

CHAPTER 11 - FINANCIAL EVALUATION DIVISION

SUBCHAPTER 11A - GENERAL PROVISIONS

SECTION .0100 - DEFINITIONS

11 NCAC 11A .0101 STATUTORY FINANCIAL STATEMENT

History Note: Authority G.S. 57-9; 58-9(3); 58-21;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11A .0102 UNSOUND CONDITION

History Note: Authority G.S. 58-2-40; 58-3-100; 58-30-60(b);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. July 1, 2004; April 1, 1993;
Repealed Eff. June 1, 2007.

11 NCAC 11A .0103 IMPAIRED INSURER

11 NCAC 11A .0104 INSOLVENT INSURER

History Note: Authority G.S. 58-38; 58-39(2); 58-77(10); 58-155.2(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11A .0105 MULTIPLE-LINE INSURER

"Multiple-line Insurer" shall mean any insurance company having authority to write the kinds of insurance authorized by G.S. 58-7-75 for both a fire and marine company and a casualty, fidelity and surety company and as more specifically defined under G.S. 58-7-15(3) through (22).

History Note: Authority G.S. 58-2-40; 58-7-15; 58-7-75;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11A .0106 DEEMER CLAUSE OR DEEMER PROVISION

"A Deemer Clause" or "Deemer Provision" shall mean any clause or provision that establishes a period of time certain, e.g., 30 days, 90 days etc., within which the Commissioner must disapprove a particular matter before him and which if no action is taken by the Commissioner within the period of time certain, said matter before the Commissioner is deemed approved.

History Note: Authority G.S. 58-2-40(1); 58-51-100;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11A .0107 MORTGAGE GUARANTY INSURANCE

11 NCAC 11A .0108 MISCELLANEOUS INSURER

History Note: Authority G.S. 58-9; 58-9(1); 58-72(17);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

SECTION .0200 - PURPOSE: PERSONNEL AND RECORDS OF THE DIVISION

11 NCAC 11A .0201 PURPOSE OF DIVISION
11 NCAC 11A .0202 PERSONNEL OF DIVISION

History Note: Authority G.S. 58-4; 58-7.3; 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

SECTION .0300 - OPERATIONAL UNITS

11 NCAC 11A .0301 OPERATIONAL UNITS: DEFINED
11 NCAC 11A .0302 SECURITIES: OPERATIONAL UNIT
11 NCAC 11A .0303 EXAMINATION: OPERATIONAL UNIT
11 NCAC 11A .0304 LIQUIDATION AND MERGER: OPERATIONAL UNIT
11 NCAC 11A .0305 TAX: AUDIT AND STATISTICAL: OPERATIONAL UNIT
11 NCAC 11A .0306 ACTUARIAL: OPERATIONAL UNIT

History Note: Authority G.S. 58-4; 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

SECTION .0400 - DESCRIPTION OF FORMS

11 NCAC 11A .0401 APPLICATION FOR ADMISSION TO DO BUSINESS IN NC
11 NCAC 11A .0402 POWER OF ATTORNEY FOR SERVICE OF LEGAL PROCESS
11 NCAC 11A .0403 POWER OF ATTORNEY FOR SALE OF SECURITIES
11 NCAC 11A .0404 APPLICATION FOR LICENSE: GENERAL
11 NCAC 11A .0405 APPLICATION FOR LICENSE: HOSPITALS: MEDICAL SERVICE
11 NCAC 11A .0406 APPLICATION FOR LICENSE: DENTAL SERVICE CORPORATION
11 NCAC 11A .0407 APPLICATIONS FOR LICENSE: FRATERNAL ORDER

History Note: Authority G.S. 58-15; 58-63; 58-63(1); 58-66; 58-72; 58-150; 58-150(3); 58-153;
58-182.5; 105-228.4(a);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11A .0408 AFFIDAVIT: EDUCATION: OCCUPATION: BUSINESS EXPERIENCE

History Note: Authority G.S. 58-73; 58-74; 58-150;
Eff. February 1, 1976;
Repealed Eff. February 28, 1978.

11 NCAC 11A .0409 INSURANCE COMPANY LICENSE
11 NCAC 11A .0410 DEPOSIT BOND FORM

11 NCAC 11A .0411 FIRE AND CASUALTY ANNUAL STATEMENT BLANK
 11 NCAC 11A .0412 COMPLETING FIRE AND CASUALTY ANNUAL STATEMENT BLANK
 11 NCAC 11A .0413 CONSOLIDATED ANNUAL STATEMENT: FIRE AND CASUALTY INSURERS
 11 NCAC 11A .0414 FIRE AND CASUALTY QUARTERLY STATEMENT BLANK
 11 NCAC 11A .0415 LIFE AND ACCIDENT AND HEALTH ANNUAL STATEMENT BLANK
 11 NCAC 11A .0416 ANNUAL STATEMENT BLANK: INSTRUCTIONS
 11 NCAC 11A .0417 LIFE AND ACCIDENT AND HEALTH QUARTERLY STATEMENT BLANK
 11 NCAC 11A .0418 ANNUAL STATEMENT BLANK: SEPARATE ACCOUNT BUSINESS
 11 NCAC 11A .0419 TITLE ANNUAL STATEMENT BLANK
 11 NCAC 11A .0420 INSTRUCTIONS FOR COMPLETING TITLE ANNUAL STATEMENT BLANK
 11 NCAC 11A .0421 TITLE QUARTERLY STATEMENT BLANK
 11 NCAC 11A .0422 HOSPITAL: MEDICAL AND DENTAL SERVICE OR INDEMNITY CORP
 11 NCAC 11A .0423 INSTRUCTIONS/ANNUAL STATEMENT BLANK: HOSPITAL: MEDICAL: DENTAL
 11 NCAC 11A .0424 FRATERNAL ANNUAL STATEMENT BLANK
 11 NCAC 11A .0425 INSTRUCTIONS FOR COMPLETING FRATERNAL STATEMENT BLANK
 11 NCAC 11A .0426 FRATERNAL QUARTERLY STATEMENT BLANK
 11 NCAC 11A .0427 ACCIDENT AND HEALTH POLICY EXPERIENCE EXHIBIT
 11 NCAC 11A .0428 CREDIT LIFE AND ACCIDENT AND HEALTH EXHIBIT
 11 NCAC 11A .0429 CREDIT LIFE INSURANCE STATISTICAL REPORT
 11 NCAC 11A .0430 INSURANCE EXPENSE EXHIBIT
 11 NCAC 11A .0431 STOCKHOLDER INFORMATION SUPPLEMENT
 11 NCAC 11A .0432 TOWN OR COUNTY FARM MUTUAL ANNUAL STATEMENT BLANK

History Note: Authority G.S. 57-9; 58-9(3); 58-15; 58-21; 58-25.1; 58-72; 58-79.2; 58-130;
 58-131.14; 58-134; 58-137; 58-144; 58-188.8; 58-292; 105-228.4;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

11 NCAC 11A .0433 FIRE AND/OR CASUALTY ABSTRACT
 11 NCAC 11A .0434 LIFE ABSTRACT

History Note: Authority G.S. 58-9(4); 58-63(2);
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

11 NCAC 11A .0435 ANNUAL GROSS PREMIUM TAX RETURN: RETALIATORY TAX RETURN
 11 NCAC 11A .0436 STATEMENT OF INSTALLMENT GROSS PREMIUM TAX
 11 NCAC 11A .0437 ANNUAL ADDITIONAL GROSS PREMIUM TAX RETURN
 11 NCAC 11A .0438 STATEMENT/INSTALLMENT ADDITIONAL ANNUAL GROSS PREMIUM TAX
 11 NCAC 11A .0439 NC FIREMEN'S RELIEF FUND TAX ANNUAL RETURN
 11 NCAC 11A .0440 ANNUAL FRANCHISE OR PRIVILEGE TAX: HOSP AND MEDICAL CORP
 11 NCAC 11A .0441 ANNUAL FRANCHISE OR PRIVILEGE TAX: DENTAL SERVICE CORP
 11 NCAC 11A .0442 NC DOMESTIC CORPORATION FRANCHISE AND INCOME TAX RETURN
 11 NCAC 11A .0443 AUTOMATIC EXTENSION OF TIME TO FILE
 11 NCAC 11A .0444 ADDITIONAL EXTENSION OF TIME TO FILE
 11 NCAC 11A .0445 REFUND FOR CORPORATION FRANCHISE AND INCOME TAXES
 11 NCAC 11A .0446 CERTIFICATION OF WORKMEN'S COMPENSATION LOSS RESERVES
 11 NCAC 11A .0447 WORKMEN'S COMPENSATION ASSESSMENT FORM
 11 NCAC 11A .0448 FORM HC: INSURER HOLDING COMPANY REGISTRATION STATEMENT
 11 NCAC 11A .0449 SALE OF VARIABLE ANNUITY CONTRACTS IN NORTH CAROLINA

History Note: Authority G.S. 57-14; 58-9; 58-79.2; 58-124.2(b); 97-107; 97-114; 105-228.5;
 118-1 to -4;

Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11A .0450 ANNUAL REPORT OF ESCHEAT: ABANDONED PROPERTY
11 NCAC 11A .0451 INSTRUCTIONS FOR COMPLETING THE ANNUAL REPORT

History Note: Authority G.S. 58-9(3); 116A;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

11 NCAC 11A .0452 THE FORM A: INSIDER TRADING OF EQUITY SECURITIES
11 NCAC 11A .0453 FORM B: INSIDER TRADING OF EQUITY SECURITIES
11 NCAC 11A .0454 INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF SECURITIES
11 NCAC 11A .0455 STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES
11 NCAC 11A .0456 REVOCATION OR SUSPENSION OF LICENSE: FOREIGN INSURANCE
11 NCAC 11A .0457 OFFICIAL RECEIPT OF SECURITIES

History Note: Authority G.S. 58-37; 58-44.4(a); 58-86.2; 58-182.6;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11A .0458 CHECK SHEET AND ANALYSIS OF APPLICATION FOR ADMISSION
11 NCAC 11A .0459 INFORMATION SHEETS: ADMISSION OF A FOREIGN INSURANCE

History Note: Authority G.S. 58-63; 58-75; 58-77; 58-150;
Eff. February 1, 1976;
Repealed Eff. February 28, 1978.

11 NCAC 11A .0460 TAXES AND FEES APPLICABLE TO INSURANCE COMPANIES
11 NCAC 11A .0461 TOWN OR COUNTY FARM MUTUAL EXAMINATION REPORT BLANK
11 NCAC 11A .0462 CERTIFICATE OF COMPLIANCE: MUTUAL AGREEMENT
11 NCAC 11A .0463 POWER OF ATTORNEY: SALE OF DEPOSITED SECURITIES
11 NCAC 11A .0464 CERTIFICATE OF DEPOSIT
11 NCAC 11A .0465 CERTIFICATE OF COMPLIANCE: ACCIDENT AND HEALTH ADVERTISING
11 NCAC 11A .0466 CERTIFICATE OF RETALIATORY PROVISIONS
11 NCAC 11A .0467 CERTIFICATE OF GOOD STANDING
11 NCAC 11A .0468 CERTIFICATE OF SIMILARITY: REPORT ON EXAMINATION
11 NCAC 11A .0469 CERTIFICATE OF SIMILARITY: ANNUAL STATEMENT
11 NCAC 11A .0470 CERTIFICATE OF RESERVE VALUATION
11 NCAC 11A .0471 CERTIFICATE OF COMPLIANCE: INSURANCE LAWS
11 NCAC 11A .0472 STAT INFORMATION: LIFE INS COMPANIES AND FRAT ORDERS
11 NCAC 11A .0473 STAT INFO/FIRE AND CAS/RECIPROCAL/FARM/CO FARM
11 NCAC 11A .0474 STATISTICAL INFORMATION: ACCIDENT AND HEALTH BUSINESS
11 NCAC 11A .0475 AUTHORIZED INVESTMENTS PURSUANT TO G.S. 58-79(A)
11 NCAC 11A .0476 INVESTMENTS MADE PURSUANT TO G.S. 58-79(A)(14)
11 NCAC 11A .0477 AUTHORIZED INVESTMENTS PURSUANT TO G.S. 58-79.1
11 NCAC 11A .0478 CORPORATE RESOLUTION AND CONFLICT OF INTEREST
11 NCAC 11A .0479 CONTRIBUTION FOR DOMESTIC INSURANCE COMPANIES
11 NCAC 11A .0480 PUBLIC HEARING ON PLAN OF EXCHANGE OF CAPITAL STOCK
11 NCAC 11A .0481 PUBLIC HEARING ON PLAN OF MERGER OR CONSOLIDATION
11 NCAC 11A .0482 EXAMINERS' EXPENSE AND DAYS WORKED REPORTS
11 NCAC 11A .0483 STATEMENT OF EXAMINATION CHARGES

11 NCAC 11A .0484	FORM OF MODEL CUSTODIAL AGREEMENT
11 NCAC 11A .0485	FORM OF MODEL CUSTODIAL AND FISCAL AGENCY AGREEMENT
11 NCAC 11A .0486	RECONCILIATION: STATUTORY CAPITAL AND STOCKHOLDERS EQUITY
11 NCAC 11A .0487	RECONCILIATION: STATUTORY NET GAIN AND NET INCOME
11 NCAC 11A .0488	VALUATIONS OF SECURITIES MANUAL

History Note: Authority G.S. 57-10; 58-9; 58-9(1); 58-9(3); 58-11; 58-16; 58-21; 58-34.1; 58-54.4; 58-62; 58-63(3); 58-63.3; 58-72; 58-79; 58-79(a); 58-79(a)(14); 58-79.1; 58-86.4; 58-155.1; 58-182.5; 58-201; 105-288.4;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Amended Eff. January 14, 1980;
 Repealed Eff. April 1, 1993.

11 NCAC 11A .0489	AFFIDAVIT FOR RETURN OF DEPOSIT
11 NCAC 11A .0490	APPLICATION FOR LICENSE: HEALTH MAINTENANCE ORGANIZATION
11 NCAC 11A .0491	HEALTH MAINTENANCE ORGANIZATION: ANNUAL STATEMENT
11 NCAC 11A .0492	INSTRUCTIONS FOR COMPLETING STATEMENT
11 NCAC 11A .0493	HEALTH MAINTENANCE ORGANIZATION: QUARTERLY STATEMENT

History Note: Authority G.S. 57A; 57A-3; 57A-4; 57A-9; 57A-21; 58-9;
 Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

SECTION .0500 - CPA AUDITS

11 NCAC 11A .0501	PURPOSE AND SCOPE
11 NCAC 11A .0502	DEFINITIONS
11 NCAC 11A .0503	FILING AND EXTENSIONS FOR FILING REPORTS
11 NCAC 11A .0504	CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT
11 NCAC 11A .0505	DESIGNATION OF CPA
11 NCAC 11A .0506	QUALIFICATIONS OF INDEPENDENT CPA
11 NCAC 11A .0507	APPROVAL OF CPA
11 NCAC 11A .0508	SCOPE OF EXAMINATION AND REPORT OF CPA
11 NCAC 11A .0509	NOTIFICATION OF ADVERSE FINANCIAL CONDITION
11 NCAC 11A .0510	INTERNAL CONTROL STRUCTURE RELATED MATTERS
11 NCAC 11A .0511	CPA WORKPAPERS
11 NCAC 11A .0512	EXEMPTIONS AND EFFECTIVE DATES
11 NCAC 11A .0513	EXAMINATIONS

History Note: Authority G.S. 58-2-40; 58-2-131; 58-2-131; 58-2-133; 58-2-205; 150B-21.1(a3);
 Eff. December 1, 1990;
 Amended Eff. June 1, 2007; July 1, 2004; August 1, 2004; April 1, 1993;
 Temporary Amendment Eff. February 15, 2003;
 Repealed Eff. January 1, 2011.

11 NCAC 11A .0514	SEASONING REQUIREMENTS
11 NCAC 11A .0515	NOTES TO FINANCIAL STATEMENTS

History Note: Authority G.S. 58-2-40; 58-2-205;
 Temporary Adoption Eff. October 1, 2000;
 Eff. July 18, 2002;
 Repealed Eff. January 1, 2011.

SECTION .0600 - REINSURANCE INTERMEDIARIES

Repealed Eff. April 1, 1993.

11 NCAC 11B .0106 DEPOSITS REQUIRED: REVOCATION/LICENSE: FOREIGN COMPANIES

*History Note: Authority G.S. 58-2-40(1); 58-3-100; 58-5-40; 58-5-45;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. March 1, 2004.*

11 NCAC 11B .0107 DEPOSITS OF DOMESTIC COMPANIES

*History Note: Authority G.S. 58-182 through 58-182.8;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. July 1, 1986;
Repealed Eff. April 1, 1993.*

**11 NCAC 11B .0108 RIGHT OF COMPANY TO RECEIVE INTEREST
11 NCAC 11B .0109 RIGHT OF THE COMMISSIONER TO RECEIVE AND HOLD INTEREST
11 NCAC 11B .0110 SALE OF DEPOSIT FOR PAYMENT OF LIABILITIES
11 NCAC 11B .0111 CONVERSION TO CASH MASTER TRUST**

*History Note: Authority G.S. 58-2-40; 58-5-1; 58-5-60; 58-5-65; 58-5-75; 58-183;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. February 1, 1996; July 1, 1986;
Repealed Eff. March 1, 2004.*

11 NCAC 11B .0112 RETURN OF SECURITIES ON DEPOSIT

*History Note: Authority G.S. 58-9(1); 58-187;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1994.*

**11 NCAC 11B .0113 DEPOSIT REQUIRED UPON INITIAL LICENSING
11 NCAC 11B .0114 DEPOSITS HELD IN TRUST BY COMMISSIONER OF INSURANCE**

*History Note: Authority G.S. 58-2-40; 58-5-1; 58-5-5; 58-5-10; 58-5-40; 58-5-50; 58-5-90; 58-5-95;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993; July 1, 1986;
Repealed Eff. March 1, 2004.*

11 NCAC 11B .0115 REGISTRATION OF BONDS DEPOSITED IN NAME OF TREASURER

*History Note: Authority G.S. 58-182.6; 58-188.1; 58-188.5;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1986.*

**11 NCAC 11B .0116 SURETY BOND IN LIEU OF DEPOSIT OF SECURITIES
11 NCAC 11B .0117 SURETY BOND IN LIEU OF DEPOSIT OF SECURITIES
11 NCAC 11B .0118 SURETY BOND IN LIEU OF DEPOSIT OF SECURITIES: NOT ALLOWED**

History Note: Authority G.S. 58-9(1); 58-188.8;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. July 1, 1986;
Repealed Eff. April 1, 1993.

11 NCAC 11B .0119 CONTINUATION OF DEPOSITS OF SECURITIES OF MERGING COMPANIES

History Note: Authority G.S. 58-2-40; 58-5-40; 58-5-55;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. March 1, 2004.

11 NCAC 11B .0120 EXPENSES OF REGISTERED MAIL

History Note: Authority G.S. 58-9(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1986.

11 NCAC 11B .0121 SURETY BONDS: DEPOSIT OF SECURITIES: SPECIAL REQUIREMENT

History Note: Authority G.S. 58-188.8;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11B .0122 EXCHANGE OF DEPOSIT: PROCEDURAL HANDLING

11 NCAC 11B .0123 SALE OF SECURITIES BY THE INSURANCE COMPANY PROHIBITED

History Note Authority G.S. 58-7.5; 58-9;
Eff. February 28, 1978
Repealed Eff. March 1, 2004.

11 NCAC 11B .0124 MASTER TRUST CREATION THEREOF

11 NCAC 11B .0125 MASTER TRUST USE PROCEDURAL HANDLING STEP 1

11 NCAC 11B .0126 MASTER TRUST USE PROCEDURAL HANDLING STEP 2

11 NCAC 11B .0127 MASTER TRUST USE PROCEDURAL HANDLING STEP 3

11 NCAC 11B .0128 MASTER TRUST USE PROCEDURAL HANDLING STEP 4

11 NCAC 11B .0129 MASTER TRUST USE PROCEDURAL HANDLING STEP 5

11 NCAC 11B .0130 MASTER TRUST SOLVENT COMPANIES

11 NCAC 11B .0131 MASTER TRUST INSOLVENT COMPANIES

History Note: Authority G.S. 58-7.5; 58-9; 58-2-40; 58-5-1; 58-5-5; 58-5-10; 5-5-50;
Eff. July 1, 1986;
Amended Eff. July 1, 1986;
Amended Eff. April 1, 1993;
Repealed Eff. March 1, 2004.

11 NCAC 11B .0132 DEPOSIT REQUIRED AMOUNT FOREIGN LIFE INSURERS

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. April 1, 1993.

11 NCAC 11B .0133 DEPOSIT/AMOUNT FOREIGN FIRE AND/OR CASUALTY INSURERS
11 NCAC 11B .0134 DEPOSIT REQUIRED AMOUNT DOMESTIC LIFE INSURERS
11 NCAC 11B .0135 DEPOSIT/AMOUNT DOMESTIC FIRE AND/OR CASUALTY INSURERS
11 NCAC 11B .0136 FOREIGN DEPOSIT REQUIRED AMOUNT FOREIGN MISC INSURERS
11 NCAC 11B .0137 DEPOSIT REQUIRED AMOUNT DOMESTIC MISCELLANEOUS INSURERS

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. March 1, 2004.

11 NCAC 11B .0138 TYPES OF SECURITIES ELIGIBLE FOR DEPOSIT

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. April 1, 1994.

11 NCAC 11B .0139 DEPOSIT USE OF MASTER TRUST ALL NEW COMPANIES

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. March 1, 2004.

11 NCAC 11B .0140 USE OF MASTER TRUST ALL EXISTING COMPANIES TRANSFERRED

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. February 1, 1996.

