

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 156
PROPOSED SENATE COMMITTEE SUBSTITUTE H156-PCS10390-TRf-8

Short Title: Medicaid PHP Licensure/Food Svcs State Bldgs. (Public)

Sponsors:

Referred to:

February 22, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE MEDICAID PREPAID HEALTH PLANS TO OBTAIN A LICENSE
3 FROM THE DEPARTMENT OF INSURANCE AND TO MAKE CHANGES
4 PERTAINING TO THE OPERATION OF FOOD SERVICES AT CERTAIN STATE
5 PROPERTIES AND FACILITIES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** Chapter 58 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 93.

10 "Prepaid Health Plan Licensing Act.

11 **"§ 58-93-1. Short title.**

12 This Article may be cited as the Prepaid Health Plan Licensing Act.

13 **"§ 58-93-2. Definitions.**

14 The following definitions apply in this Article:

- 15 (1) DHHS. – The North Carolina Department of Health and Human Services.
16 (2) Enrollee. –A beneficiary enrolled to receive Medicaid or NC Health Choice
17 services through a prepaid health plan.
18 (3) Governing body. – The board of directors, trustees, partners, managers, or
19 other individuals who are legally responsible for the governance of an entity.
20 (4) Health care services. – Medicaid or NC Health Choice services provided by
21 a prepaid health plan under a capitated contract with DHHS.
22 (5) Insolvent or insolvency. – A circumstance that occurs when a prepaid health
23 plan has been declared insolvent and is placed under an order of liquidation
24 by a court of competent jurisdiction.
25 (6) Licensed health organization. – A licensed health organization includes all
26 of the following:
27 a. A health maintenance organization licensed under Article 67 of this
28 Chapter.
29 b. A full service corporation licensed under Article 65 of this Chapter.
30 c. An insurer under this Chapter that is required by the Commissioner
31 to use the NAIC Health Annual Statement Blank when filing the
32 annual statement in accordance with G.S. 58-2-165.

33 The term "licensed health organization" does not include an insurer that (i) is
34 licensed under this Chapter as either a life or health insurer or as a property
35 or casualty insurer and (ii) is otherwise subject to either life or property and
36 casualty risk-based capital requirements.



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1 (7) Prepaid health plan or PHP. – As defined in subdivision (2) of Section 4 of
2 S.L. 2015-245, as amended. For the purposes of 11 U.S.C. § 109(b)(2) and
3 11 U.S.C. § 109(d) only, a PHP is a domestic insurance company.

4 (8) Working capital. – The excess of current assets over current liabilities. The
5 only borrowed funds that may be included in working capital must be funds
6 that are repayable only from net earned income and must be repayable only
7 with the advance permission of the Commissioner.

8 **"§ 58-93-3. Maximize federal reimbursement.**

9 The Commissioner shall work with DHHS to maximize federal reimbursement of the
10 Department's expenses in administering this Article to the extent that federal reimbursement is
11 allowed under federal law.

12 **"§ 58-93-4. Commissioner use of consultants and other professionals.**

13 (a) The Commissioner may contract with consultants and other professionals to
14 expedite and complete the application process, examinations, and other regulatory activities
15 required under this Article. Costs of contracts entered into under this section shall be
16 reimbursed by the applicant or licensee.

17 (b) Contracts under this section for financial, legal, examination, and other services
18 shall not be subject to any of the following:

19 (1) G.S. 114-2.3.

20 (2) G.S. 147-17.

21 (3) Articles 3, 3C, and 8 of Chapter 143 of the General Statutes and any rules
22 and procedures adopted under those Articles concerning procurement,
23 contracting, and contract review.

24 **"§ 58-93-5. Licensing.**

25 (a) Any entity may apply to the Commissioner for a license to operate a PHP in
26 compliance with this Article.

27 (b) Each license application shall be verified by an officer or authorized representative
28 of the applicant, shall be in a form prescribed by the Commissioner, and shall be set forth or be
29 accompanied, at a minimum, by all of the following:

30 (1) A copy of the organizational documents, if any, of the applicant, such as the
31 articles of incorporation, articles of association, partnership agreement, trust
32 agreement, or other applicable documents, and all amendments.

