in the valuation manual specifies a later effective date,
38 changes to the valuation manual shall be effective on January 1 of the year
39 following the date when the change to the valuation manual has been
40 adopted by the NAIC by an affirmative vote representing each of the
41 following:

42 a. At least three-fourths of the members of the NAIC voting but not less
43 than a majority of the total membership.

44 b. Members of the NAIC representing jurisdictions totaling more than
45 seventy-five percent (75%) of the direct premiums written as
46 reported in the following annual statements most recently available
47 prior to the vote described in this subdivision: life, accident and
48 health annual statements; health annual statements; and fraternal
49 annual statements.

50 (4) The valuation manual must specify all of the following:

- 1 a. Minimum valuation standards for and definitions of the policies or
2 contracts subject to subsections (b2) and (b3) of this section. Such
3 minimum valuation standards shall be as follows:
4 1. The Commissioner's reserve valuation method for life
5 insurance contracts subject to subsections (b2) and (b3) of
6 this section.
7 2. The Commissioner's annuity reserve valuation method for
8 annuity contracts subject to subsections (b2) and (b3) of this
9 section.
10 3. Minimum reserves for all other policies or contracts subject
11 to subsections (b2) and (b3) of this section.
12 b. The policies or contracts or types of policies or contracts that are
13 subject to the requirements of a principle-based valuation as
14 described in subsection (n) of this section and the minimum valuation
15 standards consistent with those requirements.
16 c. For policies and contracts subject to a principle-based valuation
17 under subsection (n) of this section, each of the following:
18 1. Requirements for the format of reports to the Commissioner
19 under sub-subdivision (2)c. of subsection (n) of this section.
20 Such reports shall include information necessary to determine
21 if the valuation is appropriate and in compliance with this
22 section.
23 2. Assumptions shall be prescribed for risks over which the
24 company does not have significant control or influence.
25 3. Procedures for corporate governance and oversight of the
26 actuarial function and a process for appropriate waiver or
27 modification of such procedures.
28 d. For policies not subject to a principle-based valuation under
29 subsection (n) of this section, the minimum valuation standard shall
30 either:
31 1. Be consistent with the minimum standard of valuation prior
32 to the operative date of the valuation manual; or
33 2. Develop reserves that quantify the benefits and guarantees,
34 and the funding, associated with the contracts and their risks
35 at a level of conservatism that reflects conditions that include
36 unfavorable events that have a reasonable probability of
37 occurring.
38 e. Other requirements, including, but not limited to, those relating to
39 reserve methods, models for measuring risk, generation of economic
40 scenarios, assumptions, margins, use of company experience, risk
41 measurement, disclosure, certifications, reports, actuarial opinions
42 and memorandums, transition rules, and internal controls.
43 f. The data and form of the data required under subsection (o) of this
44 section, to whom the data must be submitted, and may specify other
45 requirements, including data analyses and reporting of analyses.
46 (5) In the absence of a specific valuation requirement, or if a specific valuation
47 requirement in the valuation manual is not, in the opinion of the
48 Commissioner, in compliance with this section, then the company shall, with
49 respect to such requirements, comply with minimum valuation standards
50 prescribed by the Commissioner by rule.

- 1 (6) The Commissioner may engage a qualified actuary, at the expense of the
2 company, to perform an actuarial examination of the company and opine on
3 the appropriateness of any reserve assumption or method used by the
4 company, or to review and opine on a company's compliance with any
5 requirement set forth in this section. The Commissioner may rely upon the
6 opinion, regarding provisions contained in this section, of a qualified actuary
7 engaged by the insurance regulator of another state, district, or territory of
8 the United States. As used in this subdivision, the term "engage" includes
9 employment and contracting.
- 10 (7) The Commissioner may require a company to change any assumption or
11 method that, in the opinion of the Commissioner, is necessary in order to
12 comply with the requirements of the valuation manual or this section; and
13 the company shall adjust the reserves as required by the Commissioner. The
14 Commissioner may take other disciplinary action as specified in rules
15 adopted by the Commissioner.
- 16 (n) The requirements of this subsection shall apply to any principle-based valuation of
17 policies issued on or after the operative date of the valuation manual.
- 18 (1) A company using a principle-based valuation for one or more policies or
19 contracts subject to this subsection as specified in the valuation manual must
20 establish, for those policies and contracts, reserves that meet all of the
21 following:
- 22 a. Quantify the benefits and guarantees, and the funding, associated
23 with the contracts and their risks at a level of conservatism that
24 reflects conditions that include unfavorable events that have a
25 reasonable probability of occurring during the lifetime of the
26 contracts. For policies or contracts with significant tail risk, the
27 reserves shall reflect conditions appropriately adverse to quantify the
28 tail risk.
- 29 b. Incorporate assumptions, risk analysis methods, financial models,
30 and management techniques that are consistent with, but not
31 necessarily identical to, those utilized within the company's overall
32 risk assessment process, while recognizing potential differences in
33 financial reporting structures and any prescribed assumptions or
34 methods.
- 35 c. Incorporate assumptions that are derived in one of the following
36 manners:
- 37 1. The assumption is prescribed in the valuation manual.
38 2. For assumptions that are not prescribed, the assumptions shall
39 (i) be established utilizing the company's available
40 experience, to the extent it is relevant and statistically
41 credible; or (ii) to the extent that company data is not
42 available, relevant, or statistically credible, be established
43 utilizing other relevant, statistically credible experience.
- 44 d. Provide margins for uncertainty, including adverse deviation and
45 estimation error, such that the greater the uncertainty, the larger the
46 margin and resulting reserve.
- 47 (2) A company using a principle-based valuation for one or more policies or
48 contracts subject to this subsection as specified in the valuation manual shall
49 do the following:

- 1 a. Establish procedures for corporate governance and oversight of the
2 actuarial valuation function consistent with those described in the
3 valuation manual.
- 4 b. Provide to the Commissioner and the board of directors an annual
5 certification of the effectiveness of the internal controls with respect
6 to the principle-based valuation. Such controls shall be designed to
7 assure that all material risks inherent in the liabilities and associated
8 assets subject to such valuation are included in the valuation and that
9 valuations are made in accordance with the valuation manual. The
10 certification shall be based on the controls in place as of the end of
11 the preceding calendar year.
- 12 c. Develop, and file with the Commissioner upon request, a
13 principle-based valuation report that complies with standards
14 prescribed in the valuation manual.
- 15 (o) A company shall submit mortality, morbidity, policyholder behavior, or expense
16 experience and other data as prescribed in the valuation manual.
- 17 (p) The confidentiality of documents, materials, and other information provided to the
18 Commissioner under this section shall be maintained as described in this subsection.
- 19 (1) For purposes of this subsection, "confidential information" shall include all
20 of the following:
- 21 a. A memorandum in support of an opinion submitted under subsection
22 (i) or (j1) of this section and any other documents, materials, and
23 other information, including, but not limited to, all working papers,
24 and copies thereof, created, produced, or obtained by or disclosed to
25 the Commissioner or any other person in connection with such
26 memorandum.
- 27 b. All documents, materials, and other information, including, but not
28 limited to, all working papers, and copies thereof, created, produced,
29 or obtained by or disclosed to the Commissioner or any other person
30 in the course of an examination made under subdivision (6) of
31 subsection (m) of this section; provided, however, that if an
32 examination report or other material prepared in connection with an
33 examination made under the Examination Law (G.S. 58-2-131
34 through G.S. 58-2-134) is not held as private and confidential
35 information under the Examination Law, an examination report or
36 other material prepared in connection with an examination made
37 under subdivision (6) of subsection (m) of this section shall not be
38 "confidential information" to the same extent as if such examination
39 report or other material had been prepared under the Examination
40 Law.
- 41 c. Any reports, documents, materials, and other information developed
42 by a company in support of, or in connection with, an annual
43 certification by the company under sub-subdivision (2)b. of
44 subsection (n) of this section evaluating the effectiveness of the
45 company's internal controls with respect to a principle-based
46 valuation and any other documents, materials, and other information,
47 including, but not limited to, all working papers, and copies thereof,
48 created, produced, or obtained by or disclosed to the Commissioner
49 or any other person in connection with such reports, documents,
50 materials, and other information.

1 d. Any principle-based valuation report developed under
2 sub-subdivision (2)c. of subsection (n) of this section and any other
3 documents, materials, and other information, including, but not
4 limited to, all working papers, and copies thereof, created, produced,
5 or obtained by or disclosed to the Commissioner or any other person
6 in connection with such report.

7 e. Any documents, materials, data, and other information submitted by
8 a company under subsection (o) of this section (collectively,
9 "experience data") and any other documents, materials, data, and
10 other information, including, but not limited to, all working papers,
11 and copies thereof, created or produced in connection with such
12 experience data, in each case that includes any potentially
13 company-identifying or personally identifiable information, that is
14 provided to or obtained by the Commissioner (together with any
15 "experience data," the "experience materials") and any other
16 documents, materials, data, and other information, including, but not
17 limited to, all working papers, and copies thereof, created, produced,
18 or obtained by or disclosed to the Commissioner or any other person
19 in connection with such experience materials.

20 (2) Except as provided in this subsection, a company's confidential information
21 is confidential by law and privileged, shall not be subject to or considered
22 public record under G.S. 58-2-100 or Chapter 132 of the General Statutes,
23 shall not be subject to subpoena, and shall not be subject to discovery or
24 admissible in evidence in any private civil action. However, the
25 Commissioner is authorized to use the confidential information in the
26 furtherance of any regulatory or legal action brought as a part of the
27 Commissioner's official duties.