11 NCAC 11B .0141 USE OF MASTER TRUST INCREASE DEPOSIT EXISTING COMPANIES

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. April 1, 1996.

11 NCAC 11B .0142 CONVERSION FROM STATE TREASURER TO MASTER TRUST BANK

History Note: Authority G.S. 58-7.5; 58-9;
Eff. July 1, 1986;
Repealed Eff. February 1, 1996.

11 NCAC 11B .0143 MASTER TRUST PURPOSE OF DEPOSIT

History Note: Authority G.S. 58-7.5; 58-9; 58-82.4;
Eff. July 1, 1986;
Repealed Eff. April 1, 1993.

11 NCAC 11B .0144 MASTER TRUST DK TRANSACTION

11 NCAC 11B .0145 MASTER TRUST CHARGES

11 NCAC 11B .0146 MASTER TRUST BANK ABILITY TO REGISTER SECURITIES

11 NCAC 11B .0147 USE OF FEDERAL BOOK ENTRY/DEPOSITORY TRUST CORP/SHIPPING

History Note: Authority G.S. 58-2-40; 58-5-1; 58-7.5; 58-9; 58-9(1); 58-5-30; 58-5-63;
Eff. July 1, 1986;
Amended Eff. February 1, 1996;
Repealed Eff. March 1, 2004.

11 NCAC 11B .0148 MASTER TRUST CONVERSION TO CASH

History Note: Authority G.S. 58-7.5; 58-9;
 Eff. July 1, 1986;
 Repealed Eff. February 1, 1996.

**11 NCAC 11B .0149 MASTER TRUST USE OF DTC
11 NCAC 11B .0150 MASTER TRUST-RELEASE OF SECURITIES
11 NCAC 11B .0151 MASTER TRUST - PAYMENT OF INTEREST**

History Note: Authority G.S. 58-7.5; 58-9;
 Eff. July 1, 1986;
 Repealed Eff. March 1, 2004.

**11 NCAC 11B .0152 CUSTODY AGREEMENT FOR SECURITIES AND OTHER ASSETS DEPOSITED WITH
THE COMMISSIONER**

The agreement between the Commissioner and the master trustee shall provide for the deposit of securities and other assets required by the Commissioner, pursuant to G.S. 58 and G.S. 97-185, to be transferred to and held by the master trustee. The securities and other assets held in the respective accounts of the companies shall be pledged and held on behalf of the Commissioner for the protection of the companies' policyholders in accordance with the North Carolina General Statutes. The agreement shall set forth procedures and policies that shall be followed by the master trustee to safeguard the interests of policyholders of the companies in the safekeeping of the securities and other assets received and held on behalf of the Commissioner.

History Note: Authority G.S. 58-2-40; 58-5-1;
 Eff. July 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20,
 2015.

SECTION .0200 - INSURANCE HOLDING COMPANY SYSTEMS

11 NCAC 11B .0201 HOLDING COMPANIES: GENERAL NATURE

History Note: Authority G.S. 58-9;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

**11 NCAC 11B .0202 REGISTRATION: STATEMENT OF APPLICABILITY OR EXEMPTION
11 NCAC 11B .0203 DIVIDENDS: DISTRIBUTIONS IN VIOLATION OF G.S. 58-124.3(C)
11 NCAC 11B .0204 MATERIALITY
11 NCAC 11B .0205 REGISTRATION: REQUIREMENT AND FORM
11 NCAC 11B .0206 COPIES: SIZE AND FORM OF FORM HC
11 NCAC 11B .0207 AMENDMENTS TO FORM HC
11 NCAC 11B .0208 EXEMPTIONS FROM FILING FORM HC
11 NCAC 11B .0209 ALTERNATIVE AND CONSOLIDATED REGISTRATIONS: FORM HC
11 NCAC 11B .0210 DISCLAIMERS AND TERMINATION OF REGISTRATION UNDER FORM HC**

History Note: Authority G.S. 58-124.1; 58-124.2; 58-124.3(c); 58-124.6;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

11 NCAC 11B .0211 WHO MUST FILE THE INITIAL STATEMENT FORM HC

11 NCAC 11B .0212 FOREIGN COMPANIES EXEMPT IF APPLICABLE
11 NCAC 11B .0213 WHEN TO FILE THE HC STATEMENT INITIAL
11 NCAC 11B .0214 WHEN TO FILE AMENDMENTS TO THE INITIAL STATEMENT FORM HC

History Note: Authority G.S. 58-124.1 to 58-124.11;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11B .0215 DEFINITIONS

(a) Unless the context otherwise clearly requires, the definitions in G.S. 58-19-5 are incorporated into this Section by reference. Other nomenclature or terminology is according to industry usage if not defined in this Section or in G.S. 58.

(b) As used in this Section:

- (1) "Act" means the Insurance Holding Company System Regulatory Act, Article 19 of G.S. 58.
- (2) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, or any other individual performing functions corresponding to those performed by these officers under whatever title.
- (3) "Foreign insurer" includes an alien insurer except where clearly noted otherwise.
- (4) "Ultimate controlling person" means a person that is not controlled by any other person.

History Note: Authority G.S. 58-2-40;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0216 FORMS - GENERAL REQUIREMENTS

(a) Forms A, B, C, and D are guides in the preparation of the statements required by G.S. 58-19-15, 58-19-25, and 58-19-30. They are not blank forms that are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted if the answers to the items are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere in the form, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer to the item is in the negative, a statement to that effect shall be made.

(b) One complete copy of each statement, unless otherwise prescribed by the Commissioner, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the Commissioner by mail addressed to: Insurance Commissioner, State of North Carolina, Financial Compliance Section, P.O. Box 26387, Raleigh, North Carolina, 27611. The copy or copies shall be manually signed in the manner prescribed on the form. If the signature of any person is affixed under a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

(c) Statements shall be prepared on paper 8 1/2" x 11" in size and bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original sizes. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(d) Information required by an item of Form A, Form B, or Form D may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, or Form D, provided the document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner that had been filed within the preceding three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that the material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference if incorporation would render the statement incomplete, unclear, or confusing.

(e) If an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to this statement, the summary or outline may incorporate by reference

particular parts of any exhibit or document currently on file with the Commissioner that had been filed within the preceding three years and may be qualified in its entirety by the reference. If two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents may be filed, along with a schedule identifying the omitted documents and setting forth the material details in which those documents differ from the documents filed.

(f) Information required shall be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

- (1) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and
- (2) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

(g) If it is impractical to furnish any required information, document or report at the time it is required to be filed, there may be filed with the Commissioner as a separate document:

- (1) identifying the information, document or report in question;
- (2) stating why the filing thereof at the time required is impractical; and
- (3) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within 30 days after receipt thereof enters an order denying the request.

(h) In addition to the information expressly required to be included in Form A, Form B, Form C, and Form D, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. These exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Amendments to Forms A, B, C or D shall include on the top of the cover page the phrase "Amendment No. _____ to" and shall indicate the date of the amendment and not the date of the original filing.

History Note: Authority G.S. 58-2-40; 58-19-15; 58-19-25; 58-19-30;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0217 ACQUISITION OF CONTROL - STATEMENT FILING

A person required to file a statement under G.S. 58-19-15 shall furnish the required information on Form A.

History Note: Authority G.S. 58-2-40; 58-19-15;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0218 ACQUISITION OF CONTROL - SOURCE OF CONSIDERATION

In providing the information required by G.S. 58-19-15(b)(2), where the source of the consideration used or to be used in effecting the merger or other acquisition of control is a loan made in the lender's ordinary course of business, the identity of the lender shall be revealed to the Commissioner, but shall be kept confidential by the Commissioner, if the person filing the statements so requests.

History Note: Authority G.S. 58-2-40; 58-19-15;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0219 ANNUAL REGISTRATION OF INSURERS - STATEMENT FILING

(a) An insurer required to file an annual registration statement under G.S. 58-19-25 shall furnish the required information on Form B.

(b) An insurer required to file an annual registration statement under G.S. 58-19-25 shall also furnish the information required on Form C. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the insurance regulator of that state. The insurer has 15 days after receipt of that regulator's notice to file the Form C.

History Note: Authority G.S. 58-2-40; 58-19-25;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0220 ALTERNATIVE AND CONSOLIDATED REGISTRATIONS

(a) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers that are required to register under G.S. 58-19-25. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this State. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report that it is required to file in its state of domicile, provided:

- (1) the statement or report contains substantially similar information required to be furnished on Form B; and
- (2) the filing insurer is the principal insurance company in the insurance holding company system.

(b) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact; and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a brief statement of facts that will substantiate the filing insurer's claim that it, in fact, is the principal insurance company in the insurance holding company system.

(c) With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures available to an authorized insurer under Paragraph (a) of this Rule.

(d) Any insurer may follow G.S. 58-19-25(g) or (h) without obtaining the prior approval of the Commissioner. The Commissioner may require individual filings if he deems the filings necessary in the interest of clarity, ease of administration, or the public good.

History Note: Authority G.S. 58-2-40; 58-19-25;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0221 DISCLAIMERS AND TERMINATION OF REGISTRATION

(a) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter the "subject") shall contain the following information:

- (1) the number of authorized, issued and outstanding voting securities of the subject;
- (2) with respect to the person whose control is denied and all affiliates of the person, the number and percentage of shares of the subject's voting securities that are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;
- (3) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of the person;
- (4) a statement explaining why the person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the Commissioner, within 30 days after he receives the request, notifies the registrant otherwise.

History Note: Authority G.S. 58-2-40; 58-19-25;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0222 TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING

(a) An insurer required to give prior notice of a proposed transaction under G.S. 58-19-30(b) shall submit a completed Form D referenced in 11 NCAC 11B .0216, which can be found at www.ncdoi.com.

(b) An insurer required to give prior notice of an ordinary dividend or any other ordinary distribution to shareholders under G.S. 58-19-25(d) or an insurer that requests, under G.S. 58-19-30(c), approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) The amount of the proposed dividend or distribution;
- (2) The date established for payment of the dividend or distribution;
- (3) A statement as to whether the dividend or distribution is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
- (4) A statement identifying the dividend or distribution as an ordinary dividend or other ordinary distribution subject to G.S. 58-19-25(d) or as an extraordinary dividend or other extraordinary distribution as defined in G.S. 58-19-30(c);
- (5) A copy of the calculations determining that the proposed dividend or distribution is an ordinary dividend or other ordinary distribution subject to G.S. 58-19-25(d), or an extraordinary dividend or other extraordinary distribution as defined in G.S. 58-19-30(c). The work paper shall include the following information:
 - (A) The amounts, dates and form of payment of all dividends or distributions (excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which notification is being given or approval is sought, and commencing on the day after the same day of the same month in the last preceding year;
 - (B) Surplus as regards policyholders (total capital and surplus) as of the preceding December 31;
 - (C) If the insurer is a life insurer, the net gain from operations for the 12-month period ending the preceding December 31; and
 - (D) If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the preceding December 31.
- (6) A balance sheet and statement of income for the period between the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for approval or the prior notification of a dividend or distribution is submitted. The insurer shall indicate the amount of all unrealized capital gains included in unassigned funds;
- (7) A brief statement as to the effect of the proposed dividend or distribution upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs; and
- (8) A brief statement as to the intended use(s) of the proposed dividend or distribution by the parent, and, if applicable, any upstream parent, of the insurer.

(c) A prior notification of an ordinary dividend or any other ordinary distribution required under G.S. 58-19-25(d) shall be deemed to be incomplete unless all of the information required by Paragraph (b) of this Rule has been included.

(d) A request for approval of an extraordinary dividend or any other extraordinary distribution required under G.S. 58-19-30(c) shall be deemed to be incomplete unless all of the information required by Paragraph (b) of this Rule has been included.

(e) For the purposes of the Commissioner's review of all proposed dividend payments or other distributions to shareholders, the factors set forth in G.S. 58-19-30(d) shall be considered.

History Note: Authority G.S. 58-2-40; 58-19-25; 58-19-30;
Eff. April 1, 1993;
Temporary Amendment Eff. December 31, 2006;
Eff. August 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0223 ADEQUACY OF SURPLUS

In addition to the factors set forth in G.S. 58-19-30(d), the Commissioner shall consider the net effect of all of those factors and other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner shall consider the extent to which each of these factors varies from company to company. In determining the quality and liquidity of investments in subsidiaries, the Commissioner shall consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments warrant.

History Note: Authority G.S. 58-2-40; 58-19-25; 58-19-30;

Eff. April 1, 1993;
Amended Eff. June 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SECTION .0300 - VARIABLE ANNUITIES

11 NCAC 11B .0301 VARIABLE ANNUITIES: GENERAL NATURE

History Note: Authority G.S. 58-4; 58-9; 58-79(2);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

11 NCAC 11B .0302 QUALIFICATION TO ISSUE VARIABLE ANNUITIES

History Note: Authority G.S. 58-79.2;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. February 1, 1996.

11 NCAC 11B .0303 INFORMATION REQUIRED PRIOR TO APPROVAL

Any licensed life insurance company desiring permission to amend its license to include the authority to write variable contracts shall file the following with the Commissioner:

- (1) copies of all laws and regulations under which the company is authorized in its state of domicile to issue variable contracts;
- (2) a description of the method of operations of the company in its state of domicile as regarding variable contracts, the description to include, method or methods of marketing the variable contracts and the number of years the company has issued such contracts;
- (3) a description of the company's proposed method of operation in the State of North Carolina; which description shall include the method or methods of marketing the variable contracts, the types of contracts to be issued, and the criteria followed by the company in the selection of agents to sell the variable contracts;
- (4) copies of all pertinent documents, including:
 - (a) corporate resolutions that indicate that one or more separate accounts have been established and funded by the company for the purpose of issuing variable contracts;
 - (b) the prospectus or offering memorandum filed with and declared effective by the Securities and Exchange Commission.
- (5) certified copies of the separate accounts annual statements as filed with domiciliary state for the three years prior to the request for such authority in the State of North Carolina;
- (6) a statement from the company indicating the other states in which the company has applied for permission to write variable contracts and further indicating if the state has approved or disapproved the application; and if disapproved, the reason or reasons for disapproval.

The Commissioner may deny permission to any company failing to submit the information in this Rule; however, companies who cannot comply with Item (5) of this Rule will be considered on a case by case basis if all other information is satisfactory.

History Note: Authority G.S. 58-2-40; 58-7-95;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11B .0304 FOREIGN COMPANIES: VARIABLE ANNUITY LAWS

11 NCAC 11B .0305 SEPARATE ACCOUNTS OF DOMESTIC LIFE INSURANCE COMPANY

History Note: Authority G.S. 58-2-40; 58-7-95;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. February 1, 1996.

SECTION .0400 - WORKMEN'S COMPENSATION FUND

11 NCAC 11B .0401 WORKMEN'S COMPENSATION: GENERAL NATURE

History Note: Authority G.S. 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

- 11 NCAC 11B .0402 STOCK WORKMEN'S COMPENSATION SECURITY FUND CREATED**
- 11 NCAC 11B .0403 MUTUAL WORKMENS' COMPENSATION SECURITY FUND CREATED**
- 11 NCAC 11B .0404 INVESTMENTS OF FUNDS TO BE IN COUPON FORM**
- 11 NCAC 11B .0405 VERIFIED REPORTS OF PREMIUMS TO BE FILED**
- 11 NCAC 11B .0406 CONTRIBUTIONS: STOCK AND MUTUAL CARRIERS**
- 11 NCAC 11B .0407 CALL FOR ONE PERCENT ASSESSMENT STOCK AND MUTUAL**

History Note: Authority G.S. 97-107; 97-108; 97-109; 97-111; 97-112; 97-114; 97-115; 97-116;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

SECTION .0500 - PROMOTING AND HOLDING COMPANIES

11 NCAC 11B .0501 PROMOTING AND HOLDING COMPANIES: GENERAL NATURE

History Note: Authority G.S. 58-120 to 58-124;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

- 11 NCAC 11B .0502 FOREIGN PROMOTING: HOLDING COMPANIES LICENSED SUBSIDIARIES**
- 11 NCAC 11B .0503 FOREIGN AND HOLDING COMPANIES: UNLICENSED SUBSIDIARIES**
- 11 NCAC 11B .0504 SALE OF SECURITIES BY FOREIGN CORPORATION**
- 11 NCAC 11B .0505 FOREIGN PROMOTING AND HOLDING COMPANIES DEFINITIONS**

History Note: Authority G.S. 58-2-40; 58-18-1 to 58-18-25; 58-120 to 58-124;
Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. September 1, 2002.

- 11 NCAC 11B .0506 FOREIGN COMPANY SECURITIES SALE: "POSITION LETTER"**
- 11 NCAC 11B .0507 FOREIGN COMPANY SECURITIES: PRIVATE PLACEMENT**
- 11 NCAC 11B .0508 FOREIGN COMPANY SECURITIES: VERIFIABLE CAPITAL/SURPLUS**
- 11 NCAC 11B .0509 FOREIGN COMPANY SECURITIES: INCONSEQUENTIAL INSURANCE RATIOS**
- 11 NCAC 11B .0510 FOREIGN COMPANY SECURITIES: CONFIDENTIALITY OF MATERIAL**
- 11 NCAC 11B .0511 FOREIGN COMPANY SECURITIES: SHELF REGISTRATION**
- 11 NCAC 11B .0512 FOREIGN COMPANY SECURITIES: DISCLAIMER OFFSHORE**
- 11 NCAC 11B .0513 FOREIGN COMPANY SECURITIES: DISCLAIMER GENERAL**

11 NCAC 11B .0514 FORMATION OF DOMESTIC COMPANIES: PROCEDURAL HANDLING STEP 1
11 NCAC 11B .0515 FOREIGN COMPANY SECURITIES: INSTITUTIONAL INVESTORS
11 NCAC 11B .0516 DOMESTIC COMPANY: PROJECTION
11 NCAC 11B .0517 DOMESTIC COMPANY: BACKGROUND INVESTIGATION REPORT
11 NCAC 11B .0518 DOMESTIC COMPANY: ESCROW AGREEMENT

History Note: Authority G.S. 58-2-40; 58-2-100; 58-2-133; 58-18-1 to 58-18-25; 78A-17-(8);
 Eff. April 1, 1993;
 Repealed Eff. September 1, 2002.

SECTION .0600 - WORKERS' COMPENSATION SELF-INSURANCE

11 NCAC 11B .0601 DEFINITIONS
11 NCAC 11B .0602 ADMINISTRATION - ALL SELF-INSURERS
11 NCAC 11B .0603 EXCESS INSURANCE POLICIES - ALL SELF-INSURERS
11 NCAC 11B .0604 REPORTS - ALL SELF-INSURERS
11 NCAC 11B .0605 DEPOSITS OR SURETY BONDS - ALL SELF-INSURERS
11 NCAC 11B .0606 SECURITIES WITHDRAWAL OR EXCHANGE - ALL SELF-INSURERS

History Note: Authority G.S. 58-2-40; 58-2-131; 58-2-132; 58-2-133; 58-2-145; 58-2-171; 58-2-205; 97-93; 97-136;
 105-228.9;
 Eff. October 1, 1990;
 Amended Eff. April 1, 1996; February 1, 1996; April 1, 1993;
 Repealed Eff. August 1, 1998.

11 NCAC 11B .0607 APPLICATION - EMPLOYERS

History Note: Authority G.S. 58-2-40; 97-93;
 ARRC Objection Lodged August 16, 1990;
 Eff. January 1, 1991;
 Amended Eff. February 1, 1996; May 1, 1993;
 Repealed Eff. August 1, 1998.

11 NCAC 11B .0608 DEPOSITS: BONDS: EXCESS INSURANCE - EMPLOYERS
11 NCAC 11B .0609 REPORTS - EMPLOYERS

History Note: Authority G.S. 58-2-40; 58-2-145; 97-93;
 Eff. October 1, 1990;
 Amended Eff. April 1, 1993;
 Repealed Eff. August 1, 1998.

11 NCAC 11B .0610 APPLICATION - GROUPS

History Note: Authority G.S. 58-2-40; 58-2-145; 97-93;
 ARRC Objection Lodged August 16, 1990;
 Eff. January 1, 1991;
 Amended Eff. February 1, 1996; May 1, 1993;
 Repealed Eff. August 1, 1998.

11 NCAC 11B .0611 DEPOSITS: BONDS: EXCESS INSURANCE - GROUPS
11 NCAC 11B .0612 REPORTS - GROUPS
11 NCAC 11B .0613 GROUP RESPONSIBILITIES
11 NCAC 11B .0614 ADMISSION AND TERMINATION OF GROUP MEMBERS

History Note: Authority G.S. 58-2-40; 58-2-145; 58-2-165; 58-2-171; 97-93;

Eff. October 1, 1990;
Amended Eff. February 1, 1996; January 1, 1994; April 1, 1993;
Repealed Eff. August 1, 1998.

11 NCAC 11B .0615 PAYMENT OF DIVIDENDS BY GROUP FUNDS OR ASSOCIATIONS

History Note: Authority G.S. 58-2-40; 97-93(b);
Eff. April 1, 1993;
Repealed Eff. August 1, 1998.

11 NCAC 11B .0616 INSOLVENCY OR HAZARDOUS FINANCIAL CONDITION

History Note: Authority G.S. 58-2-40; 58-2-145; 58-30-60; 97-93; 97-136;
Eff. February 1, 1996;
Repealed Eff. August 1, 1998.

11 NCAC 11B .0617 GROUP ASSESSMENTS, DISCLOSURE, DEVIATIONS, AND DIVIDENDS

History Note: Authority G.S. 58-2-40; 58-2-145; 58-8-35; 58-30-60; 58--36-30; 97-93; 97-136;
Eff. April 1, 1996;
Repealed Eff. August 1, 1998.

