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West's North Carolina General Statutes Annotated [Currentness](#)

Chapter 58. Insurance ([Refs & Annos](#))

▢ [Article 8. Mutual Insurance Companies](#)

→ **§ 58-8-55. Manner of making assessments; rights and liabilities of policyholders**

When a mutual insurance company is not possessed of cash funds above its reserve sufficient for the payment of insured losses and expenses, it must make an assessment for the amount needed to pay such losses and expenses upon its members liable to assessment therefor in proportion to their several liabilities. The company shall cause to be recorded in a book kept for that purpose the order for the assessment, together with a statement which must set forth the condition of the company at the date of the order, the amount of its cash assets and deposits, notes, or other contingent funds liable to the assessment, the amount the assessment calls for, and the particular losses or liabilities it is made to provide for. This record must be made and signed by the directors who voted for the order before any part of the assessment is collected, and any person liable to the assessment may inspect and take a copy of the same. When, by reason of depreciation or loss of its funds or otherwise, the cash assets of such company, after providing for its other debts, are less than the required premium reserve upon its policies, it must make good the deficiency by assessment in the manner above provided. If the directors are of the opinion that the company is liable to become insolvent they may, instead of such assessment, make two assessments, the first determining what each policyholder must equitably pay or receive in case of withdrawal from the company and having his policy canceled; the second, what further sum each must pay in order to reinsure the unexpired term of his policy at the same rate as the whole was insured at first. Each policyholder must pay or receive according to the first assessment, and his policy shall be cancelled unless he pays the sum further determined by the second assessment, in which case his policy continues in force; but in neither case may a policyholder receive or have credited to him more than he would have received on having his policy canceled by a vote of the directors under the bylaws.

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Amended by Laws 1945, c. 386.

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West's North Carolina General Statutes Annotated [Currentness](#)

Chapter 58. Insurance ([Refs & Annos](#))

▢ [Article 7](#). General Domestic Companies

→ § 58-7-75. Amount of capital and/or surplus required; impairment of capital or surplus

The amount of capital and/or surplus requisite to the formation and organization of companies under the provisions of Articles 1 through 64 of this Chapter shall be as follows:

- (1) Stock Life Insurance Companies.--A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do the business of life insurance, only when it has paid-in capital of at least six hundred thousand dollars (\$600,000) and a paid-in initial surplus of at least nine hundred thousand dollars (\$900,000), and it may in addition do the kind of business specified in [G.S. 58-7-15\(2\)](#), without having additional capital or surplus. Every such company shall at all times thereafter maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000). Provided that, any such corporation may do either or both of the kinds of insurance authorized for stock accident and health insurance companies, as set out in [G.S. 58-7-15\(3\)](#)a. and b., where its charter so permits, and only as long as it maintains a minimum capital and surplus equal to the sum of the minimum capital and surplus requirements of this subdivision and the minimum capital and surplus requirements of subdivision (2) of this section.
- (1a) Non-Stock Life Insurance Companies.--A nonstock corporation, not inclusive of a corporation organized pursuant to subdivision (6) of this section, may be organized in the manner prescribed in this Chapter and licensed to do the business of life insurance, only when it has a paid in initial surplus of at least one million five hundred thousand dollars (\$1,500,000) and it may in addition do the kind of business specified in [G.S. 58-7-15\(2\)](#), without having additional surplus. Every such corporation shall at all times thereafter maintain a minimum surplus of at least seven hundred fifty thousand dollars (\$750,000). Provided that, any such corporation may conduct the kind of insurance authorized for stock accident and health insurance companies, as set out in [G.S. 58-7-15\(3\)](#)a. and b., where its charter so permits, and only as long as it maintains a minimum surplus equal to the sum of the minimum surplus requirements of this subdivision and the minimum surplus requirements of subdivision (2a) of this section.
- (2) Stock Accident and Health Insurance Companies.
 - a. A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do only the kind of insurance specified in [G.S. 58-7-15\(3\)](#)a, when it has paid-in capital of not less than four hundred thousand dollars (\$400,000), and a paid-in initial surplus of at least six hundred thousand dollars (\$600,000). Every such company shall at all times thereafter maintain a minimum capital of not less than four hundred thousand dollars (\$400,000) and a minimum surplus of at least one hundred thousand

dollars (\$100,000).