28 (3) Neither the Commissioner nor any person who received confidential
29 information while acting under the authority of the Commissioner shall be
30 permitted or required to testify in any private civil action concerning any
31 confidential information.

32 (4) In order to assist in the performance of the Commissioner's duties, the
33 Commissioner may share confidential information (i) with other state,
34 federal, and international regulatory agencies and with the NAIC and its
35 affiliates and subsidiaries, and (ii) in the case of confidential information
36 specified in sub-subdivisions (1)a. and (1)d. of this subsection only, with the
37 Actuarial Board for Counseling and Discipline or its successor upon request
38 stating that the confidential information is required for the purpose of
39 professional disciplinary proceedings and with state, federal, and
40 international law enforcement officials; in the case of (i) and (ii), provided
41 that such recipient agrees, and has the legal authority to agree, to maintain
42 the confidentiality and privileged status of such documents, materials, data,
43 and other information in the same manner and to the same extent as required
44 for the Commissioner.

45 (5) The Commissioner may receive documents, materials, data, and other
46 information, including otherwise confidential and privileged documents,
47 materials, data, or information, from the NAIC and its affiliates and
48 subsidiaries, from regulatory or law enforcement officials of other foreign or
49 domestic jurisdictions and from the Actuarial Board for Counseling and
50 Discipline or its successor and shall maintain as confidential or privileged
51 any document, material, data, or other information received with notice or

1 the understanding that it is confidential or privileged under the laws of the
2 jurisdiction that is the source of the document, material, or other
3 information.

4 (6) The Commissioner may enter into agreements governing the sharing and use
5 of information consistent with this subsection.

6 (7) No waiver of any applicable privilege or claim of confidentiality in the
7 confidential information shall occur as a result of disclosure to the
8 Commissioner under this subsection or as a result of sharing as authorized in
9 subdivision (4) of this subsection.

10 (8) A privilege established under the law of any state or jurisdiction that is
11 substantially similar to the privilege established under this subsection shall
12 be available and enforced in any proceeding in, and in any court of, this
13 State.

14 (9) In this subsection, "regulatory agency," "law enforcement agency," and the
15 "NAIC" include, but are not limited to, their employees, agents, consultants,
16 and contractors.

17 (10) Notwithstanding subdivisions (2) through (9) of this subsection, confidential
18 information specified in sub-subdivisions (1)a. and (1)d. of this subsection
19 may be subject to subpoena for the purpose of defending an action seeking
20 damages from the appointed actuary submitting the related memorandum in
21 support of an opinion submitted under subsection (i) or (j1) of this section or
22 a principle-based valuation report developed under sub-subdivision (2)c. of
23 subsection (n) of this section by reason of an action required by this section
24 or by rules promulgated by the Commissioner. Such confidential information
25 may otherwise be released by the Commissioner with the written consent of
26 the company. Once any portion of a memorandum in support of an opinion
27 submitted under subsection (i) or (j1) of this section or a principle-based
28 valuation report developed under sub-subdivision (2)c. of subsection (n) of
29 this section is cited by the company in its marketing or is publicly
30 volunteered to or before a governmental agency other than a state insurance
31 department or is released by the company to the news media, all portions of
32 such memorandum or report shall no longer be confidential.

33 (q) The Commissioner may exempt specific product forms or product lines of a
34 domestic company that is licensed and doing business only in this State from the requirements
35 of subsection (m) of this section, provided (i) the Commissioner has issued an exemption in
36 writing to the company and has not subsequently revoked the exemption in writing and (ii) the
37 company computes reserves using assumptions and methods used prior to the operative date of
38 the valuation manual in addition to any requirements established by the Commissioner by rule.
39 For any company granted an exemption under this subsection, the following subsections of this
40 section shall be applicable: (c), (d), (d1), (e), (f), (g), (h), (i), (j), (j1), (j2), and (k), excluding
41 any references to subsection (m) found therein.

42 (r) The Department shall have full authority to enter into contracts or other agreements
43 with the National Association of Insurance Commissioners or any other state, entity, or person
44 to fulfill the requirements of this section. Such contracts shall not be subject to Articles 3, 3C,
45 and 8 of Chapter 143 of the General Statutes or any rules and procedures adopted under those
46 Articles concerning procurement, contracting, and contract review."

47 **SECTION 2.** G.S. 58-58-55 reads as rewritten:

48 "**§ 58-58-55. Standard nonforfeiture provisions.**

49 ...