SUBCHAPTER 11C - ANALYSIS AND EXAMINATIONS

SECTION .0100 - GENERAL PROVISIONS

11 NCAC 11C .0101 GENERAL PROVISIONS

History Note: Authority G.S. 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

11 NCAC 11C .0102 FORM OF REPORT ON EXAMINATION

11 NCAC 11C .0103 REPRODUCTION OF REPORTS ON EXAMINATION

History Note: Authority G.S. 58-2-40; 58-2-131; 58-2-140; 58-65-105;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

11 NCAC 11C .0104 RECORD OF BUSINESS TO BE KEPT BY COMPANY

Every insurance company licensed to transact business in the State of North Carolina must make and keep a full and correct record of the business done by it including, the policy number, date of issue, term, amount insured, premiums, full name and complete address of policyholder and other pertinent information as may be required by the Commissioner of Insurance.

History Note: Authority G.S. 58-2-40; 58-2-185;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0105 RETENTION OF RECORDS OF DOMESTIC INSURANCE COMPANIES

(a) All records of domestic insurance companies shall be maintained by the company for the years for which a statutory examination has not yet been completed. All books of original entry and corporate records shall be retained by the company or its successor for a period of 25 years after the company ceases to exist.

(b) Any claim file wherein a minor is involved shall be maintained until that minor has attained the age of majority for third-party liability coverage. All tax and tax related questions or litigation shall be resolved or finally adjudicated before the destruction of any records related thereto.

(c) All records that are required to be maintained by this Rule shall be either original or duplicate records, as defined in this Rule.

(d) For the purpose of this Rule, an "original record" is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are, in the normal and ordinary course of business, stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original record".

(e) For the purpose of this Rule, a "duplicate record" is a counterpart produced by the same impression as the original record, or from the same matrix, or by mechanical or electronic re-recording or by chemical reproduction, or by equivalent techniques, such as imaging or image processing, that accurately reproduce the original record.

(f) If only duplicate records are maintained, the following requirements must be met:

- (1) The data must be easily accessible to the Department in readable form; and readable, reproduced copies must be obtainable;
- (2) Before the destruction of any original records, the company in possession of the original records shall:
 - (A) Verify that the records stored consist of all information contained in the original records and that the original records can be reconstructed therefrom in a form acceptable to the Department; and
 - (B) Implement disaster preparedness or disaster recovery procedures that include provisions for the maintenance of duplicate records at another location; and
- (3) Adequate controls must be established with respect to the transfer and maintenance of data.

(g) Every foreign insurer licensed in North Carolina shall be in substantial compliance with this Rule.

History Note: Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-145; 58-2-155; 58-19-35; 58-20-30; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-39-70; 58-48-65; 58-49-55; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. September 1, 1993; March 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0106 UNEARNED PREMIUM RESERVE: IN FORCE PREMIUMS

History Note: Authority G.S. 58-35;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. March 1, 1993.

11 NCAC 11C .0107 REINSURANCE: WHEN PERMITTED

History Note: Authority G.S. 58-59.3;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0108 DIVIDENDS TO POLICYHOLDERS: DEPARTMENT INTERPRETATION

11 NCAC 11C .0109 DIVIDENDS TO STOCKHOLDERS: DEPARTMENT INTERPRETATION

History Note: Authority G.S. 58-2-40; 58-7-130; 58-8-25;

Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. August 1, 1998.

11 NCAC 11C .0110 INVESTMENT IN GOLD OR GOLD FUTURES BY INSURANCE COMPANIES

History Note: Authority G.S. 58-9(1); 58-79; 58-79.1;
Eff. February 1, 1976;
Repealed Eff. March 1, 2004.

11 NCAC 11C .0111 INVESTMENT IN THE INTERNATIONAL BANK FOR RECONST AND DEV

History Note: Authority G.S. 58-9(1); 58-79; 58-79.1;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0112 MODEL CUSTODIAL AGREEMENT

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1996.

11 NCAC 11C .0113 MODEL CUSTODIAL AND FISCAL AGENCY AGREEMENT

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. February 1, 1996.

11 NCAC 11C .0114 CERTIFICATES OF CONTRIBUTION

Every domestic insurance company may, upon petition to the Commissioner and upon receipt of his approval thereof, issue certificates of contribution of surplus for the reasons and purposes set forth in the petition to the Commissioner.

Approval of the issuance of certificates of contributions may be granted only upon the following conditions and will be effective only as to transactions performed in conformity therewith:

- (1) No certificate evidencing the contribution under authorization hereof shall be issued except substantially in the form and text as may be approved by the Commissioner.
- (2) No commission, selling or other expense is to be paid or incurred in respect to any transaction authorized, except that regular salaried employees of the petitioner may perform any and all acts necessary, convenient or advisable in connection with the transactions authorized, fees may be paid for legal counsel, accounting and related services, and petitioner may incur and pay other normal expense incurred in connection with the issuance of the certificates of contribution.
- (3) No advertisement, prospectus, or other writing relating to the certificates of contribution, except regular business correspondence relating to specific problems peculiar to the parties thereto, shall be issued, circulated or published until after the same has been filed with and authorized in writing by the Commissioner.
- (4) At any time upon the request of the Commissioner and in any event within 30 days from and after the issuance of any certificate of contribution and after the completion of the transactions authorized, petitioner shall make and file with said commissioner its verified report setting forth the transactions accomplished pursuant to the authority granted, and setting forth the date of issuance of the certificate of contribution, the proceeds derived therefrom and the disposition of such proceeds, and petitioner shall attach to such report a conformed copy of the contribution certificates issued pursuant to said authorization.

- (5) In any financial statement required by law to be filed by petitioner with the Commissioner, or which may be published or distributed by petitioner, the principal sum of and accrued interest of these and any other outstanding certificates of contribution, which has not become a liability in accordance with the terms thereof and is not reported in such financial statement as a liability, shall be reported according to the instructions for completing the appropriate NAIC financial statement blank. Such amount shall be reported on the appropriate line on page 3 of the financial statement as "certificates of contribution". Other descriptions, such as "debentures", "surplus notes", "guaranty fund", or "guaranteed certificates", are deemed misleading and are not permitted.
- (6) The Commissioner may, from time to time, for cause amend, continue or alter his approval or temporarily suspend the rights of the petitioner hereunder or may revoke this authority.
- (7) Unless revoked, suspended, or amended or continued upon due petition therefor filed before the expiration date hereof the authority granted hereunder is valid for a period of five years and such authority shall automatically terminate on the close of business on the last day of the month in which this authority was originally granted.

Certificates of contribution issued hereunder are not to be construed as guaranty fund certificates as specifically provided for under G.S. 58-12-1 and 58-8-20.

History Note: Authority G.S. 58-2-40; 58-7-163;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Amended Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0115 VALUATION OF BONDS AND OTHER EVIDENCES OF DEBT
11 NCAC 11C .0116 AMORTIZED VALUES OF BONDS OR OTHER EVIDENCES OF DEBT

History Note: Authority G.S. 58-80;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

11 NCAC 11C .0117 CONFLICT OF INTEREST STATEMENTS MUST BE EXECUTED ANNUALLY

Conflict of interest statements shall be executed annually by the officers, directors, trustees, attorneys-in-fact, and administrative personnel of every domestic insurer subject to G.S. 58, Articles 1 through 67.

Any conflicts of interest disclosed thereon shall be presented to the board of directors or trustees of the company for a determination of its acceptability or the remedial disposition thereof.

History Note: Authority G.S. 58-2-40;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Amended Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0118 COLLECTION PROCEDURES FOR EXAMINATION EXPENSE

History Note: Authority G.S. 58-2-40; 58-2-133(c);
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Amended Eff. April 1, 1993; January 14, 1980;
 Repealed Eff. February 1, 1996.

11 NCAC 11C .0119 MORTGAGE LOANS TO BE SOLD WITHOUT RECOURSE

First mortgage loans on unencumbered fee simple real estate, whether permanent term loans or construction loans, may not be sold to a third party unless the evidence of debt and the mortgage or deed of trust is physically endorsed to reflect that said mortgage loan is being sold without recourse to the insurer.

History Note: Authority G.S. 58-2-40(1); 58-7-85; 58-7-90;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0120 VALUATION OF INVESTMENTS: VALUATIONS OF SECURITIES MANUAL

History Note: Authority G.S. 58-9; 58-79; 58-79.1;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1994.

11 NCAC 11C .0121 STOCK OPTIONS: GENERAL

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0122 SALE OF EXCHANGE: TRADED CALL OPTIONS

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 28, 1978;
Repealed Eff. March 1, 2004.

11 NCAC 11C .0123 PURCHASE OF EXCHANGE: TRADED CALL OPTIONS

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0124 ACCOUNTING PROCEDURES

11 NCAC 11C .0125 VALUATION

11 NCAC 11C .0126 PROHIBITION AGAINST SPECULATING IN OPTIONS

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 28, 1978;
Repealed Eff. March 1, 2004.

11 NCAC 11C .0127 SEVERABILITY

11 NCAC 11C .0128 DEFINITIONS

History Note: Authority G.S. 58-79; 58-79.1;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0129 FORM OF REPORTS OF EXAMINATION: FOREIGN COMPANIES

The reports on examination prepared by the domiciliary insurance department of a foreign company as a result of a triennial examination, special examination or any other type of examination of a foreign insurance company licensed to do business in North Carolina shall be certified.

History Note: Authority G.S. 58-2-40; 58-2-132;
Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0130 CREDIT FOR REINSURANCE

History Note: Filed as a Temporary Adoption Eff. September 12, 1991, for a period of 180 days to expire on March 10, 1992;
Authority G.S. 58-2-40(1); 58-7-1;
Expired March 10, 1992.

11 NCAC 11C .0131 VALUATION OF DEBT SECURITIES

History Note: Authority G.S. 58-2-40; 58-7-190;
Temporary Adoption Eff. January 1, 1992 for a period of 180 days to expire on June 29, 1992;
Eff. May 1, 1992;
Repealed Eff. March 1, 2004.

11 NCAC 11C .0132 ACCOUNTING FOR SALVAGE AND SUBROGATION

History Note: Authority G.S. 58-2-40; 58-7-162;
Eff. April 1, 1993;
Amended Eff. February 1, 1996;
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

11 NCAC 11C .0133 ACCOUNTING FOR LIFE AND HEALTH REINSURANCE AGREEMENTS

History Note: Authority G.S. 58-2-40; 58-7-31;
Temporary Adoption Eff. January 21, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. April 1, 1994;
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

SECTION .0200 - INVESTMENTS

11 NCAC 11C .0201 GENERAL NATURE

History Note: Authority G.S. 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

11 NCAC 11C .0202 INVENTORY OF CAPITAL SURPLUS AND RESERVE INVESTMENTS
11 NCAC 11C .0203 FOREIGN FIRE: CASUALTY AND MISC COMPANIES: COMPLIANCE
11 NCAC 11C .0204 INVESTMENTS IN ELECTRONIC DATA PROCESSING EQUIPMENT

History Note: Authority G.S. 58-9(1); 58-79.1; 58-79(d)(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0205 ACCOUNTING FOR SALVAGE AND SUBROGATION

History Note: Authority G.S. 58-16; 58-9;
Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0206 ACCOUNTING FOR PREMIUM OVER 90 DAYS PAST DUE

History Note: Authority G.S. 58-2-40; 58-7-162(5);
Eff. April 1, 1993;
Repealed Eff. March 1, 2004.

SECTION .0300 - HEALTH MAINTENANCE ORGANIZATIONS

11 NCAC 11C .0301 GENERAL NATURE

History Note: Authority G.S. 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

- 11 NCAC 11C .0302 INVENTORY OF RESERVE: CAPITAL AND SURPLUS INVESTMENTS**
- 11 NCAC 11C .0303 EXPLANATION OF BASKET CLAUSE N.C.G.S. 58-79(A)(14)**
- 11 NCAC 11C .0304 INVENTORY OF BASKET CLAUSE INVESTMENT**
- 11 NCAC 11C .0305 CALCULATION OF LIMITATIONS ON BASKET CLAUSE INVESTMENTS**
- 11 NCAC 11C .0306 LIMITATIONS UNDER BASKET CLAUSE TO PREVIOUS INVESTMENTS**

History Note: Authority G.S. 58-79; 58-79(a)(14);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11C .0307 FINANCIAL CERTIFICATION: HMO

After the applicant has performed, or caused to be performed, a feasibility study on the proposed operations of the HMO and has developed a specific plan of operation, this information shall be submitted to the applicant's staff actuary, a recognized actuarial consultant, or a recognized health care consultant for completion of an actuarial projection of the anticipated operational results for a three-year period based on the initial working capital of the applicant, any additional sources of funds to be provided, the proposed rate schedules, the expected number of enrollees during the period, and the applicant's plan of operation. This projection shall include the following:

- (1) Certification that the amount of money actually available for working capital is sufficient to carry all acquisition costs and operating expenses for at least the three-year period and that the applicant is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees on a continuing basis;
- (2) Certification that the rates to be charged by the applicant for prepaid health services are neither excessive, inadequate nor unfairly discriminatory;
- (3) Determination of an adequate reinsurance program to amply protect the applicant against large claims arising in cases of major health care needs of enrollees, if the financial condition of the applicant requires such a program; and
- (4) Consideration be given in the three year projection to the possible effects of adverse selection and over-utilization of services by enrollees of the applicant.

History Note: Authority G.S. 58-2-40; 58-67-10;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0308 FOREIGN HMO: SUCCESSFUL OPERATION

History Note: Authority G.S. 58-2-40; 58-67-10;
Eff. April 1, 1993;
Amended Eff. April 1, 1994;
Repealed Eff. February 1, 2010.

11 NCAC 11C .0309 ADMITTED ASSETS: HMO

History Note: Authority G.S. 58-2-40; 58-2-40(1); 58-67-20; 58-67-110(b);
Eff. April 1, 1993;
Repealed Eff. March 1, 2004.

11 NCAC 11C .0310 REINSURANCE AGREEMENTS: HMO

Reinsurance Agreements entered into in accordance with G.S. 58-67-110(e) shall be issued by insurance carriers licensed to do business in North Carolina.

History Note: Authority G.S. 58-2-40; 58-67-110(e);
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0311 EXPANSION OF SERVICE AREA: HMO

(a) Applications for expansion of service area shall provide current data stated in G.S. 58-67-10(c)(1) along with a feasibility study and market survey of the proposed area as stated in 11 NCAC 11C .0307.

(b) Applications for expansion of service area must demonstrate at least a minimum of one year of net operational gains by the applicant in the current approved service area.

(c) The requirement of Paragraph (b) may be waived by the Commissioner if additional capital as determined by the Commissioner is placed in the HMO, or if a guaranty agreement approved in writing by the Commissioner, to pay for any loss to enrollees claiming reimbursement due to the insolvency of the HMO is made. In order to qualify, the guaranteeing organization shall:

- (1) submit to the jurisdiction of this State for actions arising under the guarantee;
- (2) submit certified, audited annual financial statements to the Commissioner; and
- (3) appoint the Commissioner to receive service of process in this State.

History Note: Authority G.S. 58-2-40; 58-67-10;
Eff. April 1, 1993;
Amended Eff. April 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0312 FINANCIAL STATEMENTS: HMO

History Note: Authority G.S. 58-2-40; 58-67-55;
Eff. April 1, 1993;
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

11 NCAC 11C .0313 NET EARNED INCOME DEFINITION: HMO

History Note: Authority G.S. 58-2-40; 58-67-5(i);
Eff. February 1, 1996;
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

SECTION .0400 - MORTGAGE GUARANTY INSURANCE

11 NCAC 11C .0401 GENERAL NATURE 11 NCAC 11C .0402 MORTGAGE GUARANTY INSURANCE: PURPOSE

History Note: Authority G.S. 58-9; 58-9(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

11 NCAC 11C .0403 ACCOUNTING FOR MORTGAGE GUARANTY INSURANCE

History Note: Authority G.S. 58-2-40; 58-2-165;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. June 1, 2007.

11 NCAC 11C .0404 CONTINGENCY RESERVE: MORTGAGE GUARANTY INSURANCE

History Note: Authority G.S. 58-2-40(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. June 1, 2007.

11 NCAC 11C .0405 POLICY FORMS: MORTGAGE GUARANTY INSURANCE

All policy forms and endorsements of mortgage guaranty insurance companies shall be filed with and be subject to approval of the Commissioner of Insurance.

History Note: Authority G.S. 58-2-40(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0406 APPRAISAL REVIEW FEES ARE PART OF PREMIUM CHARGE

Appraisal review fees, as charged by mortgage guaranty insurance companies, are considered to be a part of the premium charge for all purposes, including unearned premium reserve, and are to be included as part of the gross premiums as defined in North Carolina General Statute 105-228.5.

History Note: Authority G.S. 58-2-40(1);
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0407 REPORT OF POLICYHOLDERS POSITION – MORTGAGE GUARANTY INSURERS

Each mortgage guaranty insurance company doing business in this State shall file with the Commissioner a Mortgage Guaranty Insurers Report of Policyholders Position form, which is available at www.ncdoi.com.

History Note: Authority G.S. 58-2-40; 58-10-120; 58-10-125;
Eff. July 1, 2004;
Amended Eff. June 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SECTION .0500 - REINSURANCE

11 NCAC 11C .0501 ACCREDITED REINSURER - APPLICATION

(a) Each insurance company desiring a status of accredited reinsurer in this jurisdiction must file an Application for Accredited Reinsurer in the form as prescribed by the Commissioner, or Form AR-1, Certificate of Assuming Insurer, as adopted by the NAIC, and must satisfy the requirements of G.S. 58-7-21(b)(2).

(b) Each applicant must reflect verifiable policyholders' surplus of at least twenty million dollars (\$20,000,000) in its most recent annual financial statement that presents the applicant's assets, liabilities, policyholders' surplus, income, and expenses in substantial compliance with appropriate NAIC Annual Statement Instructions, G.S. 58, and this Title. However, an insurance company may be considered for accredited reinsurer status with policyholders' surplus of less than twenty million dollars (\$20,000,000) if the application includes proper support that adequate protection to ceding insurers will be provided by the lesser amount of policyholders' surplus.

History Note: Authority G.S. 58-2-40; 58-7-21(b)(2);
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0502 ACCREDITED REINSURER - FILING REQUIREMENTS

(a) Each initial application for accredited reinsurer shall be accompanied by the following financial and general information so that verification of the applicant's qualifications may be accomplished:

- (1) Annual statements for the preceding two years in the form required under G.S. 58-2-165;
- (2) A certified copy of the applicant's latest Report on Examination;
- (3) A copy of the applicant's CPA report for the most recent year;
- (4) Actuarial certification of the applicant's loss reserves and loss adjustment expense reserves for the most recent year; and
- (5) A certificate of compliance from the home state verifying that the applicant is licensed in at least one state.

(b) Each insurance company accepted as an accredited reinsurer must file on or before March 1 of each year the following information for review and determination of continued acceptability for such status:

- (1) An Application for Accredited Reinsurer for the next fiscal year beginning July 1;
- (2) The applicant's annual statement for the preceding year ended December 31 in the form required under G.S. 58-2-165;
- (3) The applicant's CPA report for the preceding year ended December 31;
- (4) Certification of the applicant's loss reserves and loss adjustment expense reserves in such form as required by the NAIC Annual Statement Instructions except as amended by the Commissioner by rule or directive for the preceding year ended December 31; and
- (5) A current certificate of compliance.

History Note: Authority G.S. 58-2-40; 58-7-21(b)(2);
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0503 ACCREDITED REINSURER - REVOCATION OF ACCREDITATION

The Commissioner may revoke the accreditation of a reinsurer if its policyholders' surplus falls below twenty million dollars (\$20,000,000) or its continued status as an accredited reinsurer is deemed to present a condition that is hazardous to the insurance public of North Carolina.

History Note: Authority G.S. 58-2-40; 58-7-21(b)(2);
Eff. April 1, 1993;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0504 TRUST AGREEMENTS QUALIFIED UNDER G.S. 58-7-26

(a) As used in this Rule:

- (1) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a receiver as successor in interest to the named beneficiary, then the named beneficiary is the court-appointed domiciliary conservator, rehabilitator, or liquidator.
- (2) "Financial institution" means a qualified United States financial institution as defined in G.S. 58-7-26(c).
- (3) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
- (4) "Obligations" means:
 - (A) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
 - (B) Reserves for reinsured losses reported and outstanding;
 - (C) Reserves for reinsured losses incurred but not reported; and
 - (D) Reserves for allocated reinsured loss expenses and unearned premiums.

(b) Required conditions for trust agreements pursuant to G.S. 58-7-26.

- (1) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee, which trustee shall be a qualified financial institution.
- (2) The trust agreement shall create a trust account into which assets shall be deposited.
- (3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States.
- (4) The trust agreement shall provide that:
 - (A) The beneficiary may withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
 - (B) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
 - (C) It is not subject to any conditions or qualifications outside of the trust agreement; and
 - (D) It shall not contain references to any other agreements or documents except as provided for under Subparagraph (11) of this Paragraph.
- (5) The trust agreement shall be established for the sole benefit of the beneficiary.
- (6) The trust agreement shall require the trustee to:
 - (A) Receive assets and hold all assets in a safe place;
 - (B) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person;
 - (C) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
 - (D) Notify the grantor and the beneficiary within 10 days after the making of any deposits to or withdrawals from the trust account;
 - (E) Upon written demand of the beneficiary, immediately take all steps to transfer all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
 - (F) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary; except that the trustee may, without the consent of, but with notice to, the beneficiary and upon the call or maturity of any trust asset, withdraw the asset upon the condition that the proceeds are paid into the trust account.
- (7) The trust agreement shall provide that at least 30 days, but not more 45 days, before termination of the trust account, that written notification of termination shall be delivered by the trustee to the beneficiary.

