

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Repealed Eff.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Repealed Eff.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Repealed Eff.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
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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
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11 NCAC 11D .0153	OWNERSHIP OF SECURITIES HELD IN TRUST: INSIDER TRADING
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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.