50 (e) (1) This subdivision (1) of subsection (e) shall not apply to policies issued on or
51 after the operative date of subdivision (4) of subsection (e) as defined

1 therein. Except as provided in the third paragraph of this subdivision, the
2 adjusted premiums for any policy shall be calculated on an annual basis and
3 shall be such uniform percentage of the respective premiums specified in the
4 policy for each policy year, excluding any extra premiums charged because
5 of impairments or special hazards, that the present value, at the date of issue
6 of the policy, of all such adjusted premiums shall be equal to the sum of (i)
7 the then present value of the future guaranteed benefits provided for by the
8 policy; (ii) two percent (2%) of the amount of insurance, if the insurance be
9 uniform in amount, or of the equivalent uniform amount, as hereinafter
10 defined, if the amount of insurance varies with duration of the policy; (iii)
11 forty percent (40%) of the adjusted premium for the first policy year; (iv)
12 twenty-five percent (25%) of either the adjusted premium for the first policy
13 year or the adjusted premium for a whole life policy of the same uniform or
14 equivalent uniform amount with uniform premiums for the whole of life
15 issued at the same age for the same amount of insurance, whichever is less.
16 Provided, however, that in applying the percentages specified in (iii) and (iv)
17 above, no adjusted premium shall be deemed to exceed four percent (4%) of
18 the amount of insurance or uniform amount equivalent thereto. The date of
19 issue of a policy for the purpose of this subsection shall be the date as of
20 which the rated age of the insured is determined.

21 In the case of a policy providing an amount of insurance varying with
22 duration of the policy, the equivalent uniform amount thereof for the purpose
23 of this section shall be deemed to be the uniform amount of insurance
24 provided by an otherwise similar policy containing the same endowment
25 benefit or benefits, if any, issued at the same age and for the same term, the
26 amount of which does not vary with duration and the benefits under which
27 have the same present value at the date of issue as the benefits under the
28 policy, provided, however, that in the case of a policy providing a varying
29 amount of insurance issued on the life of a child under age 10, the equivalent
30 uniform amount may be computed as though the amount of insurance
31 provided by the policy prior to the attainment of age 10 were the amount
32 provided by such policy at age 10.

33 The adjusted premiums for any policy providing term insurance benefits
34 by rider or supplemental policy provision shall be equal to (i) the adjusted
35 premiums for an otherwise similar policy issued at the same age without
36 such term insurance benefits, increased, during the period for which
37 premiums for such term insurance benefits are payable, by (ii) the adjusted
38 premiums for such term insurance, the foregoing items (i) and (ii) being
39 calculated separately and as specified in the first two paragraphs of this
40 subsection except that, for the purposes of (ii), (iii) and (iv) of the first such
41 paragraph, the amount of insurance or equivalent uniform amount of
42 insurance used in the calculation of the adjusted premiums referred to in (ii)
43 of this paragraph shall be equal to the excess of the corresponding amount
44 determined for the entire policy over the amount used in the calculation of
45 the adjusted premiums in (i).

46 Except as otherwise provided in subdivisions (2) and (3) of this
47 subsection, all adjusted premiums and present values referred to in this
48 section shall for all policies of ordinary insurance be calculated on the basis
49 of the Commissioner's 1941 Standard Ordinary Mortality Table, provided
50 that for any category of ordinary insurance issued on female risks, adjusted
51 premiums and present values may be calculated according to an age not

1 more than three years younger than the actual age of the insured, and such
 2 calculations for all policies of industrial insurance shall be made on the basis
 3 of the 1941 Standard Industrial Mortality Table. All calculations shall be
 4 made on the basis of the rate of interest, not exceeding three and one-half
 5 percent (3 1/2%) per annum, specified in the policy for calculating cash
 6 surrender values and paid-up nonforfeiture benefits. Provided, however, that
 7 in calculating the present value of any paid-up term insurance with
 8 accompanying pure endowment, if any, offered as a nonforfeiture benefit,
 9 the rates of mortality assumed may not be more than one hundred and thirty
 10 percent (130%) of the rates of mortality according to such applicable table.
 11 Provided, further, that for insurance issued on a substandard basis, the
 12 calculation of any such adjusted premiums and present values may be based
 13 on such other table of mortality as may be specified by the company and
 14 approved by the Commissioner.

15 ...
 16 (4) a. This subdivision shall apply to all policies issued on or after the
 17 operative date of this subdivision (4) of subsection (e) as defined
 18 herein. Except as provided in paragraph g of this subdivision, the
 19 adjusted premiums for any policy shall be calculated on an annual
 20 basis and shall be such uniform percentage of the respective
 21 premiums specified in the policy for each policy year, excluding
 22 amounts payable as extra premiums to cover impairments or special
 23 hazards and also excluding any uniform annual contract charge or
 24 policy fee specified in the policy in a statement of the method to be
 25 used in calculating the cash surrender values and paid-up
 26 nonforfeiture benefits, that the present value, at the date of issue of
 27 the policy, of all adjusted premiums shall be equal to the sum of (i)
 28 the then present value of the future guaranteed benefits provided for
 29 by the policy; (ii) one percent (1%) of either the amount of insurance,
 30 if the insurance be uniform in amount, or the average amount of
 31 insurance at the beginning of each of the first 10 policy years; and
 32 (iii) one hundred twenty-five percent (125%) of the nonforfeiture net
 33 level premium as hereinafter defined. Provided, however, that in
 34 applying the percentage specified in (iii) above no nonforfeiture net
 35 level premium shall be deemed to exceed four percent (4%) of either
 36 the amount of insurance, if the insurance be uniform in amount, or
 37 the average amount of insurance at the beginning of each of the first
 38 10 policy years. The date of issue of a policy for the purpose of this
 39 subdivision shall be the date as of which the rated age of the insured
 40 is determined.