- (8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.
 - (9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expense of, the trustee.
 - (10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.
 - (11) When a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, or accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:
 - (A) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;
 - (B) To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or
 - (C) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days before termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in G.S. 58-7-26(c) apart from its general assets, in trust for such uses and purposes specified in Parts (b)(11)(A) and (B) of this Rule as may remain executory after such withdrawal and for any period after the termination date.
 - (12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by Part (d)(1)(B) of this Rule, as long as these required conditions are included in the trust agreement.
- (c) Permitted conditions for trust agreements.
- (1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor of the notice; and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice; provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.
 - (2) The grantor may have the unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.
 - (3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account; provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in Part (d)(1)(B) of this Rule.
 - (4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

- (5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.
- (d) Additional conditions applicable to reinsurance agreements.
- (1) A reinsurance agreement that is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:
- (A) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
 - (B) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), or investments of the types permitted by G.S. 58, Article 7 or any combination of the above; provided that such investments are issued by an entity that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement;
 - (C) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank; or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;
 - (D) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
 - (E) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement; and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:
 - (i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;
 - (ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
 - (iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and
 - (iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.
- (2) The reinsurance agreement may also contain provisions that:
- (A) Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:
 - (i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or

- (ii) After withdrawal and transfer, the market value of the trust account is no less than 102 percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

- (B) Provide for:
 - (i) The return of any amount withdrawn in excess of the actual amounts required for Subparts (d)(1)(E)(i), (ii) and (iii), or in the case of Subpart (d)(1)(E)(iv) of this Rule, any amounts that are subsequently determined not to be due; and
 - (ii) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subpart (d)(1)(E)(iii) of this Rule.
- (C) Permit the award by any arbitration panel or court of competent jurisdiction of:
 - (i) Interest at a rate different from that provided in Subpart (d)(2)(B)(ii) of this Rule,
 - (ii) Court of arbitration costs,
 - (iii) Attorney's fees, and
 - (iv) Any other reasonable expenses.

- (3) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Department in compliance with the provisions of this Rule when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.
- (4) Existing agreements. Notwithstanding the effective date of this Rule, any trust agreement in existence before January 1, 1996, will continue to be acceptable until June 30, 1996, at which time the agreements will have to be in full compliance with this Rule for the trust agreement to be acceptable.
- (5) The failure of any trust agreement to specifically identify the beneficiary as defined in Paragraph (a) of this Rule shall not be construed to affect any actions or rights that the Commissioner may take or possess pursuant to the provisions of the laws of this State.

History Note: Authority G.S. 58-2-40; 58-7-21; 58-7-26;
Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0505 LETTERS OF CREDIT

(a) As used in this Rule:

- (1) "Beneficiary" means the entity for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a receiver as successor in interest to the named beneficiary, then the named beneficiary is the court-appointed domiciliary conservator, rehabilitator, or liquidator.
- (2) "Financial Institution" means a qualified United States financial institution as defined in G.S. 58-7-26(b).

(b) In order to qualify under G.S. 58-7-26(a)(3), a letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in G.S. 58-7-26(b). The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. The letter of credit itself shall not contain reference to any other agreements, documents, or entities, except as provided in Subparagraph (i)(1) of this Rule.

(c) The heading of the letter of credit may include a boxed section that contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(d) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(e) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of not less than thirty 30 days' notice before the expiration or non-renewal date.

(f) The letter of credit shall state whether it is subject to and governed by the laws of this State or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(g) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400); then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

(h) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to G.S. 58-7-26(b).

(i) Reinsurance agreement provisions:

(1) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

(A) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

(B) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

(iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and

(iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(C) All of the provisions of Subparagraph (1) of this Paragraph shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) Nothing contained in Subparagraph (1) of this Paragraph shall preclude the ceding insurer and assuming insurer from providing for:

(A) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subparagraph (1)(B)(iii) of this Paragraph; or

(B) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of Subpart (1)(B)(iv) of this Paragraph, any amounts that are subsequently determined not to be due.

(3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of Part (1)(B) of this Paragraph, require that the parties enter into a "Trust Agreement", which may be incorporated into the reinsurance agreement or be a separate document.

(j) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements filed with the Department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. The reduction for the letter of

credit may be up to the amount available under the letter of credit but no greater than the specified obligation under the reinsurance agreement that the letter of credit was intended to secure.

History Note: Authority G.S. 58-2-40; 58-7-26;
Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SECTION .0600 - PREMIUMS IN THE COURSE OF COLLECTION

11 NCAC 11C .0601 DEFINITIONS

The definitions contained in G.S. 58-19-5 are incorporated into this Section by reference.

History Note: Authority G.S. 58-2-40; 58-7-162;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0602 APPLICABILITY

G.S. 58-7-162(6) applies when a person solely or in combination with the person's affiliates owes, in any two of three consecutive months, an insurer an amount that exceeds five percent of the insurer's total premiums in course of collection.

History Note: Authority G.S. 58-2-40; 58-7-162;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0603 COMPLIANCE-TRUST ACCOUNT

- (a) When G.S. 58-7-162(6) applies under 11 NCAC 11C .0602, the premiums collected by the person or the person and its affiliates and not remitted to the insurer may be held in a trust account with a bank so that those premiums will qualify as allowable or admitted assets.
- (b) The trust account shall be an account held in the trust department of a bank and evidenced by a written trust agreement that is in substantial compliance with the Department's Model Trust Agreement.
- (c) The trustee bank shall be a national bank or a state chartered bank that is a member of the Federal Deposit Insurance Corporation and be independent from control of either the person, the person's affiliates, or the insurer.
- (d) The trust account must be established within 60 days after the end of the month in which the insurer becomes subject to G.S. 58-7-162(6) under 11 NCAC 11C .0602. The trust agreement must be submitted to and approved by the Commissioner before becoming effective, and within that 60-day period.
- (e) The person and its affiliates must maintain separate trust accounts, evidenced by written trust agreements, for each insurer subject to G.S. 58-7-162(6).
- (f) Once a trust account is established, it shall be maintained:
 - (1) for as long as the person or its affiliates produce business for the insurer, regardless of whether the person or its affiliates continue to owe the insurer at least five percent of the insurer's total premiums in course of collection; or
 - (2) until the insurer requests and receives authority from the Commissioner to cease using the trust account for the person or its affiliates. Such request shall not be made before 12 months after establishing the trust account.

History Note: Authority G.S. 58-2-40; 58-7-162;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0604 COMPLIANCE: LETTER OF CREDIT

- (a) When G.S. 58-7-162(6) applies under 11 NCAC 11C .0602, the premiums collected by the person or the person and its affiliates and not remitted to the insurer may be secured by an unexpired, clean, irrevocable letter of credit, payable to the insurer, so that those premiums will qualify as allowable or admitted assets.
- (b) The amount of the letter of credit shall at all times equal or exceed 125 percent of the liability of the person or the person and its affiliates to the insurer for the premiums collected.
- (c) The letter of credit must be issued within 30 days after the end of the month in which the insurer becomes subject to G.S. 58-7-162(6) under 11 NCAC 11C .0602. A certified copy of the executed letter of credit shall be provided to the Commissioner.
- (d) The letter of credit shall be issued by a banking institution whose financial condition has been determined by either the Commissioner or the Securities Valuation Office of the NAIC to be acceptable to issue such a letter of credit.

History Note: Authority G.S. 58-2-40; 58-7-162;
 Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11C .0605 COMPLIANCE: FINANCIAL GUARANTY BOND

- (a) When G.S. 58-7-162(6) applies under 11 NCAC 11C .0602, the premiums collected by the person or the person and its affiliates and not remitted to the insurer may be secured by a financial guaranty bond acceptable to the Department, payable to the insurer, so that those premiums will qualify as allowable or admitted assets.
- (b) The amount of the financial guaranty bond shall at all times equal or exceed 125 percent of the liability of the person or the person and its affiliates to the insurer for the premiums collected.
- (c) The financial guaranty bond must be issued within 30 days after the end of the month in which the insurer becomes subject to G.S. 58-7-162(6) under 11 NCAC 11C .0602. A certified copy of the executed financial guaranty bond shall be provided to the Commissioner.

History Note: Authority G.S. 58-2-40; 58-7-162;
 Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SUBCHAPTER 11D – PROXY: LIQUIDATION AND MERGER

SECTION .0100 – GENERAL PROVISIONS

11 NCAC 11D .0101 GENERAL PROVISIONS

History Note: Authority G.S. 58-9;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

11 NCAC 11D .0102 REVOCATION OR SUSPENSION OF LICENSE: FOREIGN INSURANCE
11 NCAC 11D .0103 PUBLICATION OF NOTICE OF REVOCATION OR SUSPENSION

History Note: Authority G.S. 58-37;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1994.

11 NCAC 11D .0104 APPLICABILITY OF LAWS AFTER REVOCATION OR SUSPENSION

If the Commissioner of Insurance of this state revokes or suspends the license of a foreign insurance company to do any new business in this state, said company shall remain subject to the provisions of Chapter 58 of the General Statutes of North

Carolina for the intent and purpose of properly servicing the existing business within this state. Specifically, such company having been suspended from doing any new business in this state, shall remain subject to the provisions of Article 48, "Insurance Guaranty Association Act" and Article 62, "North Carolina Life and Health Insurance Guaranty Association Act," whichever is applicable.

History Note: Authority G.S. 58-2-40; 58-3-90;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0105 REVOCATION OF LICENSE OF RECIPROCAL INSURER
11 NCAC 11D .0106 EXTENSION FOR ELIMINATION: IMPAIRMENT OF CAP AND SURPLUS

History Note: Authority G.S. 58-77(10); 58-82; 58-147;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11D .0107 BUSINESS IN OWN NAME: EMBLEMS: INSIGNIAS: ETC

Every insurance company must conduct its business in the state in its proper or corporate name which must be prominently displayed, together with any emblem, insignia or anything other than the true and corporate name, and which must not so closely resemble any other company's proper or corporate name, emblem or insignia as to confuse the true identity of the company or companies responsible for the payment of losses under the policy.

History Note: Authority G.S. 58-2-40; 58-3-50;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0108 NOTICE OF HEARING ON PLAN OF EXCHANGE OF CAPITAL STOCK
11 NCAC 11D .0109 CHARGES FOR HEARING CONDUCTED PURSUANT TO G.S. 58-9-5

History Note: Authority G.S. 58-2-40; 58-9-5;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. February 1, 1996.

11 NCAC 11D .0110 SIZE OF TYPE OF ALL NOTICES REQUIRED TO BE PUBLISHED

Any notices required by the insurance laws of North Carolina to be published in newspapers within this state shall be printed in type which shall not be smaller than six point type and may be published under the legal notice section of the designated newspapers or displayed in a manner specified by the Commissioner as the circumstances may require.

History Note: Authority G.S. 58-2-40; 58-8-5;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0111 CERTIFICATE OF INCORPORATION AND AMENDMENTS: APPROVAL

To insure compliance with the provisions of Article 26 of Chapter 58, the certificate of incorporation of a proposed domestic title insurance company must be approved by the Commissioner before filing with the Office of the Secretary of State.

In order that the corporate files of the Department of Insurance will properly reflect the corporate changes of a domestic title insurance company, all amendments to the certificate of incorporation must be approved by the Commissioner before filing with the Office of the Secretary of State.

History Note: Authority G.S. 58-2-40; 58-26-1; 58-26-5;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0112 DOMESTIC STOCK TITLE INS COMPANIES: CAPITAL REQUIREMENTS

In order that the corporate files of the Department of Insurance will properly reflect all capital stock changes, domestic stock title insurance companies must comply with the provisions of G.S. 58-7-105 through 58-7-120.

History Note: Authority G.S. 58-2-40; 58-7-105 to 58-7-120; 58-26-5;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0113 SUBSCRIBERS OF RECIPROCAL OR INTER-INSURANCE EXCHANGES **11 NCAC 11D .0114 MINIMUM REQUIREMENTS: RECIPROCAL OR INTER-INS EXCHANGES**

History Note: Authority G.S. 58-139(6); 58-142;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11D .0115	PROXIES: ETC DOMESTIC INSURERS: APPLICATION OF RULES
11 NCAC 11D .0116	PROXIES: CONSENTS AND AUTHORIZATIONS
11 NCAC 11D .0117	PROXIES: DISCLOSURE OF EQUIVALENT INFORMATION
11 NCAC 11D .0118	PROXIES: DEFINITIONS AND INSTRUCTIONS
11 NCAC 11D .0119	PROXIES: INFORMATION TO BE FURNISHED TO SECURITY HOLDERS
11 NCAC 11D .0120	PROXIES: REQUIREMENTS AS TO PROXY
11 NCAC 11D .0121	PROXIES: MATERIAL REQUIRED TO BE FILED
11 NCAC 11D .0122	PROXIES: FALSE OR MISLEADING STATEMENTS
11 NCAC 11D .0123	PROXIES: PROHIBITION OF CERTAIN SOLICITATIONS
11 NCAC 11D .0124	PROXIES: SPECIAL PROVISIONS APPLICABLE TO ELECTION CONTEST
11 NCAC 11D .0125	PROXY INFORMATION REQUIRED: REVOCABILITY OF PROXY
11 NCAC 11D .0126	PROXY INFORMATION REQUIRED: DISSENTERS' RIGHT OF APPRAISAL
11 NCAC 11D .0127	PROXY INFORMATION REQUIRED: SUBJECT TO 11 NCAC 11D .0124
11 NCAC 11D .0128	PROXY INFO REQUIRED: INTEREST IN MATTERS TO BE ACTED UPON
11 NCAC 11D .0129	PROXY INFORMATION REQUIRED: VOTING SECURITIES
11 NCAC 11D .0130	PROXY INFORMATION REQUIRED: NOMINEE AND DIRECTORS
11 NCAC 11D .0131	PROXY INFORMATION REQUIRED: TRANSACTIONS WITH MANAGEMENT
11 NCAC 11D .0132	PROXY INFO REQUIRED: BONUS: PROFIT SHARING: REMUNERATION
11 NCAC 11D .0133	PROXY INFORMATION REQUIRED: PENSION AND RETIREMENT PLANS
11 NCAC 11D .0134	PROXY INFORMATION REQUIRED: OPTIONS: WARRANTS OR RIGHTS
11 NCAC 11D .0135	PROXY INFO REQUIRED: AUTHORIZATION OR ISSUANCE OF STOCK
11 NCAC 11D .0136	PROXY INFO REQUIRED: MERGER: CONSOLIDATION: ACQUISITION
11 NCAC 11D .0137	PROXY INFORMATION REQUIRED: RESTATEMENT OF ACCOUNTS
11 NCAC 11D .0138	PROXY INFO REQUIRED: MATTERS NOT REQUIRED TO BE SUBMITTED
11 NCAC 11D .0139	PROXY INFORMATION REQUIRED: AMENDMENT OF CHARTER: BY-LAWS

11 NCAC 11D .0140	PROXY INFORMATION REQUIRED: IN ELECTION CONTEST
11 NCAC 11D .0141	PROXY STATEMENT IN ELEC: INSURER: IDENTITY AND BACKGROUND
11 NCAC 11D .0142	PROXY STATEMENT IN ELECTION: INTEREST IN EQUITY SECURITY
11 NCAC 11D .0143	PROXY STATEMENT IN ELECTION CONTEST: FURTHER MATTERS
11 NCAC 11D .0144	PROXY STATEMENT IN ELECTION CONTEST: SIGNATURE
11 NCAC 11D .0145	INSIDER TRADING OF STOCK: DEFINITIONS
11 NCAC 11D .0146	WHO MUST FILE UNDER INSIDER TRADING OF STOCK
11 NCAC 11D .0147	WHAT MUST BE FILED UNDER INSIDER TRADING OF STOCK
11 NCAC 11D .0148	DETERMINING BENEFICIAL OWNERSHIP: INSIDER TRADING OF STOCK
11 NCAC 11D .0149	DISCLAIMER OF BENEFICIAL OWNERSHIP: INSIDER TRADING
11 NCAC 11D .0150	EXEMPTIONS FROM SUBSECTIONS (A) AND (B) OF THE ACT
11 NCAC 11D .0151	SECURITIES BOUGHT OR SOLD BY ODD-LOT DEALERS: EXEMPTION
11 NCAC 11D .0152	CERTAIN TRANSACTIONS SUBJECT TO SUBSECTION (A) OF THE ACT
11 NCAC 11D .0153	OWNERSHIP OF SECURITIES HELD IN TRUST: INSIDER TRADING
11 NCAC 11D .0154	EXEMPTION FOR SMALL TRANSACTIONS: INSIDER TRADING OF STOCK
11 NCAC 11D .0155	EXEMPTIONS IN GENERAL: INSIDER TRADING OF STOCK
11 NCAC 11D .0156	EXEMPTION EFFECTED IN CONNECTION WITH A DISTRIBUTION
11 NCAC 11D .0157	EXEMPTION STOCK OPTIONS: STOCK BONUS OR SIMILAR PLANS
11 NCAC 11D .0158	OTHER SECURITIES: EXEMPTION RECEIVED BY REDEEMING
11 NCAC 11D .0159	EXEMPTION OF LONG TERM PROFITS WITHIN SIX MONTHS OF OPTION
11 NCAC 11D .0160	EXEMPTIONS: ACQUISITIONS: DISPOSITIONS PURSUANT TO MERGER
11 NCAC 11D .0161	EXEMPTION: DEPOSIT OR WITHDRAWAL OF EQUITY SECURITIES
11 NCAC 11D .0162	EXEMPTION INVOLVING THE CONVERSION OF EQUITY SECURITIES
11 NCAC 11D .0163	EXEMPTION INVOLVING THE SALE OF SUBSCRIPTION RIGHTS
11 NCAC 11D .0164	EXEMPTION OF SECURITIES FROM SUBSECTION (C) OF THE ACT

History Note: Authority G.S. 58-2-40; 58-9(2); 58-7-145; 58-86.2;
Eff. February 1, 1976;
Repealed Eff March 1, 2004

11 NCAC 11D .0165 EXEMPTION FROM SUBSECTION (C): DISTRIBUTION

Any security shall be exempt from the operation of subsection (c) of the act to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

- (1) The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to prior offering to existing security holders or some other class of persons; and
- (2) Other persons not within the purview of subsection (c) of the act are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of subsection (c) of the act by this Rule. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this Rule.

History Note: Authority G.S. 58-2-40; 58-7-145;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0166	EXEMPTION FROM SUBSECTION (C) SALES OF SECURITIES
11 NCAC 11D .0167	ARBITRAGE TRANSACTIONS UNDER SUBSECTION (E) OF THE ACT

History Note: Authority G.S. 58-2-40; 58-9(2); 58-7-145; 58-86.2;
Eff. February 1, 1976;
Repealed Eff March 1, 2004.

11 NCAC 11D .0168 GUARANTY CAPITAL CERTIFICATES: WHEN PERMITTED

History Note: Authority G.S. 58-2-40; 58-8-20;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. June 1, 2007.

11 NCAC 11D .0169 NOTICE OF HEARING ON REVOCATION OR SUSPENSION OF LICENSE

(a) If the Commissioner of Insurance is of the opinion, upon examination or receipt of evidence from other sources, that a foreign insurance company is in an unsound condition, or, if a life insurance company, that its actual funds, exclusive of its capital, are less than its liabilities; or that it has failed to comply with the law, or if it, its officers or agents, refuse to submit to examination or to perform any legal obligation in relation thereto, the Commissioner shall give notice to the company of a hearing to be held in the office of the Commissioner of Insurance to show cause why the company's license to transact business in the State of North Carolina should not be revoked or suspended.

(b) Written notice at least 10 days before the date of such hearing as designated therein, shall be given to the company.

History Note: Authority G.S. 58-2-40; 58-3-95; 58-3-100;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11D .0170 WRITTEN ORDER: HEARING ON REVOCATION OR SUSPENSION

(a) If after concluding the hearing on the revocation or suspension of a foreign company's license as required by 11 NCAC 11D .0169, the company has not satisfied the Commissioner that the conditions which prompted the hearing have not been resolved or corrected, the Commissioner shall issue an order which shall, among other things, set forth a period of time, not to exceed 90 days, within which time the conditions which prompted the hearing shall have been resolved or corrected.

(b) If at the expiration of the time period designated in the order said conditions have not been resolved or corrected, the company's license to transact business in the State of North Carolina shall be revoked or suspended and the Commissioner shall cause notice of the revocation or suspension to be published in accordance with the provisions of 11 NCAC 11D .0103.

History Note: Authority G.S. 58-2-40; 58-3-100;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SECTION .0200 - LIQUIDATION: GENERAL NATURE

11 NCAC 11D .0201 GENERAL NATURE

History Note: Authority G.S. 58-9
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

11 NCAC 11D .0202 REPLACEMENT POLICIES

History Note: Authority G.S. 58-9.1;
Eff. February 1, 1976;

Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

SECTION .0300 - MERGER: GENERAL NATURE

11 NCAC 11D .0301 GENERAL NATURE

History Note: Authority G.S. 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

- 11 NCAC 11D .0302 PROCEDURE FOR SUBMISSION OF PLAN OF MERGER - STOCK COMPANY**
- 11 NCAC 11D .0303 NOTICE OF PUBLIC HEARING ON PLAN OF MERGER FOR STOCK COMPANIES**
- 11 NCAC 11D .0304 PROCEDURE FOR SUBMISSION OF PLAN OF MERGER - MUTUAL COMPANY**
- 11 NCAC 11D .0305 NOTICE OF PUBLIC HEARING ON PLAN OF MERGER FOR MUTUAL COMPANIES**

History Note: Authority G.S. 55-107 et seq.; 58-2-40; 58-7-150;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Amended Eff. April 1, 1993;
Repealed Eff. February 1, 1996.