33 (2) A copy of the bylaws, rules and regulations, or similar documents, if any,
34 regulating the conduct of the internal affairs of the applicant.

35 (3) A list of the names, addresses, official positions, and biographical affidavits
36 of the persons who are to be responsible for the conduct of the affairs of the
37 applicant, including all members of the governing body, the principal
38 officers in the case of a corporation, the partners or members in the case of a
39 partnership or association, or the managers in the case of a limited liability
40 company. This list shall be accompanied by a completed release of
41 information for each of these individuals on forms acceptable to the
42 Commissioner.

43 (4) A disclosure identifying all affiliates, including a description of any
44 management, service, or cost-sharing arrangement between an affiliate and
45 the applicant.

46 (5) The name and address of the registered agent of the applicant.

47 (6) A detailed plan of operation.

48 (7) The names and addresses of the applicant's qualified actuary and external
49 auditors.

50 (8) Financial statements showing the applicant's assets, liabilities, and sources of
51 financial support. If the applicant's financial affairs are audited by

1 independent certified public accountants, a copy of the applicant's most
2 recent regular certified financial statement shall satisfy this requirement
3 unless the Commissioner directs that additional or more recent financial
4 information is required for the proper administration of this Article.

5 (9) A financial feasibility study that includes (i) detailed enrollment projections,
6 (ii) a projection of balance sheets, (iii) cash flow statements that show any
7 capital expenditures, purchases and sales of investments, and deposits with
8 the State, (iv) anticipated income and anticipated expense statements
9 covering the start of operations through the period in which the PHP is
10 anticipated to have had net income for at least one year, and (v) a statement
11 as to the sources of working capital as well as any other sources of funding.

12 (10) If not domiciled in this State, a power of attorney duly executed by the
13 applicant appointing the Commissioner, the Commissioner's successors in
14 office, and duly authorized deputies as the true and lawful attorney of the
15 applicant in and for this State, upon whom all lawful process in any legal
16 action or proceeding against the PHP on a cause of action arising in this
17 State may be served.

18 (11) A description of the procedures to be implemented to meet the protection
19 against insolvency requirements of G.S. 58-93-50.

20 (12) The plan for handling an insolvency as required by G.S. 58-93-55.

21 (13) Other information as the Commissioner may require in order to make the
22 determinations required in G.S. 58-93-10.

23 (c) Any person that is already a licensed health organization in this State under this
24 Chapter shall be recognized as a PHP under this Article and shall be issued a PHP license upon
25 the licensed health organization's demonstration to the Commissioner compliance with this
26 Article. A licensed health organization shall not be required to file a PHP application, pay a
27 PHP application fee, or provide the notice required by subsection (d) of this section as a
28 condition of receipt of a PHP license. Unless otherwise exempted, a licensed health
29 organization shall be subject to the remaining requirements of this Article, including deposit,
30 minimum capital and surplus, and working capital requirements.

31 (d) A PHP shall file a notice describing any significant modification of the operation set
32 out in the information required by subsection (b) of this section for approval by the
33 Commissioner prior to the modification. If the Commissioner does not disapprove within 90
34 days after the filing, the modification shall be deemed to be approved. Every PHP shall file
35 with the Commissioner all subsequent changes in the information or forms that are required by
36 this Article to be filed with the Commissioner.

37 (e) The Commissioner shall regularly provide DHHS with information and
38 documentation related to its licensing and regulation of PHPs, including licenses, examination
39 results, penalties imposed, or other actions taken in regards to PHPs.

40 **"§ 58-93-10. Issuance and continuation of license.**

41 (a) Before issuing or continuing any PHP license, the Commissioner of Insurance may
42 make any examination as the Commissioner deems expedient. The Commissioner shall issue a
43 license upon the payment of the application fee prescribed in G.S. 58-93-14 and upon being
44 satisfied on all of the following points:

45 (1) The applicant has complied with the application requirements of
46 G.S. 58-93-5.

47 (2) The applicant has a minimum capital and surplus equal to or greater than
48 that required by G.S. 58-93-50(b).

49 (3) The amounts provided as working capital are repayable only out of earned
50 income in excess of amounts paid and payable for operating expenses and

1 expenses of providing services and such reserve as the Department deems
2 adequate.