41 ...
 42 h. All adjusted premiums and present values referred to in this section
 43 shall for all policies of ordinary insurance be calculated on the basis
 44 of (i) the Commissioner's 1980 Standard Ordinary Mortality Table or
 45 (ii) at the election of the company for any one or more specified
 46 plans of life insurance, the Commissioner's 1980 Standard Ordinary
 47 Mortality Table with Ten-Year Select Mortality Factors; shall for all
 48 policies of industrial insurance be calculated on the basis of the
 49 Commissioner's 1961 Standard Industrial Mortality Table; and shall
 50 for all policies issued in a particular calendar year be calculated on
 51 the basis of a rate of interest not exceeding the nonforfeiture interest

1 rate as defined in this subdivision for policies issued in that calendar
2 year. Provided, however, that:

3 ...

4 6. ~~Any~~ For policies issued prior to the operative date of the
5 valuation manual, which is defined in G.S. 58-58-51, any
6 Commissioners Standard ordinary mortality tables, adopted
7 after 1980 by the NAIC, that are approved by regulation
8 promulgated by the Commissioner for use in determining the
9 minimum nonforfeiture standard may be substituted for the
10 Commissioner's 1980 Standard Ordinary Mortality Table with
11 or without Ten-Year Select Mortality Factors or for the
12 Commissioner's 1980 Extended Term Insurance Table. For
13 policies issued on or after the operative date of the valuation
14 manual, the valuation manual shall provide the
15 Commissioners Standard mortality table for use in
16 determining the minimum nonforfeiture standard that may be
17 substituted for the Commissioners 1980 Standard Ordinary
18 Mortality Table with or without Ten-Year Select Mortality
19 Factors or for the Commissioners 1980 Extended Term
20 Insurance Table. If the Commissioner approves by regulation
21 any Commissioners Standard ordinary mortality table adopted
22 by the NAIC for use in determining the minimum
23 nonforfeiture standard for policies issued on or after the
24 operative date of the valuation manual, then that minimum
25 nonforfeiture standard supersedes the minimum nonforfeiture
26 standard provided by the valuation manual.

27 7. ~~Any~~ For policies issued prior to the operative date of the
28 valuation manual, any Commissioners Standard industrial
29 mortality tables, adopted after 1980 by the NAIC, that are
30 approved by regulation promulgated by the Commissioner for
31 use in determining the minimum nonforfeiture standard may
32 be substituted for the Commissioner's 1961 Standard
33 Industrial Mortality Table or the Commissioner's 1961
34 Industrial Extended Term Insurance Table. For policies
35 issued on or after the operative date of the valuation manual,
36 the valuation manual shall provide the Commissioners
37 Standard mortality table for use in determining the minimum
38 nonforfeiture standard that may be substituted for the
39 Commissioners 1961 Industrial Extended Term Insurance
40 Table. If the Commissioner approves by regulation any
41 Commissioners Standard industrial mortality table adopted by
42 the NAIC for use in determining the minimum nonforfeiture
43 standard for policies issued on or after the operative date of
44 the valuation manual, then that minimum nonforfeiture
45 standard supersedes the minimum nonforfeiture standard
46 provided by the valuation manual.

47 i. ~~The~~ For policies issued prior to the operative date of the valuation
48 manual, the nonforfeiture interest rate per annum for any policy
49 issued in a particular calendar year shall be equal to one hundred and
50 twenty-five percent (125%) of the calendar year statutory valuation
51 interest rate for such policy as defined in the Standard Valuation

1 Law, rounded to the nearer one quarter of one percent (~~1/4 of~~
2 ~~1%~~)(1/4 of 1%), but not less than four percent (4%). For policies
3 issued on or after the operative date of the valuation manual, the
4 nonforfeiture interest rate per annum for any policy issued in a
5 particular calendar year shall be provided by the valuation manual.

6 "...."

7 **SECTION 3.** Article 58 of Chapter 58 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 58-58-51. NAIC valuation manual operative date.**

10 (a) As used in the section, "valuation manual" means the manual of valuation
11 instructions adopted by the NAIC or as subsequently amended.

12 (b) The operative date of the valuation manual is January 1 of the first calendar year
13 that begins following the first July 1 as of which all of the following have occurred:

14 (1) The valuation manual has been adopted by the NAIC by an affirmative vote
15 of at least 42 members, or three-fourths of the members voting, whichever is
16 greater.