SUBCHAPTER 11E - TAX AND MISCELLANEOUS

SECTION .0100 - GENERAL PROVISIONS

11 NCAC 11E .0101 GENERAL PROVISIONS

History Note: Authority G.S. 58-9;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. July 1, 1988.

- 11 NCAC 11E .0102 ANNUAL STATEMENTS TO BE FILED WITH DEPARTMENT OF INSURANCE**
- 11 NCAC 11E .0103 INSTRUCTIONS FOR COMPLETION OF ANNUAL STATEMENT FORMS**
- 11 NCAC 11E .0104 FORM OF QUARTERLY FINANCIAL STATEMENTS**
- 11 NCAC 11E .0105 APPLICABILITY OF FINANCIAL STATEMENTS**

History Note: Authority G.S. 57-9; 57A-9; 57A-21; 58-9(3); 58-21; 58-34.1; 58-134; 58-292;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. April 1, 1993.

11 NCAC 11E .0106 MICROFILMING OF COMPANY RECORDS

History Note: Authority G.S. 58-9.1;
Eff. February 1, 1976;
Readopted Eff. February 28, 1978;
Repealed Eff. March 1, 1993.

11 NCAC 11E .0107 ESCHEATS: ABANDONED PROPERTY: REPORT REQUIRED

11 NCAC 11E .0108 ESCHEATS: ABANDONED PROPERTY: WHERE: WHEN TO FILE
11 NCAC 11E .0109 ESCHEATS: ABANDONED PROPERTY: ESCHEAT CODES

History Note: Authority G.S. 116A; 116A-5;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

11 NCAC 11E .0110 REDUCED INSTALLMENT PAYMENTS

History Note: Filed as a Temporary Rule Eff. July 22, 1988 For a Period of 180 Days to Expire on
 January 18, 1989;
 Statutory Authority G.S. 105-228.5;
 Eff. January 1, 1989;
 Transferred & Recodified to 17 NCAC 5E .0101 Eff. January 15, 1998.

SECTION .0200 - FIRE AND CASUALTY: GENERAL NATURE

11 NCAC 11E .0201 GENERAL NATURE

History Note: Authority G.S. 58-9
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

11 NCAC 11E .0202 TAX ON RECEIPTS FOR PREMIUMS

History Note: Authority G.S. 58-2-40; 118-2;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Amended Eff. April 1, 1993;
 Transferred & Recodified to 17 NCAC 5E .0102 Eff. January 15, 1998.

11 NCAC 11E .0203 PREMIUM FINANCE CHARGES

History Note: Authority G.S. 58-2-40; 105-228.5;
 Eff. April 1, 1993;
 Transferred & Recodified to 17 NCAC 5E .0103 Eff. January 15, 1998.

SECTION .0300 - LIFE: GENERAL NATURE

11 NCAC 11E .0301 GENERAL NATURE

History Note: Authority G.S. 58-9;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

11 NCAC 11E .0302 DIVIDENDS APPLIED TO PURCHASE ADDITIONAL PAID-UP LIFE

History Note: Authority G.S. 105-228.5;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Transferred & Recodified to 17 NCAC 5E .0104 Eff. January 15, 1998.

11 NCAC 11E .0303 PREMIUM TAXES ON ANNUITIES

History Note: Authority G.S. 105-228.5;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. January 1, 1995.

11 NCAC 11E .0304 GROSS PREMIUM TAXATION OF GROUP PREMIUMS

History Note: Authority G.S. 105-228.5;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Transferred & Recodified to 17 NCAC 5E .0105 Eff. January 15, 1998.

11 NCAC 11E .0305 EMPLOYEE BENEFITS PLANS: LIFE AND ACCIDENT AND HEALTH

History Note: Authority G.S. 105-228.5;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Transferred & Recodified to 17 NCAC 5E .0106 Eff. January 15, 1998.

- 11 NCAC 11E .0306 FINANCIAL REPORTING: DIFFERING STATEMENTS**
- 11 NCAC 11E .0307 FINANCIAL REPORTING: FORM OF RECONCILIATIONS**
- 11 NCAC 11E .0308 FINANCIAL REPORTING: DEFINITIONS**
- 11 NCAC 11E .0309 FINANCIAL REPORTING: DIFFERING STATEMENTS**
- 11 NCAC 11E .0310 FINANCIAL REPORTING: PARENT OR AFFILIATED INSURERS**

History Note: Authority G.S. 58-34.1;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

SECTION .0400 - MISCELLANEOUS: GENERAL NATURE

11 NCAC 11E .0401 GENERAL NATURE

History Note: Authority G.S. 58-9;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

11 NCAC 11E .0402 EXTENSION OF FILING DATE

History Note: Authority G.S. 57-9; 57A-9; 57A-21; 58-21;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

- 11 NCAC 11E .0403 RENEWAL CERTIFICATE OF AUTHORITY: HMO**
- 11 NCAC 11E .0404 FILING ANNUAL STATEMENTS FOR HMO'S**
- 11 NCAC 11E .0405 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AUDITS: HMO**

History Note: Authority G.S. 57A-3(c)(8); 57A-6, -8(b)(2), -9; 57A-20; 58-9;
 Eff. January 22, 1980;
 Repealed Eff. April 1, 1993.

SUBCHAPTER 11F - ACTUARIAL

SECTION .0100 - GENERAL PROVISIONS

11 NCAC 11F .0101 GENERAL NATURE

History Note: Authority G.S. 58-9;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. July 1, 1988.

11 NCAC 11F .0102 RESERVES ON CREDIT LIFE INSURANCE
11 NCAC 11F .0103 RESERVES ON CREDIT ACCIDENT AND HEALTH INSURANCE
11 NCAC 11F .0104 AUDIT TRAILS ON RESERVES REQUIRED

History Note: Authority G.S. 58-9(1); 58-143;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

11 NCAC 11F .0105 RESERVES FOR ANNUITIES

History Note: Authority G.S. 58-9(1); 58-201.1;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. December 1, 1985.

11 NCAC 11F .0106 RESERVES FOR PRESENT VALUE OF FUTURE BENEFITS REQUIRED

History Note: Authority G.S. 58-9;
 Eff. February 1, 1976;
 Readopted Eff. February 28, 1978;
 Repealed Eff. April 1, 1993.

11 NCAC 11F .0107 PURPOSE
11 NCAC 11F .0108 DEFINITIONS
11 NCAC 11F .0109 INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS
11 NCAC 11F .0110 GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS

History Note: Authority G.S. 58-9; 58-201.1;
 Eff. December 1, 1985;
 Repealed Eff. April 1, 1993.

SECTION .0200 - HEALTH INSURANCE MINIMUM RESERVE STANDARDS

11 NCAC 11F .0201 DEFINITIONS

As used in this section and in the Statement of Actuarial Opinion required by the NAIC Annual Statement Instructions pursuant to G.S. 58-2-165:

- (1) "Annual claim cost" means the net annual cost per unit of benefit before the addition of expenses, including claim settlement expenses, and a margin for profit or contingencies. For example, the annual claim cost for a one hundred dollar (\$100.00) monthly disability benefit, for a maximum disability benefit period of one

year, with an elimination period of one week, with respect to a male at age 35, in a certain occupation might be twelve dollars (\$12.00), while the gross premium for this benefit might be eighteen dollars (\$18.00). The additional six dollars (\$6.00) would cover expenses and profit or contingencies.

- (2) "Claims accrued" means that portion of claims incurred on or before the valuation date that result in liability of the insurer for the payment of benefits for medical services that have been rendered on or before the valuation date, and for the payment of benefits for days of hospitalization and days of disability that have occurred on or before the valuation date, that the insurer has not paid as of the valuation date, but for which it is liable, and will have to pay after the valuation date. This liability is sometimes referred to as a liability for "accrued" benefits. A claim reserve, which represents an estimate of this accrued claim liability, must be established.
- (3) "Claims reported" means when an insurer has been informed that a claim has been incurred, if the date reported is on or before the valuation date, the claim is considered as a reported claim for annual statement purposes.
- (4) "Claims unaccrued" means that portion of claims incurred on or before the valuation date that result in liability of the insurer for the payment of benefits for medical services expected to be rendered after the valuation date, and for benefits expected to be payable for days of hospitalization and days of disability occurring after the valuation date. This liability is sometimes referred to as a liability for "unaccrued" benefits. A claim reserve, which represents an estimate of the unaccrued claim payments expected to be made (that may or may not be discounted with interest), must be established.
- (5) "Claims unreported" means when an insurer has not been informed, on or before the valuation date, concerning a claim that has been incurred on or before the valuation date, the claim is considered as an unreported claim for annual statement purposes.
- (6) "Date of disablement" means the earliest date the insured is considered as being disabled under the definition of disability in the contract, based on a doctor's evaluation or other evidence. Normally this date will coincide with the start of any elimination period.
- (7) "Elimination period" means a specified number of days, weeks, or months starting at the beginning of each period of loss, during which no benefits are payable.
- (8) "Gross premium" means the amount of premium charged by the insurer. It includes the net premium (based on claim-cost) for the risk, together with any loading for expenses, profit or contingencies.
- (9) "Group insurance" means blanket insurance and franchise insurance and any other forms of group insurance.
- (10) "Level premium" means a premium calculated to remain unchanged throughout either the lifetime of the policy, or for some shorter projected period of years. The premium need not be guaranteed; in which case, although it is calculated to remain level, it may be changed if any of the assumptions on which it was based are revised at a later time. Generally, the annual claim costs are expected to increase each year and the insurer, instead of charging premiums that correspondingly increase each year, charges a premium calculated to remain level for a period of years or for the lifetime of the contract. In this case the benefit portion of the premium is more than needed to provide for the cost of benefits during the earlier years of the policy and less than the actual cost in the later years. The building of a prospective contract reserve is a natural result of level premiums.
- (11) "Long-term care insurance" has the same meaning as in G.S. 58-55-20(4); and also means a policy or certificate that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity.
- (12) "Modal premium" means the premium paid on a contract based on a premium term that could be annual, semi-annual, quarterly, monthly, or weekly. Thus if the annual premium is one hundred dollars (\$100.00) and if, instead, monthly premiums of nine dollars (\$9.00) are paid then the modal premium is nine dollars (\$9.00).
- (13) "Negative reserve" means a terminal reserve that has a value of less than zero resulting from benefits that decrease with advancing age or duration.
- (14) "Preliminary term reserve method" means the method of valuation under which the valuation net premium for each year falling within the preliminary term period is exactly sufficient to cover the expected incurred claims of that year, so that the terminal reserves will be zero at the end of the year. As of the end of the preliminary term period, a new constant valuation net premium (or stream of changing valuation premiums) becomes applicable such that the present value of all such premiums is equal to the present value of all claims expected to be incurred following the end of the preliminary term period.

- (15) "Qualified Actuary" means an individual who:
- (a) is a member in good standing of the American Academy of Actuaries; and
 - (b) is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; and
 - (c) is familiar with the valuation requirements applicable to life and health insurance companies; and
 - (d) has not been found by the Commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
 - (i) violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as a qualified actuary; or
 - (ii) been found guilty of fraudulent or dishonest practices; or
 - (iii) demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or
 - (iv) submitted to the Commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or
 - (v) resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and
 - (e) has not failed to notify the Commissioner of any action taken by any commissioner of any other state similar to that under Sub-item (15)(d) of this Paragraph.
- (16) "Rating block" means a grouping of contracts determined by the valuation actuary based on common characteristics filed with the Commissioner, such as a policy form or forms having similar designs.
- (17) "Reserve" means all items of benefit liability, whether in the nature of incurred claim liability or in the nature of contract liability relating to future periods of coverage, and whether the liability is accrued or unaccrued. An insurer under its contracts promises benefits that result in:
- (a) Claims that have been incurred, that is, for which the insurer has become obligated to make payment, on or before the valuation date. On these claims, payments expected to be made after the valuation date for accrued and unaccrued benefits are liabilities of the insurer that should be provided for by establishing claim reserves; or
 - (b) Claims that are expected to be incurred after the valuation date. Any present liability of the insurer for these future claims should be provided for by the establishment of contract reserves and unearned premium reserves.
- (18) "Terminal reserve" means the reserve at the end of a contract year, and is defined as the present value of benefits expected to be incurred after that contract year minus the present value of future valuation net premiums.
- (19) "Unearned premium reserve" means the value of that portion of the premium paid or due to the insurer that is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of one hundred twenty dollars (\$120.00) was paid on November 1, twenty dollars (\$20.00) would be earned as of December 31 and the remaining one hundred dollars (\$100.00) would be unearned. The unearned premium reserve could be on a gross basis as in this example, or on a valuation net premium basis.
- (20) "Valuation net modal premium" means the modal fraction of the valuation net annual premium that corresponds to the gross modal premium in effect on any contract to which contract reserves apply. Thus if the mode of payment in effect is quarterly, the valuation net modal premium is the quarterly equivalent of the valuation net annual premium.

*History Note: Authority G.S. 58-2-40; 58-58-50(k);
 Temporary Adoption Eff. January 21, 1994 for a period of 180 days or until the Permanent Rule becomes effective, whichever is sooner;
 Eff. April 1, 1994;
 Amended Eff. August 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

11 NCAC 11F .0202 GENERAL

- (a) This Section applies to all accident and health insurance coverages under G.S. 58, Articles 50 through 55.
- (b) When an insurer determines that adequacy of its insurance reserves requires reserves in excess of the minimum standards specified in this Section, such increased reserves shall be held and shall be considered the minimum reserves for that insurer.
- (c) With respect to any block of contracts, or with respect to an insurer's accident and health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation shall take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect. Such a gross premium valuation shall be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of contracts or with respect to the insurer's accident and health business as a whole. If inadequacy is found to exist, immediate loss recognition shall be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium, and contract reserves, if any) shall be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under this Section.
- (d) Whenever minimum reserves, as specified in this Section, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under this Section.
- (e) Adequacy of an insurer's accident and health insurance reserves shall be determined on the basis of claim reserves, premium reserves, and contract reserves, as required in 11 NCAC 11F .0203 through 11 NCAC 11F .0205, combined.

History Note: Filed as a Temporary Adoption Eff. January 21, 1994 For a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner; Statutory Authority G.S. 58-2-40; 58-58-50(k); Eff. April 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0203 CLAIM RESERVES

(a) General:

- (1) Claim reserves are required for all incurred but unpaid claims on all accident and health insurance contracts.
- (2) Appropriate claim expense reserves are required with respect to the estimated expense of settlement of all incurred but unpaid claims.
- (3) All such reserves for prior valuation years shall be tested for adequacy and reasonableness along the lines of claim runoff schedules in accordance with the statutory financial statement including consideration of any residual unpaid liability.

(b) Minimum Standards for Claim Reserves:

- (1) Disability Income:
 - (A) The maximum interest rate for claim reserves is specified in 11 NCAC 11F .0207.
 - (B) Minimum standards with respect to morbidity are those specified in 11 NCAC 11F .0207; except that, at the option of the insurer:
 - (i) For claims with a duration from date of disablement of less than two years, reserves may be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.
 - (ii) For group disability income claims with a duration from date of disablement of more than two years but less than five years, reserves may, with the approval of the Commissioner, be based on the insurer's experience for which the insurer maintains underwriting and claim administration control. The request for such approval of a plan of modification to the reserve basis must include:
 - (I) An analysis of the credibility of the experience;
 - (II) A description of how all the insurer's experience is proposed to be used in setting reserves;
 - (III) A description and quantification of the margins to be included;
 - (IV) A summary of the financial impact that the proposed plan of modification would have had on the insurer's last filed annual statement; and

- (V) A copy of the approval of the proposed plan of modification by the Commissioner of the state of domicile.
- (C) For contracts with an elimination period, the duration of disablement shall be measured as dating from the time that benefits would have begun to accrue had there been no elimination period.
- (2) All Other Benefits:
 - (A) The maximum interest rate for claim reserves is specified in 11 NCAC 11F .0207.
 - (B) The reserve, with respect to morbidity or other contingency, shall be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.
- (c) Any generally accepted or reasonable actuarial method or combination of methods may be used to estimate all claim liabilities. The methods used for estimating liabilities may be aggregate methods; or various reserve items may be separately valued. Approximations based on groupings and averages may also be employed. Adequacy of the claim reserves, however, shall be determined in the aggregate.

History Note: Filed as a Temporary Adoption Eff. January 21, 1994 For a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner; Statutory Authority G.S. 58-2-40; 58-58-50(k); Eff. April 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0204 PREMIUM RESERVES

- (a) General:
 - (1) Unearned premium reserves are required for all contracts with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.
 - (2) If premiums due and unpaid are carried as an asset, such premiums must be treated as premiums in force, subject to unearned premium reserve determination. The value of unpaid commissions, premium taxes, and the cost of collection associated with due and unpaid premiums must be carried as an offsetting liability.
 - (3) The gross premiums paid in advance for a period of coverage commencing after the next premium due date that follows the date of valuation may be appropriately discounted to the valuation date and shall be held either as a separate liability or as an addition to the unearned premium reserve that would otherwise be required as a minimum.
- (b) Minimum Standards for Unearned Premium Reserves:
 - (1) The minimum unearned premium reserve with respect to any contract is the pro rata unearned modal premium that applies to the premium period beyond the valuation date, with such premium determined on the basis of:
 - (A) The valuation net modal premium on the contract reserve basis applying to the contract; or
 - (B) The gross modal premium for the contract if no contract reserve applies.
 - (2) However, in no event may the sum of the unearned premium and contract reserves for all contracts of the insurer subject to contract reserve requirements be less than the gross modal unearned premium reserve on all such contracts, as of the date of valuation. Such reserve shall never be less than the expected claims for the period beyond the valuation date represented by such unearned premium reserve, to the extent not provided for elsewhere.
- (c) The insurer may employ suitable approximations and estimates, including groupings, averages, and aggregate estimation, in computing premium reserves. Such approximations or estimates shall be tested periodically to determine their continuing adequacy and reliability.

History Note: Filed as a Temporary Adoption Eff. January 21, 1994 For a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner; Statutory Authority G.S. 58-2-40; 58-58-50(k); Eff. April 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0205 CONTRACT RESERVES

(a) General:

- (1) Contract reserves are required, unless otherwise specified in this Rule for:
 - (A) All individual and group contracts with which level premiums are used; or
 - (B) All individual and group contracts with respect to which, due to the gross premium pricing structure at issue, the value of the future benefits at any time exceeds the value of any appropriate future valuation net premiums at that time. This evaluation may be applied on a rating block basis if the total premiums for the block were developed to support the total risk assumed and expected expenses for the block each year, and a qualified actuary certifies the premium development. The actuary shall state in the certification that premiums for the rating block were developed such that each year's premium was intended to cover that year's costs without any prefunding. If the premium is also intended to recover costs for any prior years, the actuary shall also disclose the reasons for and magnitude of such recovery. The values specified in this Subparagraph shall be determined on the basis specified in 11 NCAC 11F .0205(b).
- (2) Contracts not requiring a contract reserve are:
 - (A) Contracts that cannot be continued after one year from issue; or
 - (B) Contracts already in force on the effective date of these standards for which no contract reserve was required under the immediately preceding standards.
- (3) The contract reserve is in addition to claim reserves and premium reserves.
- (4) The methods and procedures for contract reserves shall be consistent with those for claim reserves for any contract, or else appropriate adjustment must be made when necessary to assure provision for the aggregate liability. The definition of the date of incurral must be the same in both determinations.

(b) Minimum Standards for Contract Reserves:

- (1) Basis:
 - (A) Minimum standards with respect to morbidity are those set forth in 11 NCAC 11F .0207. Valuation net premiums used under each contract must have a structure consistent with the gross premium structure at issue of the contract as this relates to advancing age of insured, contract duration and period for which gross premiums have been calculated. Contracts for which tabular morbidity standards are not specified in 11 NCAC 11F .0207 shall be valued using tables established for reserve purposes by a qualified actuary and acceptable to the Commissioner.
 - (B) The maximum interest rate is specified in 11 NCAC 11F .0207.
 - (C) Termination rates used in the computation of reserves shall be on the basis of a mortality table as specified in 11 NCAC 11F .0207 except as noted in Subparagraphs (b)(1)(C)(i) and (ii) of this Rule.
 - (i) Under contracts for which premium rates are not guaranteed, and where the effects of insurer underwriting are specifically used by contract duration in the valuation morbidity standard, or for return of premium or other deferred cash benefits, total termination rates may be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of:
 - (I) 80 percent of the total termination rate used in the calculation of the gross premiums; or
 - (II) Eight percent.
 - (ii) For long-term care individual policies or group certificates issued after August 1, 2004, the contract reserve may be established on a basis of separate mortality and other terminations, where the other terminations are not to exceed:
 - (I) For policy years one through four, the lesser of 80 percent of the voluntary lapse rate used in the calculation of gross premiums and eight percent;
 - (II) For policy years five and later, the lesser of 100 percent of the voluntary lapse rate used in the calculation of gross premiums and four percent.

Where a morbidity standard specified in 11 NCAC 11F .0207 is on an aggregate basis, such morbidity standard may be adjusted to reflect the effect of insurer underwriting by contract duration. The adjustments must be appropriate to the underwriting.

- (2) Reserve Method:
 - (A) For insurance except long-term care and return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated on the two-year full preliminary term method; that is, under which the terminal reserve is zero at the first and also the second contract anniversary.