3 (4) The amount of money actually available for working capital is sufficient to
4 carry all acquisition costs and operating expenses for a reasonable period of
5 time from the date of the issuance of the license and that the PHP is
6 financially responsible and may reasonably be expected to meet its
7 obligations to enrollees and prospective enrollees. Such working capital shall
8 initially be a minimum of one million five hundred thousand dollars
9 (\$1,500,000) or a higher amount as the Commissioner shall determine to be
10 adequate.

11 (5) The person or persons who will manage the PHP have adequate expertise,
12 experience, and character.

13 (b) A license shall be denied only after compliance with the requirements of
14 G.S. 58-93-75.

15 **"§ 58-93-14. Fees.**

16 The Commissioner shall establish an application fee not to exceed two thousand dollars
17 (\$2,000) for entities filing an application to be licensed as a PHP under this Article. The
18 Commissioner shall establish an annual PHP license continuation fee not to exceed five
19 thousand dollars (\$5,000). The PHP license shall continue in full force and effect subject to
20 timely payment of the annual PHP license continuation fee in accordance with G.S. 58-6-7(c)
21 and subject to any other provisions of this Chapter applicable to PHPs.

22 **"§ 58-93-15. Deposits.**

23 (a) All deposits required by this section shall be administered in accordance with the
24 provisions of Article 5 of this Chapter.

25 (b) The Commissioner shall require a minimum deposit of five hundred thousand
26 dollars (\$500,000) or such higher amount as the Commissioner determines to be necessary for
27 the protection of enrollees.

28 (c) For licensed health organizations, the deposit required by this section is in addition
29 to any other deposit required by the Commissioner.

30 (d) All deposits made pursuant to this section shall not be subject to G.S. 58-62-95.

31 **"§ 58-93-20. Management and exclusive agreements; custodial agreements.**

32 (a) No PHP shall enter into an exclusive management or custodial agreement unless the
33 agreement is first filed with the Commissioner and approved under this section within (i) 45
34 days after filing or (ii) a reasonable extended period as specified by notice from the
35 Commissioner given within a 45-day period after filing.

36 (b) The Commissioner shall disapprove an agreement submitted under subsection (a) of
37 this section if the Commissioner determines that the agreement does any of the following:

38 (1) Subjects the PHP to excessive charges.

39 (2) Extends for an unreasonable period of time.

40 (3) Does not contain fair and adequate standards of performance.

41 (4) Enables persons under the contract to manage the PHP who are not
42 sufficiently trustworthy, competent, experienced, and free from conflict of
43 interest to manage the PHP with due regard for the interests of its enrollees,
44 creditors, or the public.

45 (5) Contains provisions that impair the interests of the PHP's enrollees,
46 creditors, or the public.

47 **"§ 58-93-25. Fiduciary responsibilities.**

48 Any director, officer, trustee, manager, or partner of a PHP who receives, collects,
49 disburses, or invests funds in connection with the activities of the PHP shall be responsible for
50 those funds in a fiduciary relationship to the enrollees and to the State.

51 **"§ 58-93-30. Statements filed with Commissioner.**

1 Every PHP subject to this Article is subject to G.S. 58-2-165.

2 **"§ 58-93-35. Investments.**

3 (a) With the exception of investments made in accordance with subsection (b) of this
4 section, the funds of a PHP shall be invested or maintained only in securities, other
5 investments, or other assets permitted by the laws of this State for the investment of assets
6 constituting the legal reserves of life insurance companies or such other securities or
7 investments as the Commissioner may permit.

8 (b) A PHP may, with the Commissioner's prior approval, do any of the following:

9 (1) Invest its funds to purchase, lease, construct, renovate, operate, or maintain
10 (i) a hospital, (ii) a medical facility, (iii) ancillary equipment of a hospital or
11 medical facility, or (iv) any property as may reasonably be required for its
12 principal office or for other purposes as may be necessary in the transaction
13 of the business of the PHP.

14 (2) Make loans to a medical group under contract with the PHP in furtherance of
15 the PHP's program or the making of loans to a corporation or corporations
16 under the PHP's control for the purpose of acquiring or constructing medical
17 facilities and hospitals or in furtherance of a program providing health care
18 services to enrollees.