17 (2) The model Standard Valuation Law, as amended by the NAIC in 2009, or
18 legislation including substantially similar terms and provisions, has been
19 enacted by states representing more than seventy-five percent (75%) of the
20 direct premiums written as reported in the following annual statements
21 submitted for 2008: life, accident and health annual statements; health
22 annual statements; and fraternal annual statements.

23 (3) The model Standard Valuation Law, as amended by the NAIC in 2009, or
24 legislation including substantially similar terms and provisions, has been
25 enacted by at least 42 of the following 55 jurisdictions: the 50 states of the
26 United States, American Samoa, the American Virgin Islands, the District of
27 Columbia, Guam, and Puerto Rico."

28 **SECTION 4.** G.S. 58-58-50(j) reads as rewritten:

29 "(j) Each opinion required by subsection (i) of this section shall be governed by the
30 following provisions:

31 (1) A memorandum, in form and substance acceptable to the Commissioner as
32 specified by rule, shall be prepared to support each actuarial opinion.

33 (2) If the insurance company fails to provide a supporting memorandum at the
34 request of the Commissioner within a period specified by rule or the
35 Commissioner determines that the supporting memorandum provided by the
36 insurance company fails to meet the standards prescribed by the rules or is
37 otherwise unacceptable to the Commissioner, the Commissioner may engage
38 a qualified actuary at the expense of the company to review the opinion and
39 the basis for the opinion and prepare such supporting memorandum as is
40 required by the Commissioner.

41 (3) The opinion shall be submitted with the annual statement reflecting the
42 valuation of such reserve liabilities for each year ending on or after
43 December 31, 1994.

44 (4) The opinion shall apply to all business in force including individual and
45 group health insurance plans, in form and substance acceptable to the
46 Commissioner as specified by rule.

47 (5) The opinion shall be based on standards adopted from time to time by the
48 actuarial standards board and on such additional standards as the
49 Commissioner may by rule prescribe.

50 (6) In the case of an opinion required to be submitted by a foreign or alien
51 company, the Commissioner may accept the opinion filed by that company

1 with the insurance supervisory official of another state if the Commissioner
2 determines that the opinion reasonably meets the requirements applicable to
3 a company domiciled in this State.

4 (7) For the purposes of this section, "qualified actuary" means a member in good
5 standing of the American Academy of Actuaries who meets the requirement
6 set forth in such rules.

7 (8) Except in cases of fraud or willful misconduct, the qualified actuary shall not
8 be liable for damages to any person (other than the insurance company and
9 the Commissioner) for any act, error, omission, decision, or conduct with
10 respect to the actuary's opinion.

11 (9) Disciplinary action by the Commissioner against the company or the
12 qualified actuary shall be defined in rules by the Commissioner.

13 (10) ~~Any memorandum in support of the opinion, and any other material
14 provided by the company to the Commissioner in connection therewith, shall
15 be kept confidential by the Commissioner and shall not be made public and
16 shall not be subject to subpoena, other than for the purpose of defending an
17 action seeking damages from any person by reason of any action required by
18 this section or by rules adopted under this section; provided, however, that
19 the memorandum or other material may otherwise be released by the
20 Commissioner (i) with the written consent of the company or (ii) to the
21 American Academy of Actuaries upon request stating the memorandum or
22 other material is required for the purpose of professional disciplinary
23 proceedings and setting forth procedures satisfactory to the Commissioner
24 for preserving the confidentiality of the memorandum or other material.
25 Once any portion of the confidential memorandum is cited by the company
26 in its marketing or is cited before any governmental agency other than a state
27 insurance department or is released by the company to the news media, all
28 portions of the confidential memorandum shall be no longer
29 confidential. Except as provided in subdivisions (14), (15), and (16) of this
30 subsection, documents, materials, or other information in the possession or
31 control of the Commissioner that are included in a memorandum in support
32 of the opinion, and any other material provided by the company to the
33 Commissioner in connection with the opinion, shall be confidential by law
34 and privileged, shall not be subject to or public records under G.S. 58-2-100
35 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and
36 shall not be subject to discovery or admissible in evidence in any private
37 civil action. However, the Commissioner is authorized to use the documents,
38 materials, or other information in the furtherance of any regulatory or legal
39 action brought as part of the Commissioner's official duties.~~

40 (11) Neither the Commissioner nor any person who received documents,
41 materials, or other information while acting under the authority of the
42 Commissioner shall be permitted or required to testify concerning any
43 confidential documents, materials, or information subject to subdivision (10)
44 of this subsection in any private civil action.

45 (12) In order to assist in the performance of the Commissioner's duties, the
46 Commissioner may do any of the following:

47 a. Share documents, materials, or other information, including the
48 confidential and privileged documents, materials, or information
49 subject to subdivision (10) of this subsection, with other state,
50 federal, and international regulatory agencies, with the National
51 Association of Insurance Commissioners and its affiliates and

1 subsidiaries, and with state, federal, and international law
 2 enforcement authorities, provided that the recipient agrees to
 3 maintain the confidentiality and privileged status of the document,
 4 material, or other information.