- (B) For long-term care insurance, the minimum reserve is the reserve calculated on the one-year full preliminary term method.
 - (C) For return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated as follows:
 - (i) On the one-year preliminary term method if such benefits are provided at any time before the 20th anniversary;
 - (ii) On the two-year preliminary term method if such benefits are only provided on or after the 20th anniversary.
 - (D) The preliminary term method may be applied only in relation to the date of issue of a contract. Reserve adjustments introduced later, as a result of rate increases, revisions in assumptions (e.g., projected inflation rates) or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis.
- (3) Negative reserves on any benefit may be offset against positive reserves for other benefits in the same contract, but the total contract reserve with respect to all benefits combined may not be less than zero.
 - (4) For long-term care insurance with nonforfeiture benefits, the contract reserve on a policy basis shall not be less than the net single premium for the nonforfeiture benefits at the appropriate policy duration, where the net single premium is computed according to the standards specified in this Rule.
- (c) Provided the contract reserve on all contracts to which an alternative method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified in this Rule, an insurer may use any reasonable assumptions as to interest rates, termination or mortality rates, and rates of morbidity or other contingency. Also, subject to the preceding condition, the insurer may employ methods other than the methods stated in this rule in determining a sound value of its liabilities under such contracts, including, but not limited to the following:
- (1) the net level premium method;
 - (2) the one-year full preliminary term method;
 - (3) prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses;
 - (4) the use of approximations such as those involving age groupings, groupings of several years of issue, average amounts of indemnity, grouping of similar contract forms;
 - (5) the computation of the reserve for one contract benefit as a percentage of, or by other relation to, the aggregated contract reserves exclusive of the benefit or benefits so valued; and
 - (6) the use of a composite annual claim cost for all or any combination of the benefits included in the contracts valued.
- (d) Annually, a review shall be made of the insurer's prospective contract liabilities on contracts valued by tabular reserves, to determine the continuing adequacy and reasonableness of the tabular reserves giving consideration to future gross premiums. The insurer shall make appropriate increments to such tabular reserves if such tests indicated that the basis of such reserves is no longer adequate; subject, however, to the minimum standards of 11 NCAC 11F .0205(b). If an insurer has a contract or a group of related similar contracts, for which future gross premiums will be restricted by contract, insurance department rules, or for other reasons, such that the future gross premiums reduced by expenses for administration, commissions and taxes will be insufficient to cover future claims, the insurer shall establish contract reserves for such shortfall in the aggregate.

*History Note: Authority G.S. 58-2-40; 58-58-50(k);
 Temporary Adoption Eff. January 21, 1994 for a period of 180 days or until the Permanent Rule becomes effective, whichever is sooner;
 Eff. April 1, 1994;
 Amended Eff. August 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

11 NCAC 11F .0206 REINSURANCE

Increases to, or credits against reserves carried, arising because of reinsurance assumed or reinsurance ceded, must be determined in a manner consistent with the minimum reserve standards set out in 11 NCAC 11F .0200 and with all applicable provisions of the reinsurance contracts that affect the insurer's liabilities.

*History Note: Filed as a Temporary Adoption Eff. January 21, 1994 For a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
 Statutory Authority G.S. 58-2-40; 58-58-50(k);*

Eff. April 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0207 SPECIFIC STANDARDS FOR MORBIDITY, INTEREST AND MORTALITY

(a) Minimum standard morbidity tables for valuation of specified individual contract accident and health insurance benefits are as follows:

- (1) Disability Income Benefits Due to Accident or Sickness.
 - (A) Contract Reserves:
 - (i) Contracts issued on or after January 1, 1965 and before January 1, 1986: The 1964 Commissioners Disability Table (64 CDT).
 - (ii) Contracts issued on or after January 1, 1994: The 1985 Commissioners Individual Disability Tables A (85CIDA); or The 1985 Commissioners Individual Disability Tables B (85CIDB).
 - (iii) Contracts issued during the years 1986 through 1993: Optional use of either the 1964 or the 1985 Tables.
 - (iv) Each insurer shall elect, with respect to all individual contracts issued in any one statement year, whether it will use Tables A or Tables B as the minimum standard. The insurer may, however, elect to use the other tables with respect to any subsequent statement year.
 - (B) Claim Reserves:
 - (i) For claims incurred on or after August 1, 2004: The 1985 Commissioners Individual Disability Tables A (85CIDA) with claim termination rates multiplied by the following adjustment factors:

Duration	Adjustment Factor	Adjusted Termination Rates*
Week 1	0.366	0.04831
Week 2	0.366	0.04172
Week 3	0.366	0.04063
Week 4	0.366	0.04355
Week 5	0.365	0.04088
Week 6	0.365	0.04271
Week 7	0.365	0.04380
Week 8	0.365	0.04344
Week 9	0.370	0.04292
Week 10	0.370	0.04107
Week 11	0.370	0.03848
Week 12	0.370	0.03478
Week 13	0.370	0.03034
Month 4	0.391	0.08758
Month 5	0.371	0.07346
Month 6	0.435	0.07531
Month 7	0.500	0.07245
Month 8	0.564	0.06655
Month 9	0.613	0.05520
Month 10	0.663	0.04705
Month 11	0.712	0.04486
Month 12	0.756	0.04309
Month 13	0.800	0.04080
Month 14	0.844	0.03882
Month 15	0.888	0.03730
Month 16	0.932	0.03448
Month 17	0.976	0.03026
Month 18	1.020	0.02856

Month 19	1.049	0.02518
Month 20	1.078	0.02264
Month 21	1.107	0.02104
Month 22	1.136	0.01932
Month 23	1.165	0.01865
Month 24	1.195	0.01792
Year 3	1.369	0.16839
Year 4	1.204	0.10114
Year 5	1.199	0.07434
Year 6 & later	1.000	**

* The adjusted termination rates derived from the application of the adjustment factors to the DTS Valuation Table termination rates shown in Exhibits 3a, 3b, 3c, 4, and 5 of *Transactions of the Society of Actuaries (TSA) XXXVII*, pp. 457-463) are displayed. The adjustment factors for age, elimination period, class, sex, and cause displayed in Exhibits 3a, 3b, 3c, and 4 shall be applied to the adjusted termination rates shown in this table.

**Applicable DTS Valuation Table duration rate from exhibits 3c and 4 (TSA XXXVII, pp. 462-463).

The 85 CIDA table so adjusted for the computation of claim reserves shall be known as 85 CIDC (The 1985 Commissioners individual disability Table C).

- (ii) For claims incurred prior to August 1, 2004:
Each insurer may elect which of the following to use as the minimum standard for claims incurred prior to August 1, 2004:
 - (I) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred, or
 - (II) The standard as defined in Subparagraph (a)(1)(B)(i) of this Rule, applied to all open claims.
 - (III) Once an insurer elects to calculate reserves for all open claims on the standard defined in Subparagraph (a)(1)(B)(i) of this Rule, all future valuations must be on that basis.
- (2) Hospital Benefits, Surgical Benefits and Maternity Benefits (Scheduled benefits or fixed time period benefits only).
 - (A) Contract Reserves:
 - (i) Contracts issued on or after January 1, 1955, and before January 1, 1982: The 1956 Intercompany Hospital-Surgical Tables.
 - (ii) Contracts issued on or after January 1, 1982: The 1974 Medical Expense Tables, Table A.
 - (B) Claim Reserves: See 11 NCAC 11F .0207(a)(5).
- (3) Cancer Expense Benefits (Scheduled benefits or fixed time period benefits only).
 - (A) Contract Reserves: Contracts issued on or after January 1, 1986: The 1985 NAIC Cancer Claim Cost Tables.
 - (B) Claim Reserves: See 11 NCAC 11F .0207(a)(5).
- (4) Accidental Death Benefits.
 - (A) Contract Reserves: Contracts issued on or after January 1, 1965: The 1959 Accident Death Benefits Table.
 - (B) Claim Reserves: Actual amount incurred.
- (5) Single Premium Credit Disability
 - (A) Contract Reserves:
 - (i) For contracts issued on or after August 1, 2004:
 - (I) For plans having less than a 30 day elimination period, the 1985 Commissioners Individual Disability Table A (85 CIDA) with claim incidence rates increased by 12 percent.
 - (II) For plans having a 30 day and greater elimination period, the 85 CIDA for a 14 day elimination period with the adjustment in Subparagraph (a)(5)(A)(i)(I) of this Rule.

- (ii) For contracts issued prior to August 1, 2004, each insurer may elect either Subparagraph (a)(5)(A)(ii)(I) or Subparagraph (a)(5)(A)(ii)(II) of this Rule to use as the minimum standard. Once an insurer elects to calculate reserves for all contracts on the standard defined in Subparagraph (a)(5)(A)(i) of this Rule, all future valuations must be on that basis.
 - (I) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the contract was issued, or
 - (II) The standard as defined in Subparagraph (a)(5)(A)(i) of this Rule, applied to all contracts.
 - (B) Claim Reserves: Claim reserves are to be determined as provided in 11 NCAC 11F .0203.
 - (6) Other Individual Contract Benefits.
 - (A) Contract Reserves: For all other individual contract benefits, morbidity assumptions are to be determined which will produce contract reserves that place a sound value on the liabilities of each such benefit.
 - (B) Claim Reserves: For all benefits other than disability, claim reserves are to be determined as provided in the standards as set out in this rule.
- (b) Minimum standard morbidity tables for valuation of specified group contract accident and health insurance benefits are as follows:
- (1) Disability Income Benefits Due to Accident or Sickness.
 - (A) Contract Reserves:
 - (i) Contracts issued before January 1, 1994: The same basis, if any, as that employed by the insurer as of December 31, 1993.
 - (ii) Contracts issued on or after January 1, 1994: The 1987 Commissioners Group Disability Income Table (87CGDT).
 - (B) Claim Reserves:
 - (i) For claims incurred on or after January 1, 1994: The 1987 Commissioners Group Disability Income Table (87CGDT);
 - (ii) For claims incurred before January 1, 1994: See 11 NCAC 11F .0207(b)(2).
 - (2) Single Premium Credit Disability
 - (A) Contract Reserves:
 - (i) For contracts issued on or after August 1, 2004:
 - (I) For plans having less than a 30 day elimination period, the 1985 Commissioners Individual Disability Table A (85 CIDA) with claim incidence rates increased by 12 percent.
 - (II) For plans having a thirty-day and greater elimination period, the 85 CIDA for a 14 day elimination period with the adjustment in Subparagraph (b)(2)(A)(i)(I) of this Rule.
 - (ii) For contracts issued prior to August 1, 2004, each insurer may elect either Subparagraph (b)(2)(A)(ii)(I) or Subparagraph (b)(2)(A)(ii)(II) of this Rule to use as the minimum standard. Once an insurer elects to calculate reserves for all contracts on the standard defined in Subparagraph (b)(2)(A)(i) of this Rule, all future valuations must be on that basis.
 - (I) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the contract was issued, or
 - (II) The standard as defined in Subparagraph (b)(2)(A)(i) of this Rule, applied to all contracts.
 - (B) Claim Reserves: Claim reserves are to be determined as provided in 11 NCAC 11F .0203.
 - (3) Other Group Contract Benefits.
 - (A) Contract Reserves: For all other group contract benefits, morbidity assumptions are to be determined which will produce contract reserves that place a sound actuarial value on the liabilities of each such benefit.
 - (B) Claim Reserves: For all benefits other than disability, claim reserves are to be determined as provided in the standards as set out in this Rule.
- (c) Maximum interest rate standards for valuation of accident and health insurance benefits are as follows:

- (1) For contract reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the accident and health insurance contract.
 - (2) For claim reserves on contracts that require contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the claim incurral date.
 - (3) For claim reserves on contracts not requiring contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of single premium immediate annuities issued on the same date as the claim incurral date, reduced by one hundred basis points.
- (d) Minimum standard mortality tables for valuation of accident and health insurance benefits are as follows:
- (1) Except as provided for in 11 NCAC 11F .0207(d)(2) or (3), the mortality basis used for all policies except long-term care individual policies and group certificates issued after August 1, 2004, shall be according to a table (but without use of selection factors) permitted by law for the valuation of whole life insurance issued on the same date as the accident and health insurance contract. For long-term care insurance individual policies or group certificates issued on or after August 1, 2004, the mortality basis used shall be the 1983 Group Annuity Mortality Table without projection.
 - (2) Other mortality tables adopted by the NAIC and promulgated by the Commissioner in accordance with G.S. 150B may be used in the calculation of the minimum reserves if appropriate for the type of benefits and if requested by a qualified actuary. The request must include the proposed mortality table and the reason that the standard specified in 11 NCAC 11F .0207(d)(1) is inappropriate.
 - (3) For single premium credit insurance using the 85 CIDA table, no separate mortality shall be assumed.
- (e) The tables referenced in 11 NCAC 11F .0207 may be found as follows:
- (1) The 1964 Commissioners Disability Table, 1965 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 78-80;
 - (2) The 1985 Commissioners Individual Disability Tables A, 1986 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 574-589;
 - (3) The 1985 Commissioners Individual Disability Tables B, 1985 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 486-540;
 - (4) The 1956 Intercompany Hospital-Surgical Tables, 1957 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 83-85;
 - (5) The 1974 Medical Expense Tables, Table A, Transactions of the Society of Actuaries, Vol. XXX, pg. 63. Refer to the paper (in the same volume, page 9), to which this table is appended, including its discussions for methods of adjustment for benefits not directly valued in Table A: "Development of the 1974 Medical Expense Benefits", Houghton and Wolf;
 - (6) The 1985 NAIC Cancer Claim Cost Tables, 1986 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 609-623;
 - (7) The 1959 Accident Death Benefit Tables, Transactions of the Society of Actuaries, Vol. XI, pg. 754; and
 - (8) The 1987 Commissioners Group Disability Income Table, 1987 Proceedings of the National Association of Insurance Commissioners, Vol. II, pgs. 557-619.
 - (9) The 1983 Group Annuity Mortality Table, Transactions of the Society of Actuaries, Vol. XXXV, pgs. 880-881.

Copies of the above-referenced tables can be obtained at a cost prescribed in G.S. 58-6-5(3) from the Actuarial Service Division of the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, N.C. 27611. The above-referenced tables are hereby incorporated by reference and do not incorporate any amendments or editions.

History Note: Authority G.S. 58-2-40; 58-58-50(k);
 Temporary Adoption Eff. January 21, 1994 for a period of 180 days or until the Permanent Rule becomes effective, whichever is sooner;
 Eff. April 1, 1994;
 Amended Eff. August 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0208 RESERVES FOR WAIVER OF PREMIUM

(a) Tabular reserves using the 1964 CDT, 1985 CIDA or 1985 CIDB tables, i.e. disability valuation tables based on exposures that include contracts on premium waiver as in-force contracts, shall value reserves on the following basis:

- (1) Claim reserves shall include reserves for premiums expected to be waived, valuing as a minimum the valuation net premium being waived.
 - (2) Premium reserves shall include contracts on premium waiver as in-force contracts, valuing as a minimum the unearned modal valuation net premium being waived.
 - (3) Contract reserves shall include recognition of the waiver of premium benefit in addition to other contract benefits provided for, valuing as a minimum the valuation net premium to be waived.
- (b) If an insurer is valuing reserves on what is truly an active life table, or if a specific valuation table is not being used but the insurer's gross premiums are calculated on a basis that includes in the projected exposure only those contracts for which premiums are being paid, then it shall still be necessary to provide specifically for waiver of premium reserves.

History Note: Filed as a Temporary Adoption Eff. January 21, 1994, For a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner; Statutory Authority G.S. 58-2-40; 58-58-50(k); Eff. April 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SECTION .0300 - ACTUARIAL OPINION AND MEMORANDUM

11 NCAC 11F .0301 APPLICABILITY AND SCOPE

- (a) This Section applies to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities, or accident and health insurance business in this State. This Section shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant Actuarial Standards of Practice. However, the Commissioner may require specific methods of actuarial analysis and actuarial assumptions when these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. All cross references to rule numbers are to rules within this Section.
- (b) This Section applies to all annual statements filed with the Commissioner after December 31, 2004. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Rule .0306 of this Section and a supporting memorandum in accordance with Rule .0307 of this Section are required each year.

History Note: Authority G.S. 58-2-40; 58-24-120; 58-58-50(i); 58-58-50(j); Eff. December 1, 1994; Amended Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0302 DEFINITIONS

- (a) "Annual statement" means that statement required to be filed each year under G.S. 58-2-165.
- (b) "Appointed actuary" means any individual who is appointed or retained in accordance with Rule .0303(c) of this Section to provide the actuarial opinion and supporting memorandum as required by G.S. 58-58-50(i) and this Section.
- (c) "Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in Rule .0303(d) of this Section.
- (d) "Board" means the Actuarial Standards Board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice, and its successors.
- (e) "Company" means a life insurance company, fraternal benefit society, or reinsurer subject to this Section.
- (f) "Opinion" means the statement of actuarial opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Rule .0306 of this Section and with applicable actuarial standards of practice.
- (g) "Qualified actuary" means any individual who meets the requirements set forth in Rule .0303(b) of this Section.

History Note: Authority G.S. 58-2-40; 58-24-120; 58-58-50(i); 58-58-50(j); Eff. December 1, 1994;

Amended Eff. August 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0303 GENERAL REQUIREMENTS

(a) Submission of Opinion:

- (1) There shall be included on or attached to page 1 of the annual statement for each year beginning with calendar year 2004, the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Rule .0306 of this Section.
- (2) Upon written request by the company the Commissioner shall grant a 45-day extension of the date for submission of the opinion. In the written request, the company shall state the reason that such extension is needed.

(b) A "qualified actuary" is an individual who:

- (1) Is a member in good standing of the American Academy of Actuaries;
- (2) Is qualified to sign opinions for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such opinions;
- (3) Is familiar with the valuation requirements applicable to life and health insurance companies;
- (4) Has not been found by the Commissioner (or if so found has subsequently been reinstated as a qualified actuary), to have:
 - (A) Violated any provision of, or any obligation imposed by, any law or rule in the course of his or her dealings as a qualified actuary;
 - (B) Been found by a court of competent jurisdiction to be guilty of a fraudulent or dishonest practice;
 - (C) Failed to comply with the Code of Professional Conduct as published by the Board;
 - (D) Submitted to the Commissioner during the past five years, under this Section, an opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this Section, including standards set by the Board; or
 - (E) Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on an examination or as a result of failure to adhere to generally acceptable actuarial standards; and
- (5) Has not failed to notify the Commissioner of any action taken by any insurance regulator of any other state similar to that under Subparagraph (b)(4) of this Rule.

(c) An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the opinion required by this Section, either directly by or by the authority of the board of directors through an executive officer of the company. The company shall, within 45 days after the date of the appointment, give the Commissioner written notice of the name, title (and, in the case of a consulting actuary, the name of the firm), and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements of Paragraph (b) of this Rule. Once notice is furnished, no further notice is required for the actuary, provided that the company gives the Commissioner written notice if the actuary ceases to be appointed or retained as an appointed actuary or no longer meets the requirements of Paragraph (b) of this Rule. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(d) The asset adequacy analysis required by this Section:

- (1) Shall conform to the standards of practice as promulgated from time to time by the Board and on any additional standards under this Section, which standards are to form the basis of the opinion in accordance with Rule .0306 of this Section; and
- (2) Shall be based on methods of analysis that are consistent with Actuarial Standards of Practice adopted by the Board.

(e) Liabilities to be Covered:

- (1) The opinion shall apply to all in force business on the annual statement date regardless of when or where issued, e.g., aggregate reserves for life insurance and annuity policies and contracts, aggregate reserves for accident and health contracts, aggregate reserves for deposit-type contracts, and policy and contract claims liabilities for life and accident and health policies and contracts, and equivalent items in the separate account statement or statements.
- (2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth

in G.S. 58-58-50(d), 58-58-50(d-1), 58-58-50(g), 58-58-50(h), and 58-58-50(k), the company shall establish such additional reserve.

- (3) Additional reserves established under Subparagraph (e)(2) of this Rule and deemed by a qualified actuary to be unnecessary in later years may be released. Any amounts released must be disclosed in the opinion for the applicable year. The release of such reserves is not an adoption of a lower standard of valuation.

History Note: Authority G.S. 58-2-40; 58-58-50(i); 58-58-50(j);
Eff. December 1, 1994;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0304 REQUIRED OPINIONS
11 NCAC 11F .0305 OPINION WITHOUT ASSET ADEQUACY ANALYSIS

History Note: Authority G.S. 58-2-40; 58-58-50(i); 58-58-50(j);
Eff. December 1, 1994;
Repealed Eff. August 1, 2004.

11 NCAC 11F .0306 OPINION BASED ON ASSET ADEQUACY ANALYSIS

- (a) The opinion submitted in accordance with this Rule shall consist of:
- (1) A paragraph identifying the appointed actuary and his or her qualifications as prescribed by Subparagraph (b)(1) of this Rule;
 - (2) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, as prescribed by Subparagraph (b)(2) of this Rule and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;
 - (3) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (for example, anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios as prescribed by Subparagraph (b)(3) of this Rule), supported by a statement of each such expert in the form prescribed by Paragraph (e) of this Rule; and
 - (4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities as prescribed by Subparagraph (b)(6) of this Rule;
 - (5) One or more additional paragraphs shall be needed in individual company cases if the appointed actuary:
 - (A) Considers it necessary to state a qualification of his or her opinion;
 - (B) Must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion.
 - (C) Must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release.
 - (D) Chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.
- (b) The following paragraphs are to be included in the opinion in accordance with this Rule. The appointed actuary shall use language that expresses his or her own professional judgement. The opinion shall retain all pertinent aspects of the language provided in this Section.
- (1) The opening paragraph shall indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.
 - (A) For a company actuary, the opening paragraph of the actuarial opinion shall read as follows:
"I [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of the insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."
 - (B) For a consulting actuary, the opening paragraph shall contain a sentence similar to the following:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

- (2) The scope paragraph shall include a statement similar to the following:
"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, [year]. Tabulated below are those reserves and related actuarial items that have been subjected to asset adequacy analysis.
(Include reserves and related actuarial items that correspond to the Asset Adequacy Tested Amounts Reserves and Liabilities Table listed in the NAIC Model Regulation titled, "Actuarial Opinion and Memorandum Regulation," and any subsequent amendments and editions. A copy of the Table may be obtained from the North Carolina Department of Insurance at a cost prescribed in G.S. 58-6-5(3)).
- (3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement similar to one of the following:
(A) "I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] as certified in the attached statement. I have reviewed the information relied upon for reasonableness....", or
(B) "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement. I have reviewed the information relied upon for reasonableness."
Such a statement of reliance on other experts shall be accompanied by a statement by each of such experts of the form prescribed by Paragraph (e) of this Rule.
- (4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include the following:
"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement. "
- (5) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company or a third party, the reliance paragraph shall include a statement similar to the following:
"In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statement. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods used and such tests of the actuarial calculations as I considered necessary."
Such a sentence must be accompanied by a statement by each person relied upon of the form prescribed by Paragraph (e) of this Rule.
- (6) The opinion paragraph of an unqualified opinion shall include the following:
(A) "In my opinion the reserves and related actuarial values concerning the statement items identified above:
1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;
2. Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
3. Meet the requirements of the insurance laws and rules of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and
5. Include provision for all actuarial reserves and related statement items that ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion."