19 (c) The Commissioner shall not allow any investment if the Commissioner determines
20 the investment would substantially and adversely affect the financial soundness of the PHP and
21 endanger its ability to meet its obligations.

22 **"§ 58-93-40. Examinations.**

23 The Commissioner may make an examination of the affairs of any PHP as often as the
24 Commissioner determines it to be necessary for the protection of the interests of the enrollees
25 or the State but not less frequently than once every five years. Examinations shall otherwise be
26 conducted under G.S. 58-2-131 through G.S. 58-2-134.

27 **"§ 58-93-45. Hazardous financial condition.**

28 (a) Whenever the financial condition of any PHP indicates a condition such that the
29 continued operation of the PHP might be hazardous to its enrollees, creditors, the general
30 public, or the State, the Commissioner may order the PHP to take action as may be reasonably
31 necessary to rectify the existing condition, including one or more of the following steps:

32 (1) Reduce the total amount of present and potential liability for health care
33 services by reinsurance.

34 (2) Reduce the volume of new business being accepted.

35 (3) Reduce the expenses by specified methods.

36 (4) Suspend or limit the writing of new business for a specified period of time.

37 (5) Require an increase to the PHP's capital and surplus by contribution.

38 (b) The Commissioner may consider any or all of the standards in G.S. 58-30-60(b)
39 when determining whether the continued operation of a PHP is hazardous to its enrollees,
40 creditors, the general public, or the State.

41 (c) The remedies under subsection (a) of this section are in addition to, and not in lieu
42 of, the remedies and measures available to the Commissioner under the provisions of Article 30
43 of this Chapter.

44 (d) The Commissioner shall notify the Secretary of DHHS prior to taking any action
45 against a PHP under this section.

46 **"§ 58-93-50. Protection against insolvency.**

47 (a) The Commissioner shall require deposits in accordance with the provisions of
48 G.S. 58-93-15.

49 (b) Each PHP shall maintain a minimum capital and surplus equal to the greater of one
50 million dollars (\$1,000,000) or the amount required under the risk-based capital provisions of
51 Article 12 of this Chapter.

1 (c) Every PHP shall have and maintain at all times an adequate plan for protection
2 against insolvency acceptable to the Commissioner. In determining the adequacy of such a
3 plan, the Commissioner may consider all of the following:

4 (1) A reinsurance agreement preapproved by the Commissioner covering excess
5 loss, stop loss, or catastrophes. The agreement must provide that the
6 Commissioner will be notified no less than 60 days prior to cancellation or
7 reduction of coverage.

8 (2) Any other arrangements offering protection against insolvency that the
9 Commissioner may require.

10 **"§ 58-93-55. Continuation of health care services.**

11 (a) The Commissioner shall require that each PHP have a plan for handling insolvency.
12 The plan must allow for health care services to be provided to enrollees until the PHP's
13 enrollees whose enrollment in a PHP is not voluntary are enrolled in another PHP. In
14 considering the plan, the Commissioner may require any of the following:

15 (1) Insurance to cover the expenses to be paid for enrollee health care services
16 after an insolvency.

17 (2) Provisions in provider contracts that obligate the provider to provide services
18 for the duration of the period after the PHP's insolvency until the PHP's
19 enrollees whose enrollment in a PHP is not voluntary are enrolled in another
20 PHP.

21 (3) Insolvency reserves.

22 (4) Letters of credit acceptable to the Commissioner.

23 (5) Any other arrangements to assure that health care services are provided to
24 enrollees as specified in this section.

25 **"§ 58-93-60. Incurred but not reported claims.**

26 (a) Every PHP shall, when determining liability, include an amount estimated in the
27 aggregate to provide for (i) any unearned capitation payment, (ii) the payment of all claims for
28 health care expenditures that have been incurred, whether reported or unreported, that are
29 unpaid and for which the PHP is or may be liable, and (iii) the expense of adjustment or
30 settlement of these claims.

31 (b) Liabilities shall be computed in accordance with rules adopted by the Commissioner
32 based upon rules applicable to health maintenance organizations adjusted for reasonable
33 consideration of the ascertained experience and character of the PHP.