5 b. Receive documents, materials, or information, including otherwise
 6 confidential and privileged documents, materials, or information,
 7 from the National Association of Insurance Commissioners and its
 8 affiliates and subsidiaries, and from regulatory and law enforcement
 9 officials of other foreign or domestic jurisdictions, and maintain as
 10 confidential or privileged any document, material, or information
 11 received with notice or the understanding that it is confidential or
 12 privileged under the laws of the jurisdiction that is the source of the
 13 document, material, or information.

14 c. Enter into agreements governing sharing and use of information
 15 consistent with subdivisions (10) through (12) of this subsection.

16 (13) No waiver of any applicable privilege or claim of confidentiality in the
 17 documents, materials, or information shall occur as a result of disclosure to
 18 the Commissioner under this section or as a result of sharing authorized by
 19 subdivision (12) of this subsection.

20 (14) A memorandum in support of an opinion, and any other material provided
 21 by the company in connection with the memorandum, may be subject to
 22 subpoena for the purpose of defending an action seeking damages from the
 23 actuary submitting the memorandum by reason of any action required by this
 24 section or by rules adopted under this section.

25 (15) The memorandum or other material may otherwise be released by the
 26 Commissioner (i) with the written consent of the company or (ii) to the
 27 American Academy of Actuaries upon request stating the memorandum or
 28 other material is required for the purpose of professional disciplinary
 29 proceedings and setting forth procedures satisfactory to the Commissioner
 30 for preserving the confidentiality of the memorandum or other material.

31 (16) Once any portion of the confidential memorandum is cited by the company
 32 in its marketing or is cited before any governmental agency other than a state
 33 insurance department or is released by the company to the news media, all
 34 portions of the confidential memorandum shall no longer be confidential."

35 **SECTION 5.** If any section or provision of this act is declared unconstitutional,
 36 preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a
 37 whole or any part other than the part so declared to be unconstitutional, preempted, or
 38 otherwise invalid.

39 **PART II. CONFORMING AND CLARIFYING CHANGES TO VARIOUS** 40 **INSURANCE LAW PROVISIONS**

41 **SECTION 6.** G.S. 58-89A-60(d) reads as rewritten:

42 "(d) Every applicant shall furnish the Commissioner a complete set of fingerprints ~~and a~~
 43 ~~recent photograph of each officer, director, and controlling person in a form prescribed by the~~
 44 ~~Commissioner of each officer, director, and controlling person.~~ Commissioner. Each set of
 45 fingerprints shall be certified by an authorized law enforcement officer.

46 Upon request by the Department, the Department of Public Safety shall provide to the
 47 Department from the State and National Repositories of Criminal Histories the criminal history
 48 of any applicant and the officer, director, and controlling person of any applicant. Along with
 49 the request, the Department shall provide to the Department of Public Safety the fingerprints of
 50 the person that is the subject of the request, a form signed by the person that is the subject of
 51

1 the request consenting to the criminal record check and use of fingerprints and other identifying
2 information required by the State and National Repositories, and any additional information
3 required by the Department of Public Safety. The person's fingerprints shall be forwarded to the
4 State Bureau of Investigation for a search of the State's criminal history record file, and the
5 State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of
6 Investigation for a national criminal history record check. The Department shall keep all
7 information obtained pursuant to this subsection confidential. The Department of Public Safety
8 may charge a fee to offset the cost incurred by it to conduct a criminal record check under this
9 section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving
10 the information.

11 In the event that an applicant has secured a professional employer organization license in
12 another state in which the professional employer organization's controlling persons have
13 completed a criminal background investigation within 12 months of this application, a certified
14 copy of the report from the appropriate authority of that state may satisfy the requirement of
15 this subsection. This subsection also applies to a change in a controlling party of a professional
16 employer organization. For purposes of investigation under this subsection, the Commissioner
17 shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this
18 Chapter."

19 **SECTION 7.** G.S. 58-5-55(a) reads as rewritten:

20 "(a) In addition to other requirements of Articles 1 through 64 of this Chapter, all
21 domestic stock insurance companies shall deposit their required statutory capital with the
22 ~~Commissioner.~~ Commissioner, and all domestic nonstock insurance companies shall deposit
23 their required statutory surplus with the Commissioner. Such deposits shall be under the
24 exclusive control of the Commissioner for the protection of policyholders."