- (B) Select one of the following two paragraphs:
- (i) "This opinion is updated annually as required by law. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion that should be considered in reviewing this opinion;" or
 - (ii) "The following material change(s) that occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion." (Describe the change or changes.)
- (C) "The effect of unanticipated events after the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date"

(c) The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Rule.

(d) If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue an opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified opinion explicitly stating the reason or reasons for such opinion. This statement shall follow the scope paragraph and precede the opinion paragraph. If the appointed actuary's opinion is adverse or qualified, the appointed actuary shall modify the language prescribed in Rule .0306(b)(6) of this Section as made necessary by the reason or reasons for the qualified opinion, and shall label the opinion paragraph with the words "Qualified Opinion."

(e) If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the opinion, or the appropriateness of any other information used by the appointed actuary in forming the opinion, the opinion shall so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address, and telephone number of the person rendering the certification, as well as the date on which it is signed.

*History Note: Authority G.S. 58-2-40; 58-58-50(i); 58-58-50(j);
Eff. December 1, 1994;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20,
2015.*

11 NCAC 11F .0307 ACTUARIAL MEMORANDUM WITH ASSET ADEQUACY ANALYSIS

(a) General:

- (1) In accordance with G.S. 58-58-50(i) and (j), the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under an opinion prescribed by Rule .0306 of this Section. The memorandum shall be made available for examination by the Commissioner upon request and shall be returned to the company after the examination and shall not be subject to automatic filing with the Commissioner.
 - (2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Rule .0303(b) of this Section, with respect to the areas covered in such memoranda, and so state in their memoranda.
 - (3) If the Commissioner requests a memorandum and no such memorandum exists or if the Commissioner finds that the analysis described in the memorandum fails to meet the standards of the Board or the standards and requirements of this Section, the Commissioner shall designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Commissioner.
 - (4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the Commissioner under G.S. 58-58-50(j). The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the company under this Section for any one of the current year or the preceding three years.
 - (5) In accordance with G.S. 58-58-50(j), the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Paragraph (c) of this Rule. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.
- (b) When an actuarial opinion under Rule .0306 of this Section is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Rule .0303(d) of this Section and any additional standards under this Section. It shall specify:
- (1) For reserves:
 - (A) Product descriptions, including market description, underwriting, and other aspects of a risk profile, and the specific risks the appointed actuary deems to be significant;
 - (B) Source of liability in force;
 - (C) Reserve method and basis;
 - (D) Investment reserves;
 - (E) Reinsurance arrangements;
 - (F) Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;
 - (G) Documentation of assumptions to test reserves for the following:
 - (i) Lapse rates (both base and excess);
 - (ii) Interest crediting rate strategy;

- (iii) Mortality;
- (iv) Policyholder dividend strategy;
- (v) Competitor or market interest rate;
- (vi) Annuitization rates;
- (vii) Commissions and expenses; and
- (viii) Morbidity.

The documentation of assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

- (2) For assets:
 - (A) Portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;
 - (B) Investment and disinvestment assumptions;
 - (C) Source of asset data;
 - (D) Asset valuation bases; and
 - (E) Documentation of assumptions made for:
 - (i) Default costs;
 - (ii) Bond call function;
 - (iii) Mortgage prepayment function;
 - (iv) Determining market value for assets sold due to disinvestment strategy; and
 - (v) Determining yield on assets acquired through the investment strategy.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

- (3) For the analysis basis:
 - (A) Methodology;
 - (B) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
 - (C) Rationale for degree of rigor in analyzing different blocks of business (including in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);
 - (D) Criteria for determining asset adequacy (including in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and
 - (E) Effect of federal income taxes, reinsurance, and other actuarially or financially relevant factors.
- (4) Summary of any changes in methods, procedures, or assumptions from the prior year's asset adequacy analysis which the appointed actuary considers to be material.
- (5) Summary of results.
- (6) Conclusions.

(c) The regulatory asset adequacy issues summary shall include:

- (1) Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under any tests in the aggregate, the actuary shall describe those tests and the amount of additional reserve as of the valuation date that, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are considered by the appointed actuary to be immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;
- (2) The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are considered by the appointed actuary to be materially different than the assumptions used in the previous asset adequacy analysis;
- (3) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;
- (4) Comments on any interim results that may be of concern to the appointed actuary, such as the effect of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

- (5) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and
 - (6) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.
- (d) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied, and shall be signed and dated by the appointed actuary rendering the actuarial opinion.
- (e) The memorandum shall include a statement:
 "Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."
- (f) An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR shall be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.
- (g) The appointed actuary shall retain on file, for at least seven years, all documentation necessary to determine the procedures followed, the analyses performed, the bases for the assumptions, and the results obtained.

History Note: Authority G.S. 58-2-40; 58-58-50(i); 58-58-50(j);
 Eff. December 1, 1994;
 Amended Eff. March 1, 2010; August 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0308 ADDITIONAL CONSIDERATIONS FOR ANALYSIS

History Note: Authority G.S. 58-2-40; 58-58-50(i); 58-58-50(j);
 Eff. December 1, 1994;
 Repealed Eff. August 1, 2004.

SECTION .0400 – COMMISSIONER'S RESERVE VALUATION METHOD

11 NCAC 11F .0401 APPLICABILITY

- (a) This Section does not apply to:
- (1) Any individual life insurance policy issued on or after January 1, 2000, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before January 1, 2000, that guarantees the premium rates of the new policy; nor to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy;
 - (2) Any universal life policy that meets all the following requirements:
 - (A) The secondary guarantee period, if any, is five years or less.
 - (B) The specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in 11 NCAC 11F .0402(6) and the applicable valuation interest rate.
 - (C) The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.
 - (3) Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts;
 - (4) Any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; and

- (5) A group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.
- (b) Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with 11 NCAC 11F .0404.
- (c) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with 11 NCAC 11F .0405.

History Note: Authority G.S. 58-2-40; 58-58-50(d); 58-58-50(k); Eff. January 1, 1998; Temporary Amendment Eff. January 1, 2000; Amended Eff. July 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0402 DEFINITIONS

As used in this Section:

- (1) "Basic reserves" means reserves calculated in accordance with G.S. 58-58-50(d).
- (2) "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in 11 NCAC 11F .0402(6) (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in 11 NCAC 11F .0403(b).

The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

$t = 1, 2, \dots$; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount, for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{qx_{k+t}}{qx_{k+t-1}}$$

However, R_t may be increased or decreased by one percent in any policy year, at the company's option, but R_t shall not be less than one;

where:

x , k and t are as defined above, and

qx_{k+t-1} = valuation mortality rate for deficiency reserves in policy year $k+t$, but using the mortality of 11 NCAC 11F .0403(b)(2) if 11 NCAC 11F .0403(b)(3) is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than zero (0) and $GP_{x+k+t-1}$ is equal to zero (0), G_t shall be deemed to be one thousand (1,000). If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to zero (0), G_t shall be deemed to be zero (0).

- (3) "Deficiency reserves" means the excess, if greater than zero, of minimum reserves calculated in accordance with G.S. 58-58-50(g) over basic reserves.
- (4) "Guaranteed gross premiums" means the premiums under a policy of life insurance that are guaranteed and determined at issue.

- (5) "Maximum valuation interest rates" means the interest rates specified in G.S. 58-58-50(c)(4) that are to be used in determining the minimum standard for the valuation of life insurance policies.
- (6) "1980 CSO valuation tables" means the Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.
- (7) "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in 11 NCAC 11F .0405(a)(3), if any, or else the minimum premium described in 11 NCAC 11F .0405(a)(4).
- (8) "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment.
- (a) The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:
- (i) The present value of the death benefits within the segment, plus;
- (ii) The present value of any unusual guaranteed cash value (see 11 NCAC 11F .0404(d)) occurring at the end of the segment, less;
- (iii) Any unusual guaranteed cash value occurring at the start of the segment, plus; and
- (iv) For the first segment only, the excess of the Item (A) over Item (B), as follows:
- (A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy; and
- (B) A net one-year term premium for the benefits provided for in the first policy year.
- (b) The length of each segment is determined by the contract segmentation method.
- (c) The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.
- (d) For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.
- (9) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.
- (10) "Ten-year select factors" means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.
- (11) "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:
- (a) Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy;
- (b) Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item (i) over Item (ii):
- (i) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium

whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

- (ii) A net one-year term premium for the benefits provided for in the first policy year; and
 - (c) The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.
- (12) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

*History Note: Authority G.S. 58-2-40; 58-58-50(d); 58-58-50(k);
Eff. January 1, 1998;
Temporary Amendment Eff. January 1, 2000;
Amended Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

11 NCAC 11F .0403 BASIC AND PREMIUM DEFICIENCY RESERVES

(a) At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for this purpose). If select mortality factors are elected, they may be:

- (1) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
- (2) The select mortality factors in the NAIC Model Regulation entitled "Valuation of Life Insurance Policies Model Regulation"; or
- (3) Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for the purpose of calculating basic reserves.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner). If select mortality factors are elected, they may be any of the following:

- (1) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
- (2) The select mortality factors in the NAIC Model Regulation entitled "Valuation of Life Insurance Policies Model Regulation";
- (3) For durations in the first segment, X percent of the select mortality factors in the NAIC Model Regulation entitled "Valuation of Life Insurance Policies Model Regulation," subject to the following:
 - (A) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;
 - (B) X is such that, when using the valuation interest rate used for basic reserves, Item (i) is greater than or equal to Item (ii):
 - (i) The actuarial present value of future death benefits calculated using the mortality rates resulting from the application of X;
 - (ii) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;
 - (C) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;
 - (D) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all requirements of this Rule;

- (E) The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of this Rule;
 - (F) The appointed actuary shall take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums; and
 - (G) If X is less than 100 percent at any duration for any policy, the following requirements shall be met:
 - (i) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of 11 NCAC 11F .0300;
 - (ii) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the effect of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and
 - (iii) The appointed actuary shall annually opine for all policies subject to this Section as to whether the mortality rates resulting from the application of X meet the requirements of this Rule. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience;
- (4) Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for the purpose of calculating deficiency reserves.
- (c) This Rule applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10-year select mortality factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, may be used thereafter through the tenth policy year from the date of issue.
- (d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium, but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums even if they are not included in the actual calculation of basic reserves.
- (e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:
- (1) Reserves calculated ignoring the guarantee;
 - (2) Reserves assuming the guarantee was made at issue; or
 - (3) Reserves assuming that the policy was issued on the date of the guarantee.

History Note: Authority G.S. 58-2-40; 58-58-50(d); 58-58-50(k); Eff. January 1, 1998; Temporary Amended Eff. January 1, 2000; Amended Eff. March 1, 2010; July 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0404 CALCULATION OF 11 NCAC 11F .0401(b)

- (a) Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the following adjustments may be made:
- (1) Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment; or
 - (2) Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.
- (b) Deficiency Reserves:

- (1) The deficiency reserve at any duration shall be calculated:
 - (A) On a unitary basis if the corresponding basic reserve determined by 11 NCAC 11F .0404(a) is unitary;
 - (B) On a segmented basis if the corresponding basic reserve determined by 11 NCAC 11F .0404(a) is segmented; or
 - (C) On the segmented basis if the corresponding basic reserve determined by 11 NCAC 11F .0404(a) is equal to both the segmented reserve and the unitary reserve.
- (2) 11 NCAC 11F .0404(b) shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in 11 NCAC 11F .0403 (b)) and rate of interest.
- (3) Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in 11 NCAC 11F .0403(b).
- (4) For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(c) Minimum Value - Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as those that are used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the 10-year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Model Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

(d) Unusual Pattern of Guaranteed Cash Surrender Values:

- (1) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.
- (2) The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:
 - (A) n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:
 - (i) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or
 - (ii) The mandatory expiration date of the policy;
 - (B) The net premium for a given year during the n-year period is equal to the product of the net to gross ratio and the respective gross premium; and
 - (C) The net to gross ratio is equal to Item (i) divided by Item (ii):
 - (i) The present value, at the beginning of the n-year period, of death benefits payable during the n-year period plus the present value, at the beginning of the n-year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n-year period.
 - (ii) The present value, at the beginning of the n-year period, of the scheduled gross premiums payable during the n-year period.
- (3) For the purposes of 11 NCAC 11F .0404(d) a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:
 - (A) One hundred ten percent (110%) of the scheduled gross premium for that year;

- (B) One hundred ten percent (110%) of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and
 - (C) Five percent (5%) of the first policy year surrender charge, if any.
- (e) Optional Exemption for Yearly Renewable Term Reinsurance - At the option of the company, the following approach for reserves on YRT reinsurance may be used:
 - (1) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year;
 - (2) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in 11 NCAC 11F .0404(c);
 - (3) Deficiency reserves:
 - (A) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.
 - (B) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Part (A) of this Subparagraph.
 - (4) For purposes of 11 NCAC 11F .0404(e), the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors, or any other table adopted after January 1, 2000, by the NAIC and adopted as a rule by the Commissioner for this purpose;
 - (5) A reinsurance agreement shall be considered YRT reinsurance for purposes of this Rule if only the mortality risk is reinsured.
 - (6) If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.
- (f) Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies - At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used:
 - (1) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year;
 - (2) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in 11 NCAC 11F.0404(c);
 - (3) Deficiency reserves:
 - (A) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.
 - (B) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Part (A) of this Subparagraph;
 - (4) For purposes of 11 NCAC 11F .0404(f), the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors, or any other table adopted after January 1, 2000, by the NAIC and adopted as a rule by the Commissioner for this purpose;
 - (5) A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this Rule if:
 - (A) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and
 - (B) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age;
 - (6) For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this Rule may be used after the initial period if:
 - (A) The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or
 - (B) The initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and
 - (C) After the initial period of coverage, the policy meets the conditions of Subparagraph (f)(5) of this Rule;
 - (7) If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after January 1, 2000.
- (g) Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance Policies - Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

- (1) The policy consists of a series of n-year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than 10 years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;
 - (2) The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the 10-year select mortality factors; and
 - (3) There are no cash surrender values in any policy year.
- (h) Exemption from Unitary Reserves for Certain Juvenile Policies - Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:
- (1) At issue, the insured is age 24 or younger;
 - (2) Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and
 - (3) After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

History Note: Authority G.S. 58-2-40; 58-58-50(d); 58-58-50(k); Eff. January 1, 1998; Temporary Amendment Eff. January 1, 2000; Amended Eff. July 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0405 CALCULATION OF 11 NCAC 11F .0401(c)

(a) General

- (1) Policies with a secondary guarantee include:
 - (A) A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;
 - (B) A policy in which the minimum premium at any duration is less than the corresponding one-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after January 1, 2000, by the NAIC and adopted as a rule by the Commissioner for this purpose; or
 - (C) A policy with any combination of Parts (A) and (B).
- (2) A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in Paragraphs (b) and (c) of this Rule shall be recalculated from issue to reflect these changes.
- (3) Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.
- (4) For purposes of this Rule, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.
- (5) The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in 11 NCAC 11F .0403(b)(2), .0403(b)(3), and .0403(b)(4) may not be used to calculate the one-year valuation premiums.
- (6) The one-year valuation premium shall reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(b) Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in 11 NCAC 11F .0402(2).

(c) Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in 11 NCAC 11F .0404(b) with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(d) The minimum reserves during the secondary guarantee period are the greater of:

- (1) The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or
- (2) The minimum reserves required by other rules or regulations governing universal life plans.

*History Note: Authority G.S. 58-2-40; 58-58-50(d); 58-58-50(k);
Eff. January 1, 1998;
Temporary Amendment Eff. January 1, 2000;
Amended Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

11 NCAC 11F .0406 LIMITED USE OF ANTICIPATED WITHDRAWAL RATES

(a) This Rule applies to universal life insurance policies and certificates issued after December 31, 2006, and before January 1, 2014, that contain a secondary guarantee that the death benefits will remain in effect as long as the accumulation of premiums paid satisfies the secondary guarantee requirement stated in the policy or certificate.

(b) For purposes of applying 11 NCAC 11F .0405(b) and 11 NCAC 11F .0405(c), a withdrawal rate of no more than two percent per year for the first five policy years, followed by no more than one percent per year to the policy anniversary specified in the following table, and zero percent thereafter shall be used. If the duration determined by reference to the table is less than five policy years, a withdrawal rate of no more than two percent per year shall be used through that duration, with zero percent per year used thereafter.

<u>Issue Age</u>	<u>Duration</u>
0-50	Policy Duration 30 years.
51-60	Duration at which policyholder reaches attained age 80.
61-70	Policy Duration 20 years.
71-89	Duration at which policyholder reaches attained age 90.
90 and over	No withdrawal rate assumption allowed.

*History Note: Authority G.S. 58-2-40; 58-58-50(b); 58-58-50(l);
Eff. December 1, 2007;
Amended Eff. March 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

SECTION .0500 – NEW ANNUITY VALUATION MORTALITY TABLES

11 NCAC 11F .0501	DEFINITIONS
11 NCAC 11F .0502	INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS
11 NCAC 11F .0503	GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS
11 NCAC 11F .0504	APPLICATION OF THE 1994 GAR TABLE

*History Note: Authority G.S. 58-2-40; 58-58-50(k);
Temporary Adoption Eff. December 1, 1999;
Eff. July 1, 2000;
Repealed Eff. January 1, 2015.*

11 NCAC 11F .0505 MODEL RULE FOR RECOGNIZING A NEW ANNUITY MORTALITY TABLE FOR USE IN DETERMINING RESERVE LIABILITIES FOR ANNUITIES

- (a) The North Carolina Department of Insurance incorporates by reference, including subsequent amendments and editions, the National Association of Insurance Commissioners Model No. 821, NAIC Model Rule (Regulation) for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities. Copies of Model No. 821 may be obtained from: The National Association of Insurance Commissioners, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197; the North Carolina Department of Insurance, Actuarial Services Division, 1201 Mail Service Center, Raleigh, NC 27699-1201; and from the Department of Insurance web page at <http://www.ncdoi.com/>.
- (b) For purposes of this Rule, Subsection A of Section 4 of Model No. 821 shall read as follows:
Except as provided in Subsections B and C of this section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after April 19, 1979.
- (c) For purposes of this Rule, Subsection B of Section 4 of Model No. 821 shall read as follows:
Except as provided in Subsection C of this section, either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987.
- (d) For purposes of this Rule, Subsection C of Section 4 of Model No. 821 shall read as follows:
Except as provided in Subsection D of this section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2000.
- (e) For purposes of this Rule, Subsection D of Section 4 of Model No. 821 shall read as follows:
Except as provided in Subsection E of this section, the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.
- (f) For purposes of this Rule, Subsection E of Section 4 of Model No. 821 shall read as follows:
The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2000, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:
- (1) Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;
 - (2) Settlements involving similar actions such as worker's compensation claims; or
 - (3) Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.
- (g) For purposes of this Rule, Subsection A of Section 6 of Model No. 821 shall read as follows:
Except as provided in Subsections B and C of this section, the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for an annuity or pure endowment purchased on or after April 19, 1979, under a group annuity or pure endowment contract.
- (h) For purposes of this Rule, Subsection B of Section 6 of Model No. 821 shall read as follows:
Except as provided in Subsection C of this section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987, under a group annuity or pure endowment contract.
- (i) For purposes of this Rule, Subsection C of Section 6 of Model No. 821 shall read as follows:
The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2000, under a group annuity or pure endowment contract.
- (j) For purposes of this Rule, Section 1, Section 8, and Section 9 of Model No. 821 are not applicable.

History Note: Authority G.S. 58-2-40; 58-58-50(k);
Eff. January 1, 2015.

**SECTION .0600 – RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING
MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS**

11 NCAC 11F .0601 DEFINITIONS

As used in this Section:

- (1) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.
- (2) "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.
- (3) "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.
- (4) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.
- (5) "Preneed life insurance" means a life insurance policy which, whether by assignment or otherwise, has for a purpose the funding of a preneed funeral contract or an insurance-funded funeral or burial prearrangement, the insured being the person for whose service the funds were paid.
- (6) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

History Note: Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e);
 Eff. March 1, 2004;
 Amended Eff. December 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0602 2001 CSO MORTALITY TABLE AS MINIMUM STANDARD

- (a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this Section, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005, and before the date specified in Paragraph (b) of this Rule to which G.S. 58-58-50(c)(2)(a), G.S. 58-58-55(e)(4)h.6, 11 NCAC 11F .0403(a) or 11 NCAC 11F .0403(b) are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.
- (b) Subject to the conditions stated in this rule, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on or after January 1, 2009, to which G.S. 58-58-50(c)(2)(a), G.S. 58-58-55(e)(4)h.6, 11 NCAC 11F.0403(a) or 11 NCAC 11F.0403(b) are applicable, except for preneed life insurance as specified in 11 NCAC 11F .0606.
- (c) The 2001 CSO Mortality Table shall be the basis for computation of minimum values related to extended term benefits for policies for which the 2001 CSO Mortality Table is the minimum standard for valuation and nonforfeiture purposes.