34 **"§ 58-93-65. Suspension or revocation of license.**

35 (a) The Commissioner may suspend or revoke a PHP license if the Commissioner finds
36 that the PHP meets any of the following:

37 (1) Is operating significantly in contravention of its organizational document, or
38 in a manner contrary to that described in and reasonably inferred from any
39 other information submitted under G.S. 58-93-5, unless amendments to such
40 submissions have been filed with and approved by the Commissioner.

41 (2) Is no longer financially responsible and may reasonably be expected to be
42 unable to meet its obligations to enrollees or prospective enrollees.

43 (3) Is operating in a manner that would be hazardous to its enrollees or to the
44 State.

45 (4) Knowingly or repeatedly fails or refuses to comply with any law or rule
46 applicable to the PHP or with any order issued by the Commissioner after
47 notice and opportunity for a hearing.

48 (5) Has knowingly published or made to the Department, to DHHS, or to the
49 public any false statement or report.

50 (b) A license shall be suspended or revoked only after compliance with G.S. 58-93-75.

1 (c) When a PHP license is suspended, the PHP shall not, during the suspension, enroll
2 any additional enrollees, except newborn children or other newly acquired dependents of
3 existing enrollees, and shall not engage in any advertising or solicitation.

4 (d) When a PHP license is revoked, the PHP shall proceed, immediately following the
5 effective date of the order of revocation, to wind up its affairs and shall conduct no further
6 business except as may be essential to the orderly conclusion of the affairs of the PHP. The
7 PHP shall engage in no advertising or solicitation. The Commissioner may, by written order,
8 permit such further operation of the PHP as the Commissioner may find to be in the best
9 interest of enrollees and the State of North Carolina.

10 (e) The Commissioner shall consult with the Secretary of DHHS prior to taking any
11 action against a PHP under this section.

12 **"§ 58-93-70. Rehabilitation or liquidation of PHP.**

13 Any rehabilitation or liquidation of a PHP shall be deemed to be the rehabilitation or
14 liquidation of an insurance company and shall be conducted under the supervision of the
15 Commissioner pursuant to Article 30 of this Chapter. The Commissioner may apply for an
16 order directing the Commissioner to rehabilitate or liquidate a PHP upon one or more grounds
17 set out in Article 30 of this Chapter or when it is the opinion of the Commissioner that the
18 continued operation of the PHP would be hazardous either to the enrollees or to the State.
19 Priority shall be given to DHHS's claims over all other claims in G.S. 58-30-220, except for
20 claims in G.S. 58-30-220(1).

21 **"§ 58-93-75. Administrative procedures.**

22 (a) When the Commissioner has cause to believe that grounds for the denial of an
23 application for a license exist, or that grounds for the suspension or revocation of a license
24 exist, notification shall be given to the PHP in writing. This notice shall specifically state the
25 grounds for denial, suspension, or revocation and shall set a date for a hearing on the matter at
26 least 30 days after notice is given.

27 (b) After such hearing, or upon the failure of the PHP to appear at such hearing, the
28 Commissioner shall take action as is deemed advisable and issue written findings which shall
29 be mailed to the PHP. The Commissioner shall provide DHHS with an explanation of the
30 action taken and a copy of the written findings.

31 (c) The action of the Commissioner taken under subsection (b) of this section shall be
32 subject to review by the Superior Court of Wake County. The court may, in disposing of the
33 issue before it, modify, affirm, or reverse the order of the Commissioner in whole or in part.

34 (d) The provisions of Chapter 150B of the General Statutes of this State shall apply to
35 proceedings under this section to the extent that they are not in conflict with this section.

36 **"§ 58-93-80. Penalties and enforcement.**

37 (a) The Commissioner may, in addition to or in lieu of suspending or revoking a license
38 under G.S. 58-93-65, proceed under G.S. 58-2-70, provided that the PHP has reasonable time to
39 remedy the defect in its operations that gave rise to the procedure under G.S. 58-2-70.

40 (b) Violation of this Article or any other provision of this Chapter that expressly applies
41 to PHPs is a Class 1 misdemeanor.