25 **SECTION 8.** G.S. 58-64-80 reads as rewritten:

26 "**§ 58-64-80. Advisory Committee.**

27 There shall be a nine member Continuing Care Advisory Committee appointed by the
28 Commissioner. The Committee shall consist of at least two residents of facilities, two
29 representatives of ~~the North Carolina Association of Nonprofit Homes for the~~
30 Aging, LeadingAge North Carolina, one individual who is a certified public accountant and is
31 licensed to practice in this State, one individual skilled in the field of architecture or
32 engineering, and one individual who is a health care professional."

33 **SECTION 9.** G.S. 58-50-82(b)(1) reads as rewritten:

34 "**§ 58-50-82. Expedited external review.**

35 ...

- 36 (1) Notify the insurer that made the noncertification, noncertification appeal
37 decision, or second-level grievance review decision which is the subject of
38 the request that the request has been received and provide a copy of the
39 request. The Commissioner shall also request any information from the
40 insurer necessary to make the preliminary review set forth in
41 G.S. 58-50-80(b)(2) and require the insurer to deliver the information not
42 later than one ~~business~~ day after the request was made."

43 **SECTION 10.** G.S. 58-3-50 reads as rewritten:

44 "**§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.**

45 Every insurance company or group of companies must conduct its business in the State in,
46 and the policies and contracts of insurance issued by it shall be headed or entitled only by, its
47 proper or corporate name or names. There shall not appear on the policy anything that would
48 indicate that it is the obligation of any other than the company or companies responsible for the
49 payment of losses under the policy, though it will be permissible to stamp or print on the
50 policy, the name or names of the department or general agency issuing the same, and the group
51 of companies with which the company is financially affiliated. The use of any emblem,

1 insignia, or anything other than the true and proper corporate name of the company or group of
2 companies shall be permitted only with the approval of the ~~Commissioner~~.Commissioner;
3 provided that, with the exception of policies subject to the provisions of Article 36 of this
4 Chapter, a coverage within a policy may be issued by more than one company, so long as the
5 policy clearly identifies the company responsible for each coverage."
6

7 PART III. REVISION TO INSURANCE POLICY RENEWAL PROVISION

8 SECTION 11. G.S. 58-41-20 is amended by adding a new subsection to read:

9 "§ 58-41-20. Notice of nonrenewal, premium rate increase, or change in coverage
10 required.

11 ...

12 (g) Delivery by an insurer of a policy superseding a policy previously issued by the
13 insurer at the end of the previously issued policy period is not a refusal to renew when it is
14 delivered by:

15 (1) The same insurer; or

16 (2) An affiliate or subsidiary, as those terms are defined in G.S. 58-19-5, that
17 has a financial strength rating, issued by an industry-recognized independent
18 insurance rating company, which financial strength rating is at least as good
19 as the insurer issuing the superseded policy. The provisions of G.S. 58-41-25
20 apply to the affiliate or subsidiary as if it were the same insurer issuing the
21 policy."
22

23 PART IV. AMENDMENT TO DEFINITION OF SMALL EMPLOYER

24 SECTION 12. Section 4(b) of S.L. 2013-357 reads as rewritten:

25 "SECTION 4.(b) G.S. 58-50-110 reads as rewritten:

26 "§ 58-50-110. Definitions.

27 As used in this Act:

28 ...

29 (22b) "Small employer" means, in connection with a nongrandfathered
30 nontransitional group health plan with respect to a calendar year and a plan
31 year, an employer who employed an average of at least one but not more
32 than 100 employees on business days during the preceding calendar year and
33 who employs at least one employee on the first day of the plan year meets
34 the definition of small employer under 42 U.S.C. § 18024(b). The number of
35 employees shall be determined using the method set forth in section
36 4980H(c)(2) of the Internal Revenue Code.

37"

38 PART V. TECHNICAL CORRECTIONS

39 SECTION 13. Section 6 of S.L. 2015-146 reads as rewritten:

40 "SECTION 6. ~~Sections 1 and 3~~ Part I of this act ~~become~~ becomes effective July 1, 2015.
41 Section 2 of this act becomes effective January 1, 2017. Section 5 of this act becomes effective
42 July 1, 2015, and applies to optional enhancements, as described in that section, filed and
43 approved on or after that date. The remainder of this act is effective when it becomes law."

44 SECTION 14. Section 7 of S.L. 2015-101 reads as rewritten:

45 "SECTION 7. ~~This~~ Sections 4, 5, and 6 of this act become effective January 1, 2017. The
46 remainder of this act is effective when it becomes law."

47 SECTION 15. Sections 1 and 2 of Part I of this act become effective on the
48 operative date of the manual of valuation instructions adopted by the National Association of
49 Insurance Commissioners as provided in G.S. 58-58-51. The remainder of Part I of this act is
50 effective when this act becomes law. Section 9 of Part II of this act becomes effective on
51

- 1 January 1, 2016. The remainder of Part II of this act is effective when this act becomes law.
- 2 Part III of this act is effective when this act becomes law. Part IV of this act becomes effective
- 3 on January 1, 2016. Part V of this act is effective when this act becomes law.