- b. Any company organized under the provisions of paragraph a of this subdivision may, by the provisions of its original charter or any amendment thereto, acquire the power to do the kind of business specified in [G.S. 58-7-15\(3\)b](#), if it has a paid-in capital of at least six hundred thousand dollars (\$600,000) and a paid-in initial surplus of at least nine hundred thousand dollars (\$900,000). Every such company shall at all times maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000).

(2a) Non-Stock Accident and Health Insurance Companies.

- a. A non-stock corporation, not inclusive of a corporation organized pursuant to subdivision (6) of this section, may be organized in the manner prescribed in this Chapter and licensed to do only the kind of insurance specified in [G.S. 58-7-15\(3\)a](#). when it has a paid in initial surplus of at least one million dollars (\$1,000,000). Every such corporation shall at all times thereafter maintain a minimum surplus of at least five hundred thousand dollars (\$500,000).
- b. Any non-stock corporation organized under the provisions of sub-subdivision a. of this subdivision may, by the provisions of its original charter or any amendment thereto, acquire the power to do the kind of business specified in [G.S. 58-7-15\(3\)b](#)., if it has a paid-in initial surplus of at least one million five hundred thousand dollars (\$1,500,000). Every such corporation shall at all times maintain a minimum surplus of at least seven hundred fifty thousand dollars (\$750,000).

(3) Stock Fire and Marine Companies.--A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in [G.S. 58-7-15 \(4\), \(5\), \(6\), \(7\), \(8\), \(11\), \(12\), \(19\), \(20\), \(21\) and \(22\)](#) only when it has a paid-in capital of not less than eight hundred thousand dollars (\$800,000) and a paid-in initial surplus of not less than one million two hundred thousand dollars (\$1,200,000). Every such company shall at all times thereafter maintain a minimum capital of not less than eight hundred thousand dollars (\$800,000) and a minimum surplus of at least two hundred thousand dollars (\$200,000). Provided that, any such corporation may do all the kinds of insurance authorized for casualty, fidelity and surety companies, as set out in subdivision (4) of this section where its charter so permits, and when and so long as it meets and thereafter maintains a minimum capital and surplus equal to the sum of the minimum capital and surplus requirements of this subdivision and the minimum capital and surplus requirements of subdivision (4) of this section.

(4) Stock Casualty and Fidelity and Surety Companies. -- A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in [G.S. 58-7-15 \(3\), \(6\), \(7\), \(8\), \(9\), \(10\), \(11\), \(12\), \(13\), \(14\), \(15\), \(16\), \(17\), \(18\), \(19\), \(21\), \(22\), and \(23\)](#) only when it has a paid-in capital of not less than one million dollars (\$1,000,000) and a paid-in initial surplus of not less than one million five hundred thousand dollars (\$1,500,000). Every such company shall at all times thereafter maintain a minimum capital of not less than one million dollars (\$1,000,000) and a minimum surplus of at least two hundred fifty thousand dollars (\$250,000).

(5) Mutual Fire and Marine Companies.