42 (c) If the Commissioner shall for any reason have cause to believe that any violation of
43 this Article or any other provision of this Chapter that expressly applies to PHPs has occurred
44 or is threatened, the Commissioner may give notice to the PHP and to the representatives or
45 other persons who appear to be involved in such suspected violation to arrange a conference
46 with the alleged violators or their authorized representatives for the purpose of attempting to
47 ascertain the facts relating to the suspected violation and, in the event it appears that any
48 violation has occurred or is threatened, to arrive at an adequate and effective means of
49 correcting or preventing the violation. If notice is given under this subsection, a copy of the
50 notice shall be provided to the Secretary of DHHS. The Secretary of DHHS or the Secretary's
51 designee may be present at any proceedings under this subsection.

1 Proceedings under this subsection shall not be governed by any formal procedural
2 requirements and may be conducted in such manner as the Commissioner may deem
3 appropriate under the circumstances.

4 (d) The Commissioner may issue an order directing a PHP or a representative of a PHP
5 to cease and desist from engaging in any act or practice in violation of the provisions of this
6 Article or any other provision of this Chapter that expressly applies to PHPs.

7 Within 30 days after service of the cease and desist order, the respondent may request a
8 hearing on the question of whether acts or practices have occurred that are in violation of this
9 Article or any other provision of this Chapter that expressly applies to PHPs. The hearing shall
10 be conducted under Article 3A of Chapter 150B of the General Statutes, and judicial review
11 shall be available as provided by Article 4 of Chapter 150B of the General Statutes.

12 (e) In the case of any violation of the provisions of this Article or any other provision of
13 this Chapter that expressly applies to PHPs, if the Commissioner elects not to issue a cease and
14 desist order, or in the event of noncompliance with a cease and desist order issued under
15 subsection (d) of this section, the Commissioner may institute a proceeding to obtain injunctive
16 relief, or seek other appropriate relief, in the Superior Court of Wake County.

17 (f) The Commissioner shall consult with the Secretary of DHHS prior to taking any
18 action against a PHP under this section.

19 **"§ 58-93-85. Confidentiality of information.**

20 (a) All applications, filings, and reports required under this Article shall be treated as
21 public documents unless otherwise determined by the Commissioner to be proprietary
22 information.

23 (b) Information shared between the Department and DHHS under this Article is
24 confidential and not open to public inspection under G.S. 132-6, unless the information is
25 considered a public record under G.S. 132-1 or is otherwise subject to disclosure under the
26 provisions of Chapter 132 of the General Statutes.

27 (c) Information shared between the Department and DHHS under this Article that is not
28 open to public inspection shall not be disclosed to any person unless otherwise agreed to by
29 both the Commissioner and the Secretary of DHHS.

30 **"§ 58-93-90. Statutory construction and relationship to other laws.**

31 (a) Except as otherwise provided in this Article, provisions of this Chapter to not apply
32 to either of the following:

33 (1) A PHP that is not a licensed health organization.

34 (2) A PHP that is a licensed health organization in regards to activities that
35 relate solely to the PHP's Medicaid or NC Health Choice operations.

36 (b) Nothing in this section shall limit the Commissioner's authority over a PHP that is a
37 licensed health organization in relation to any activities that do not relate solely to the PHP's
38 Medicaid or NC Health Choice operations.

39 **"§ 58-93-91. Rules.**

40 The Commissioner may adopt rules to carry out the provisions of this Article.

41 **"§ 58-93-92. Other laws applicable to PHPs.**

42 The following provisions of this Chapter are applicable to PHPs in the manner in which
43 they are applicable to insurers:

44 (1) G.S. 58-2-125, Authority over all insurance companies; no exemptions from
45 license.

46 (2) G.S. 58-2-131, Examinations to be made; authority, scope, scheduling, and
47 conduct of examinations.

48 (3) G.S. 58-2-132, Examination reports.

49 (4) G.S. 58-2-133, Conflict of interest; cost of examinations; immunity from
50 liability.

51 (5) G.S. 58-2-134, Cost of certain examinations.