History Note: Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e);
 Eff. March 1, 2004;
 Amended Eff. December 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0603 CONDITIONS

- (a) For each plan of insurance with separate rates for smokers and nonsmokers an insurer shall use one of the following:
 - (1) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;
 - (2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by G.S. 58-58-50(g) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or
 - (3) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.
- (b) For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

(c) When the 2001 CSO Mortality Table is used for the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, it may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of 11 NCAC 11F .0604 and 11 NCAC 11F .0400, relative to use of the select and ultimate form.

(d) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in 11 NCAC 11F .0303.

History Note: Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e); Eff. March 1, 2004; Amended Eff. December 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0604 APPLICABILITY OF THE 2001 CSO MORTALITY TABLE TO 11 NCAC 11F .0400

(a) For policies for which the 2001 CSO Mortality Table is the minimum standard for valuation and nonforfeiture purposes, 11F .0400 shall be applied in the following manner:

- (1) To comply with 11 NCAC 11F .0401(a)(2)(B), the net level reserve premium shall be based on the ultimate mortality rates in the 2001 CSO Mortality Table;
- (2) To comply with 11 NCAC 11F .0402(2), all calculations shall be made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Subparagraph (a)(4) of this Rule; The value of " $q_{x+k+t-1}$ " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.
- (3) To comply with 11 NCAC 11F .0403(a), the 2001 CSO Mortality Table shall be the minimum standard for basic reserves;
- (4) To comply with 11 NCAC 11F .0403(b), the 2001 CSO Mortality Table shall be the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in 11 NCAC 11F .0403(b)(3). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by rule or necessary to be in compliance with relevant Actuarial Standards of Practice;
- (5) To comply with 11 NCAC 11F .0404(c), the valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table;
- (6) To comply with 11 NCAC 11F .0404(e)(4), the calculations specified in 11 NCAC 11F .0404(e) shall use the ultimate mortality rates in the 2001 CSO Mortality Table;
- (7) To comply with 11 NCAC 11F .0404(f)(4), the calculations specified in 11 NCAC 11F .0404(f) shall use the ultimate rates in the 2001 CSO Mortality Table;
- (8) To comply with 11 NCAC 11F .0404(g)(2), the calculations specified in 11 NCAC 11F .0404(g) shall use the ultimate mortality rates in the 2001 CSO Mortality Table; and
- (9) To comply with 11 NCAC 11F .0405(a)(1)(B), the one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(b) Nothing in this Rule shall be construed to expand the applicability of 11 NCAC 11F .0400 to include life insurance policies exempted under 11 NCAC 11F .0401(a).

History Note Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e); Eff. March 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0605 GENDER-BLENDED TABLES

(a) For any ordinary life insurance policy delivered or issued for delivery in this state on or after January 1, 2005 that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001

CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits, except for preneed life insurance policies issued after December 31, 2008, as provided in 11 NCAC 11F .0606. Notwithstanding this rule, the 2001 CSO Mortality Table, consisting of separate rates of mortality for male and female lives, shall be the minimum valuation standard even if blended tables are used in determining minimum cash surrender values and nonforfeiture benefits.

(b) When using a gender-blended table based on the 2001 CSO Mortality Table for determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the company shall choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

(c) An insurer's issuance of the same kind of policy of life insurance on both a sex-distinct and a sex-neutral basis shall not solely constitute a violation of Article 63 of Chapter 58 of the North Carolina General Statutes.

History Note: Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e);
Eff. March 1, 2004;
Amended Eff. December 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11F .0606 MINIMUM STANDARDS FOR PRENEED LIFE INSURANCE

(a) For preneed life insurance, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for policies issued after December 31, 2008, shall be the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO), without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983. If the policy utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a table that is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F), without ten-year selection factors may, at the option of the insurer, be substituted for the 1980 CSO Table to determine minimum cash surrender values and nonforfeiture benefits. For the Commissioners' 1980 Extended Term Insurance Table (1980 CET), a mortality table which is the same blend of the 1980 CET Table (M) and 1980 CET Table (F) may be substituted. The blended tables must be selected from those published in the 1984 Proceedings of the NAIC, Vol. I., or in the 1987 Proceedings of the NAIC, Volume I.

(b) Notwithstanding 11 NCAC 11F .0606(a), for preneed life insurance policies issued after December 31, 2008 and before January 1, 2012, the 2001 CSO Mortality Table may be used as the minimum standard for reserves and nonforfeiture values. If an insurer elects to use the 2001 CSO Mortality Table as a minimum standard for any preneed life insurance policy issued after December 31, 2008 and before January 1, 2012, the insurer shall provide, as a part of the actuarial memorandum submitted in support of the insurer's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

- (1) A complete list of all preneed policy forms that use the 2001 CSO Mortality Table as a minimum standard;
- (2) A certification signed by the appointed actuary stating that the reserve methodology employed by the insurer in determining reserves for the preneed life insurance policies issued after December 31, 2008 and using the 2001 CSO Mortality Table as a minimum standard, develops adequate reserves for these policies without being aggregated with any other policies; and
- (3) Supporting information regarding the adequacy of reserves for preneed life insurance policies issued after December 31, 2008 and using the 2001 CSO Mortality Table as a minimum standard for reserves. The supporting information shall include documentation of the actuarial assumptions and methods used in testing these reserves for adequacy.

History Note: Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e);
Eff. December 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

SECTION .0700 – DETERMINING MINIMUM RESERVE LIABILITIES FOR CREDIT LIFE INSURANCE

11 NCAC 11F .0701 DETERMINING RESERVE LIABILITIES FOR CREDIT LIFE INSURANCE MODEL REGULATION

(a) The North Carolina Department of Insurance incorporates by reference, including subsequent amendments and editions, the National Association of Insurance Commissioners Model No. 818, Determining Reserve Liabilities for Credit Life

Insurance Model Regulation. Copies of Model No. 818 may be obtained from: The National Association of Insurance Commissioners, 2301 McGee Street, Kansas City, MO 64108-1662; the North Carolina Department of Insurance, Actuarial Services Division, 1201 Mail Service Center, Raleigh, NC 27699-1201; and from the Department of Insurance web page at <http://www.ncdoi.com/>.

(b) For purposes of this Rule, Section 4.C. of Model No. 818 shall read as follows:

"Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction as defined in G.S. 58-58-10.

(c) For purposes of this Rule, Section 6.A. of Model No. 818 shall read as follows:

11 NCAC 11F .0400 shall not apply to credit life insurance.

(d) For purposes of this Rule, Section 6.B. of Model No. 818 shall read as follows:

The interest rates used in determining the minimum standard for valuation shall be the calendar year statutory valuation interest rates as defined in G.S. 58-58-50(c)(4).

(e) For purposes of this Rule, Section 6.C. of Model No. 818 shall read as follows:

The method used in determining the minimum standard for valuation shall be the Commissioner's Reserve Valuation Method as defined in G.S. 58-58-50(d).

(f) This Rule applies to credit life insurance policies and certificates issued on or after January 1, 2006. For credit life insurance policies and certificates issued prior to January 1, 2006, the minimum standard mortality tables and interest rates shall be those provided by the statutes and rules in effect as of the issue date of those policies and certificates.

*History Note: Authority G.S. 58-2-40; 58-58-50(k);
Eff. September 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

SECTION .0800 - PREFERRED CLASS STRUCTURE MORTALITY TABLE

11 NCAC 11F .0801 MODEL REGULATION PERMITTING THE RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

(a) The North Carolina Department of Insurance incorporates by reference, including subsequent amendments and editions, the National Association of Insurance Commissioners Model No. 815, Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities. Copies of Model No. 815 may be obtained from: The National Association of Insurance Commissioners, 2301 McGee Street, Kansas City, MO 64108-1662; the North Carolina Department of Insurance, Actuarial Services Division, 1201 Mail Service Center, Raleigh, NC 27699-1201; and from the Department of Insurance web page at <http://www.ncdoi.com/>.

(b) For purposes of this Rule, Section 2 of Model No. 815 shall read as follows:

The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities in accordance with G.S. 58-58-50 (c)(2)(a), 11 NCAC 11F .0403(a), and 11 NCAC 11F .0403(b).

(c) For purposes of this Rule, Section 4 of Model No. 815 shall read as follows:

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2005 and before January 1, 2007, these tables may be substituted with the consent of the Commissioner and subject to the conditions of Section 5. In determining such consent, the Commissioner shall consider the consent of the insurance regulator of the company's state of domicile. No such election shall be made until the company demonstrates that at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this regulation, shall be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of 11 NCAC 11F .0601, 11 NCAC 11F .0602, 11 NCAC 11F .0603, and 11 NCAC 11F .0604.

(d) For purposes of this Rule, Paragraph C of Section 3, and Paragraph C of Section 5 of Model No. 815 are not applicable.

(e) For purposes of this Rule, Sections 1 and 7 of Model No. 815 are not applicable.

History Note: Authority G.S. 58-2-40; 58-58-50(k);
Eff. April 1, 2007;
Amended Eff. March 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

**SUBCHAPTER 11G - MARKET CONDUCT EXAMINATION SECTION
(TRANSFERRED TO 11 NCAC 10 .1500 EFF. JULY 25, 1989)**

SUBCHAPTER 11H - CONTINUING CARE FACILITIES

11 NCAC 11H .0101 DEFINITIONS

- (a) As used in this Section, unless the context clearly indicates otherwise:
- (1) "Break-even" means confirmation of sufficient executed resident's agreements to assure the facility's financial stability and which further indicate that projected revenues will at least be equal to projected expenses.
 - (2) "Health related services" also means domiciliary (rest home) care or Homes for the Aged, skilled or intermediate nursing, nursing home or rest home admission, or priority admission into a facility, unit, or bed providing any of the above-named services.
 - (3) "Lodging" means independent living without the need or use of health related services.
- (b) The definitions contained in G.S. 58-64-1 are incorporated into this Section by reference.

History Note: Authority G.S. 58-2-40; 58-64-1; 58-64-65;
Eff. June 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0102 LICENSE - STEPS

An applicant shall apply for licensure in accordance with the following steps:

- (1) For new or development stage facilities:
 - (a) The applicant shall initially submit the following items to the Commissioner for review:
 - (i) The applicant's name, address and telephone number;
 - (ii) A copy of a non-binding reservation agreement form;
 - (iii) Escrow agreement;
 - (iv) Narrative describing the facility, its mode of operation, and its location; and
 - (v) Any advertising materials to be used.
 - (b) Upon completion of step (1)(a), the applicant may:
 - (i) Disseminate materials describing the intent to develop a Continuing Care facility; and
 - (ii) Enter into fully refundable non-binding reservation agreements for up to one thousand dollars (\$1,000.00). All funds received shall be escrowed.
- (2) Start-Up Certificate:
 - (a) In order to obtain a Start-Up Certificate, the applicant or provider shall submit the following to the Commissioner for review:
 - (i) Application for Licensure, as required by G.S. 58-64-5(b);
 - (ii) A Disclosure Statement, as required by G.S. 58-64-20;
 - (iii) A copy of a binding reservation agreement or resident agreement; and
 - (iv) A market feasibility study.
 - (b) Upon issuance of the Start-Up Certificate, the applicant or provider may:
 - (i) Enter into binding; reservation agreements or resident agreements;
 - (ii) Accept entrance fees and entrance fee deposits over one thousand dollars (\$1,000.00). Any funds received shall be escrowed and shall be released only in accordance with G.S. 58-64-35;
 - (iii) Begin site preparation work; and

- (iv) Construct model units for marketing.
- (3) Preliminary Certificate:
 - (a) In order to obtain a Preliminary Certificate, the applicant or provider shall submit the following to the Commissioner for review:
 - (i) An explanation of any material differences between actual costs and projected costs contained in the Start-Up Certificate submission (not required for existing operational Continuing Care facilities that are expanding);
 - (ii) An updated Disclosure Statement;
 - (iii) Current interim financial statements; and
 - (iv) Confirmation of signed agreements for at least 50 percent of the new units, reserved by a deposit equal to at least 10 percent of the entrance fee or by a non-refundable deposit equal to the periodic fee for at least two months for facilities that have no entrance fee. Applicants that do not accept presale entrance fees shall place a deposit with the Commissioner. The deposit shall be either one hundred dollars (\$100.00) for each unit for 50 percent of the total proposed units, or one hundred thousand dollars (\$100,000), whichever amount is more. The deposit shall be made in accordance with G.S. 58-5-20. The deposit shall be refunded to the applicant upon receipt of a permanent license.
 - (b) Upon issuance of the Preliminary Certificate, the applicant or provider may:
 - (i) Purchase or construct a Continuing Care facility;
 - (ii) Renovate or develop structure(s) not already licensed as a Continuing Care facility; and
 - (iii) Expand existing Continuing Care facilities in excess of 10 percent of the current number of available Independent Living Units (ILU's) or available health related units/beds.
- (4) Permanent License:
 - (a) In order to obtain a Permanent License, the applicant or provider shall submit the following to the Commissioner for review at least 60 days before the facility opening:
 - (i) An updated Application for Licensure;
 - (ii) An updated Disclosure Statement; and
 - (iii) Confirmation of signed agreements for new units required by the Continuing Care facility to break-even, reserved by a deposit equal to at least 10 percent of the entrance fee or by a non-refundable deposit equal to the periodic fee for at least two months for facilities that have no entrance fee.
 - (b) Upon issuance of the Permanent License and satisfaction of all other legal requirements, the applicant or provider may:
 - (i) Open the Continuing Care facility; and
 - (ii) Provide Continuing Care.
- (5) Restricted or Conditional License:
 - (a) If all other licensing requirements are met, the Commissioner shall, in lieu of denying the issuance of a Permanent License, issue a Restricted or Conditional License to an applicant when one or more of the following conditions exist:
 - (i) A hazardous financial condition.
 - (ii) Occupancy at the facility, or the number of executed agreements for new units at the facility, is below the level at which the facility would break-even.
 - (b) Upon issuance of the Restricted or Conditional License, the provider may operate the facility under the conditions or restrictions established by the Commissioner until such time as the Commissioner alters the conditions for continued operations or issues a Permanent License.
 - (c) Upon issuance of the Restricted or Conditional License, the provider shall file with the Commissioner quarterly financial statements and an occupancy report. These shall be due no later than 45 days following the end of each fiscal quarter.

History Note: Authority G.S. 58-2-40; 58-64-5; 58-64-65; Eff. April 1, 1993; Amended Eff. September 1, 2007; July 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0103 REVOCATION OF LICENSE

The revocation process, as provided by G.S. 58-64-10, shall also apply to the Start-Up Certificate, the Preliminary Certificate, and the Restricted or Conditional License.

History Note: Authority G.S. 58-2-40; 58-64-10; 58-64-65;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0104 SALE OR TRANSFER OF OWNERSHIP

The sale or transfer process, as provided by G.S. 58-64-15, shall also apply to the Start-Up Certificate, the Preliminary Certificate, and the Restricted or Conditional License.

History Note: Authority G.S. 58-2-40; 58-64-15; 58-64-65;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0105 STANDARDIZED DISCLOSURE STATEMENT FORMAT

As per G.S. 58-64-20(d), the Commissioner may prescribe a standardized format for the Disclosure Statement. The format shall be maintained by the Commissioner, and may be updated as necessary.

History Note: Authority G.S. 58-2-40; 58-64-20; 58-64-65;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0106 HEALTH AND FINANCIAL CONDITIONS FOR ACCEPTANCE

The health and financial conditions for acceptance as a resident shall appear within the Disclosure Statement, as provided by G.S. 58-64-20(a)(8). The Disclosure Statement shall also include any conditions related to the acceptance conditions required by the provider or facility, such as age, ability to move or communicate, minimum assistance levels necessary to perform daily activities, prepared wills, and ability to pay under specified conditions.

History Note: Authority G.S. 58-2-40; 58-64-20; 58-64-65;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0107 FINANCIAL STATEMENTS AND COMPILED FIVE YEAR FORECASTS

Certified financial statements, as required by G.S. 58-64-20(a)(10), and compiled five year forecasts, as required by G.S. 58-64-20(a)(12), shall be of the provider's corporation or other legal entity that owns the Continuing Care facility. The Commissioner may also require the provider to supply supplementary financial data or other appropriate disclosure under the requirements of G.S. 58-64-20(a)(10) and G.S. 58-64-20(a)(12) on individual Continuing Care facilities, where a corporation or other legal entity owns various Continuing Care facilities or is engaged in various enterprises.

History Note: Authority G.S. 58-2-40; 58-64-20; 58-64-65;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0108 COMPILED FIVE YEAR FORECAST

(a) The compiled five year forecast shall consist of the following:

- (1) a balance sheet;
- (2) a statement of operations;
- (3) a statement of cash flows; and

- (4) a narrative detailing all significant assumptions.
- (b) The balance sheet shall include individual categories or line items that sum into the following sub-totals, at a minimum:
- (1) current assets;
 - (2) restricted assets, including a line item for operating reserve assets;
 - (3) fixed assets, including property, plant, and equipment;
 - (4) total assets;
 - (5) current liabilities;
 - (6) long-term debt;
 - (7) total liabilities;
 - (8) deferred revenue-refundable;
 - (9) deferred revenue-nonrefundable;
 - (10) equity or fund balance-unrestricted; and
 - (11) equity or fund balance-restricted.
- (c) The statement of operations shall include the following individual categories or line items, at a minimum:
- (1) monthly fee revenues;
 - (2) amortization of entrance fees;
 - (3) health care revenues;
 - (4) investment/interest income;
 - (5) contributions/gifts;
 - (6) health care expenses;
 - (7) operations expenses, consisting of at least maintenance, laundry, and housekeeping;
 - (8) dietary expenses;
 - (9) administrative expenses;
 - (10) interest expenses; and
 - (11) depreciation.

History Note: Authority G.S. 58-2-40; 58-64-20; 58-64-65;
 Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0109 PROPOSED OR DEVELOPMENT STAGE FACILITIES

The Commissioner may apply all or part of G.S. 58-64-20(a)(14) to existing Continuing Care facilities that are expanding.

History Note: Authority G.S. 58-2-40; 58-64-20; 58-64-65;
 Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0110 CONTRACT SPECIFICATION - LIVING UNIT

A "living unit," as described in G.S. 58-64-25(a)(2), means an independent living unit or a health care unit/bed, or as otherwise defined by the annual North Carolina State Medical Facilities Plan.

History Note: Authority G.S. 58-2-40; 58-64-25; 58-64-65;
 Eff. April 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

11 NCAC 11H .0111 INSOLVENCY OR HAZARDOUS FINANCIAL CONDITION

(a) A negative fund balance is a financial position of a provider or facility in which the assets of a provider or facility do not exceed its liabilities, as required under generally accepted accounting principles. The Commissioner may deem a provider or facility that has a negative fund balance to be insolvent or in imminent danger of becoming insolvent if any of the following hazardous financial condition standards or factors are applicable or present:

- (1) There are findings or conditions reported in the provider's or facility's financial statements that the Commissioner determines to be adverse to the financial stability of the provider or facility.

- (2) The current or projected ratios of total assets, including required reserve levels, to total liabilities indicate an impairment or a deterioration of the provider's or facility's operations or equity; or demonstrate a trend that could lead to an impairment or a deterioration of the provider's or facility's operations, working capital, or equity.
- (3) The current or projected ratios of current assets to current liabilities indicate an impairment or a deterioration of the provider's or facility's operations, working capital, or equity; or demonstrate a trend that could lead to an impairment or a deterioration of the provider's or facility's operations, working capital, or equity.
- (4) The provider or facility is unable to perform normal daily activities and meet its obligations as they become due, considering the provider's or facility's current or projected cash flow and liquidity position.
- (5) The provider's or facility's operating losses for the past year or projected operating losses are of such magnitude as to jeopardize normal daily activities or continued provider or facility operations.
- (6) The insolvency of an affiliated provider or facility or other affiliated person results in legal liability of the provider or facility for payments and expenses of such magnitude as to jeopardize the provider's or facility's ability to meet its obligations as they become due, without substantial disposition of assets outside the ordinary course of business, any restructuring of debt, or externally forced revisions of its operations.
- (7) The provider or facility has receivables that are more than 90 days old.
- (8) The insolvency is not temporary and the provider or facility cannot demonstrate that the insolvency is materially reduced or eliminated.
- (9) There is an adverse effect on the provider or facility of reporting entrance fees as deferred revenues, with consideration given to all reporting requirements required under generally accepted accounting principles and the ultimate net income component of those revenues.
- (10) A start-up provider or facility or any operational provider or facility undergoing plant expansion or refinancing of its debt has a financial condition as a result of such action that could otherwise seriously jeopardize present or future operations.

(b) The provider or facility shall prepare a plan to address and correct any condition that has led to a determination of insolvency or imminent danger of insolvency by the Commissioner. The plan must be presented to the Commissioner within 90 days after the date of the insolvency determination. If the plan to correct the condition is disapproved by the Commissioner, the plan does not correct the condition leading to the Commissioner's determination of insolvency, or the provider's or facility's hazardous condition is such that it cannot be significantly corrected or eliminated, the Commissioner may then proceed under G.S. 58-64-10 or G.S. 58-64-45.

History Note: Authority G.S. 58-2-40; 58-64-10; 58-64-45; 58-64-65;
Eff. January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.