- a. Limited assessment companies.--A limited assessment mutual company may be organized in the manner prescribed in this Chapter and licensed to do one or more kinds of insurance specified in [G.S. 58-7-15 \(4\), \(5\), \(6\), \(7\), \(8\), \(11\), \(12\), \(19\), \(20\), \(21\) and \(22\)](#) only when it has no less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of at least three hundred thousand dollars (\$300,000), which surplus shall at all times be maintained. The assessment liability of a policyholder of a company organized in accordance with the provisions of this sub-subdivision shall not be limited to less than five annual premiums; provided, the limited assessment company may reduce the assessment liability of its policyholders from such five annual premiums to one additional annual premium when the free surplus of the company amounts to not less than three hundred thousand dollars (\$300,000), which surplus shall at all times be maintained.
- b. Assessable mutual companies.--An assessable mutual company may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in [G.S. 58-7-15 \(4\), \(5\) and \(6\)](#), with an unlimited assessment liability of its policyholders only when it has not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus equal to twice the amount of the maximum net retained liability under the largest policy of insurance issued by the company; but not less than sixty thousand dollars (\$60,000); which surplus shall at all times be maintained. Provided the company, when its charter so permits, in addition may be licensed to do one or more of the kinds of insurance specified in [G.S. 58-7-15 \(7\), \(8\), \(11\), \(12\), \(19\), \(20\), \(21\) and \(22\)](#), with an unlimited assessment liability of its policyholders, when its free surplus amounts to not less than sixty thousand dollars (\$60,000), which surplus shall at all times be maintained.
- c. Nonassessable mutual companies.--A nonassessable mutual company may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in [G.S. 58-7-15 \(4\), \(5\), \(6\), \(7\), \(8\), \(11\), \(12\), \(19\), \(20\), \(21\) and \(22\)](#) and may be authorized to issue policies under the terms of which a policyholder is not liable for any assessments in addition to the premium set out in the policy only when it has not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of not less than eight hundred thousand dollars (\$800,000), which surplus shall at all times be maintained.
- d. Town or county mutual insurance companies.--A town or county mutual insurance company with unlimited assessment liability may be organized in the manner prescribed in this Chapter and licensed to do the kinds of insurance specified in [G.S. 58-7-15\(4\)](#) only when it has not less than fifty thousand dollars (\$50,000) of insurance in force in not fewer than 50 separate risks subscribed with a paid-in initial surplus of not less than fifteen thousand dollars (\$15,000), which surplus shall at all times be maintained. A town or county mutual insurance company may, in addition to writing the business specified in [G.S. 58-7-15\(4\)](#) cover in the same policy the hazards usually insured against under an extended coverage endorsement when the company has not less than five hundred thousand dollars (\$500,000) of insurance in force in not fewer than 500 separate risks and maintains a surplus at all times of not less than

one hundred twenty thousand dollars (\$120,000): Provided, that the company may not operate in more than six adjacent counties in this State. Any company authorized under this section before July 1, 1991, shall be permitted to continue to do the same kinds of business that it was authorized to do prior to July 1, 1991, without being required to increase its surplus; however, the insurer shall increase its surplus to the required amounts on or before July 1, 1992. The requirements of this sub-subdivision as to surplus shall apply to such companies as a prerequisite to writing additional lines of business, and to such companies as a prerequisite to commencing business if unlicensed prior to July 1, 1991.

(6) Mutual Life, Accident and Health Insurance Companies.--A nonassessable mutual insurance company may be organized in the manner prescribed in this Chapter, and licensed to do only one or more of the kinds of insurance specified in [G.S. 58-7-15 \(1\)](#), [\(2\)](#) and [\(3\)](#) when it has complied with the requirements of this Chapter and with those set forth in sub-subdivisions a through d of this subdivision, inclusive, whichever shall be applicable.

- a. If organized to do only the kinds of insurance specified in [G.S. 58-7-15\(1\)](#) and [\(2\)](#) the company shall have not less than 500 bona fide applications for life insurance in an aggregate amount not less than five hundred thousand dollars (\$500,000), and shall have received from each such applicant in cash the full amount of one annual premium on the policy for which the applicant applied, in an aggregate amount at least equal to ten thousand dollars (\$10,000), and shall in addition have a paid-in initial surplus of two hundred thousand dollars (\$200,000), and shall have and maintain at all times a minimum surplus of one hundred thousand dollars (\$100,000).
- b. If organized to do only the kind of insurance specified in paragraph a of [G.S. 58-7-15\(3\)](#) the company shall have not less than 250 bona fide applications for that insurance, and shall have received from each applicant in cash the full amount of one annual premium on the policy for which the applicant applied, in an aggregate amount of at least ten thousand dollars (\$10,000), and shall have a paid-in initial surplus of two hundred thousand dollars (\$200,000) and shall have and maintain at all times a minimum surplus of one hundred thousand dollars (\$100,000).
- c. If organized to do the kinds of insurance specified in [G.S. 58-7-15\(1\)](#) and [\(3\)a](#), the company shall have complied with the provisions of sub-subdivisions a and b of this subdivision.
- d. If organized to do the kind of insurance specified in [G.S. 58-7-15\(3\)b](#), in addition to the kind or kinds of insurance designated in any one of the preceding sub-subdivisions of this subdivision, the company shall have a paid-in initial surplus of at least five hundred thousand dollars (\$500,000) and shall maintain a minimum surplus of at least three hundred thousand dollars (\$300,000).

