

## SUBCHAPTER 11B - SPECIAL PROGRAMS

### SECTION .0100 - SECURITIES

- 11 NCAC 11B .0101      DEPOSITS OF MULTIPLE LINE INSURER**  
**11 NCAC 11B .0102      DEPOSITS: LIFE COMPANIES FOR ADMISSION**  
**11 NCAC 11B .0103      DEPOSIT BY INSURANCE COMPANY WAIVER OPERATIONAL GAIN**

*History Note:*      Authority G.S. 58-9(1); 58-150; 58-182; 58-182(1); 58-182.7;  
                            Eff. February 1, 1976;  
                            Readopted Eff. February 28, 1978;  
                            Amended Eff. July 1, 1986;  
                            Repealed Eff. April 1, 1993.

**11 NCAC 11B .0104      REPLACEMENT UPON REDUCTION OF MARKET VALUE SECURITIES**

*History Note:*      Authority G.S. 58-2-40; 58-5-25;  
                            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                            Repealed Eff.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 .0105      PURPOSE OF DEPOSIT OF GENERAL OR SPECIAL**

*History Note:*      Authority G.S. 58-182.4;  
                            Eff. February 1, 1976;  
                            Readopted Eff. February 28, 1978;  
                            Repealed Eff.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                            Repealed Eff.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                            Repealed Eff.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**  
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**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**  
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**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](http://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.