- 1 (6) G.S. 58-2-150, Oath required for compliance with law.
- 2 (7) G.S. 58-2-155, Investigation of charges.
- 3 (8) G.S. 58-2-160, Reporting and investigation of insurance and reinsurance
4 fraud and the financial condition of licensees; immunity from liability.
- 5 (9) G.S. 58-2-162, Embezzlement by insurance agents, brokers, or
6 administrators.
- 7 (10) G.S. 58-2-165, Annual, semiannual, monthly, or quarterly statements to be
8 filed with Commissioner.
- 9 (11) G.S. 58-2-185, Record of business kept by companies and agents;
10 Commissioner may inspect.
- 11 (12) G.S. 58-2-190, Commissioner may require special reports.
- 12 (13) G.S. 58-2-195, Commissioner may require records, reports, etc., for
13 agencies, agents, and others.
- 14 (14) G.S. 58-2-200, Books and papers required to be exhibited.
- 15 (15) G.S. 58-2-205, CPA audits of financial statements.
- 16 (16) G.S. 58-7-21, Credit allowed a domestic ceding insurer.
- 17 (17) G.S. 58-7-26, Asset or reduction from liability for reinsurance ceded by a
18 domestic insurer to an assuming insurer not meeting the requirements of
19 G.S. 58-7-121.
- 20 (18) G.S. 58-7-30, Insolvent ceding insurer.
- 21 (19) G.S. 58-7-31, Life and health reinsurance agreements.
- 22 (20) G.S. 58-7-46, Notification to Commissioner for president or chief executive
23 officer changes.
- 24 (21) G.S. 58-7-73, Dissolution of insurers.
- 25 (22) G.S. 58-7-160, Investments unlawfully acquired.
- 26 (23) G.S. 58-7-162, Allowed or admitted assets.
- 27 (24) G.S. 58-7-163, Assets not allowed.
- 28 (25) G.S. 58-7-165, Eligible investments.
- 29 (26) G.S. 58-7-167, General qualifications.
- 30 (27) G.S. 58-7-168, Authorization of investment.
- 31 (28) G.S. 58-7-170, Diversification.
- 32 (29) G.S. 58-7-172, Cash and deposits.
- 33 (30) G.S. 58-7-173, Permitted insurer investments.
- 34 (31) G.S. 58-7-179, Mortgage loans.
- 35 (32) G.S. 58-7-180, Chattel mortgages.
- 36 (33) G.S. 58-7-183, Special consent investments.
- 37 (34) G.S. 58-7-185, Prohibited investments and investment underwriting.
- 38 (35) G.S. 58-7-188, Time limit for disposal of ineligible property and securities;
39 effect of failure to dispose.
- 40 (36) G.S. 58-7-192, Valuation of securities and investments.
- 41 (37) G.S. 58-7-193, Valuation of property.
- 42 (38) G.S. 58-7-197, Replacing certain assets; reporting certain liabilities.
- 43 (39) G.S. 58-7-200, Investment transactions.
- 44 (40) G.S. 58-7-205, Derivative transactions.
- 45 (41) Article 5, Deposits and Bonds by Insurance Companies.
- 46 (42) Part 7 of Article 10, Annual Financial Reporting.
- 47 (43) Article 12, Risk-Based Capital Requirements.
- 48 (44) Article 13, Asset Protection Act.
- 49 (45) Article 19, Insurance Holding Company System Regulatory Act."

50 **SECTION 1.(b)** If any provision of Section 1 of this act or its application is held
51 invalid, the invalidity does not affect other provisions or applications of Section 1 of this act

1 that can be given effect without the invalid provisions or application, and, to this end, the
2 provisions of this act are severable.

3 **SECTION 2.** G.S. 58-62-21(c) is amended by adding a new subdivision to read:

4 **"§ 58-62-21. Coverage and limitations.**

5 ...

6 (c) This Article does not provide coverage for:

7 ...
8 (11) A policy or contract providing any hospital, medical, prescription drug, or
9 other health care benefits under the State's Medicaid program or NC Health
10 Choice program."

11 **SECTION 3.** G.S. 58-30-220 reads as rewritten:

12 **"§ 58-30-220. Priority of distribution.**

13 The priority of distribution of claims from the insurer's estate shall be in accordance with
14 the order in which each class of claims is set forth in this section. Every claim in each class
15 shall be paid in full or adequate funds shall be retained for payment before the members of the
16 next class receive any payment. No subcategories shall be established within the categories in a
17 class. The order of distribution of claims shall be:

18 (1) The receiver's expenses for the administration and conservation of assets of
19 the insurer.

20 (2) Claims or portions of claims for benefits under policies and for losses
21 incurred, including claims of third parties under liability policies; claims of
22 HMO enrollees and HMO enrollees' beneficiaries; claims for unearned
23 premiums; claims for funds or consideration held under funding agreements,
24 as defined in G.S. 58-7-16; claims under life insurance and annuity policies,
25 whether for death proceeds, annuity proceeds, or investment values; and
26 claims of domestic and foreign guaranty associations, including claims for
27 the reasonable administrative expenses of domestic and foreign guaranty
28 associations; but excluding claims of insurance pools, underwriting
29 associations, or those arising out of reinsurance agreements, claims of other
30 insurers for subrogation, and claims of insurers for payments and settlements
31 under uninsured and underinsured motorist coverages.

32 (2a) For HMOs, claims of providers and participating providers, as defined in
33 G.S. 58-67-5(h) and G.S. 58-67-5(1)[(1)], who are obligated by statute,
34 agreement, or court order to hold enrollees harmless from liability for
35 services provided and covered by an HMO.

36 (2b) For prepaid health plans licensed under Article 93 of this Chapter, claims of
37 providers who are obligated by statute, agreement, or court order to hold
38 enrollees harmless, except for copayments and deductibles, from liability for
39 health care services provided and covered by a prepaid health plan.

40 (3) Claims of the federal or any state or local government or taxing authority,
41 including claims for taxes.

42 (4) Compensation actually owing to employees other than officers of the insurer
43 for services rendered within three months before the commencement of a
44 delinquency proceeding against the insurer under this Article, but not
45 exceeding one thousand dollars (\$1,000) for each employee. In the discretion
46 of the Commissioner, this compensation may be paid as soon as practicable
47 after the proceeding has been commenced. This priority is in lieu of any
48 other similar priority that may be authorized by law as to wages or
49 compensation of those employees.

50 (5) Claims of general creditors, including claims of insurance pools,
51 underwriting associations, or those arising out of reinsurance agreements;

1 claims of other insurers for subrogation; and claims of insurers for payments
2 and settlements under uninsured and underinsured motorist coverages."

3 **SECTION 4.** Article 3 of Chapter 111 of the General Statutes is amended by
4 adding a new section to read:

5 "**§ 111-47.4. Food service at certain State properties or facilities.**

6 Notwithstanding any other provision of this Article, the Department of Health and Human
7 Services may operate or contract for the operation of food or vending services at State property
8 or State facilities allocated to the Department of Administration or the Department of
9 Insurance. The net proceeds of revenue generated by food and vending services at such State
10 property or State facilities by the Department of Health and Human Services, or a vendor with
11 whom the Department of Health and Human Services has contracted, shall be credited to the
12 Division of Services for the Blind of the Department of Health and Human Services for the
13 purposes specified in G.S. 111-43. Nothing in this section shall be construed to remove an
14 exemption granted in G.S. 111-42(c)."

15 **SECTION 5.** G.S. 66-58(c)(4) reads as rewritten:

16 "**§ 66-58. Sale of merchandise or services by governmental units.**

17 ...
18 (c) The provisions of subsection (a) shall not prohibit:

19 ...
20 (4) ~~The operation of lunch counters by the Department of Health and Human~~
21 ~~Services as blind enterprises of the type operated on January 1, 1951, in~~
22 ~~State buildings in the City of Raleigh.~~The operation of food and vending
23 services under Article 3 of Chapter 111 of the General Statutes."

24 **SECTION 6.** G.S. 146-29.1 is amended by adding a new subsection to read:

25 "(i) This section shall not apply to leases entered into by the Department of Health and
26 Human Services for the operation of food and vending services under Article 3 of Chapter 111
27 of the General Statutes."

28 **SECTION 7.** Sections 4 through 6 of this act are effective when this act becomes
29 law and expire five years after that date. The remainder of this act is effective when it becomes
30 law.