(7) Organization of Mutual Casualty, Fidelity and Surety Companies.

- a. Nonassessable, mutual companies.--A mutual insurance company with no assessment liability provided for its policyholders may be organized in the manner prescribed in this Chapter and licensed to do one

or more of the kinds of insurance specified in [G.S. 58-7-15\(3\), \(6\), \(7\), \(8\), \(9\), \(10\), \(11\), \(12\), \(13\), \(14\), \(15\), \(16\), \(17\), \(18\), \(19\), \(21\) and \(22\)](#) when it has a minimum paid-in initial surplus of one million dollars (\$1,000,000) and not less than five hundred thousand dollars (\$500,000) in insurance subscribed in not less than 500 separate risks. The surplus of the company shall at all times be maintained at or above that amount.

- b. Assessable mutual companies.--A mutual insurance company with assessment liability provided for its policyholders may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in [G.S. 58-7-15 \(3\), \(6\), \(7\), \(8\), \(9\), \(10\), \(11\), \(12\), \(13\), \(14\), \(15\), \(16\), \(17\), \(18\), \(19\), \(21\) and \(22\)](#) when it has a minimum paid-in initial surplus of four hundred thousand dollars (\$400,000) and not less than five hundred thousand dollars (\$500,000) of insurance subscribed in not less than 500 separate risks. The company shall at all times maintain a surplus in an amount not less than four hundred thousand dollars (\$400,000). The assessment liability of a policyholder of the company shall not be limited to less than one annual premium.

(8) Organization of Mutual Multiple Line Companies.

- a. Assessable mutual companies.--A company may do all the kinds of insurance authorized to be done by a company organized under the provisions of sub-subdivision (5)a, and sub-subdivision (7)b of this subdivision, where its charter so permits when and if it meets the combined minimum requirements of those sub-subdivisions. The assessment liability of policyholders of such a company shall not be limited to less than one annual premium within any one policy year.
- b. Nonassessable mutual companies.--A company may do all the kinds of insurance authorized to be done by a company organized under the provisions of sub-subdivision (5)c, and sub-subdivision (7)a of this subdivision, where its charter so permits when and if it meets the combined minimum requirements of those paragraphs. The policyholders of such a company shall not be subject to any assessment liability.

(9) Repealed by [Laws 1991, c. 644, § 32](#).

- (10) Impairment of Capital and/or Surplus. -- Whenever the Commissioner finds from a financial statement made by any company, or from a report of examination of any company, that its admitted assets are less than the aggregate amount of its liabilities and its outstanding capital stock, required minimum surplus, or both, the Commissioner shall determine, in accordance with [G.S. 58-2-165](#) and other applicable provisions of this Chapter, the amount of the impairment of capital, surplus, or both and issue an order in writing requiring the company to eliminate the impairment within such period of not more than 90 days as the Commissioner shall designate. The Commissioner may, by order served upon the company, prohibit the company from issuing any new policies while the impairment exists. If at the expiration of the designated period the company has not satisfied the Commissioner that the impairment has been eliminated, an order for the rehabilitation or liquidation of the company may be entered as provided in Article 30 of this Chapter.

(11) The Commissioner may require an insurer to have and maintain a larger amount of capital or surplus than prescribed in this section, based upon the volume and kinds of insurance transacted by the insurer and on the principles of risk-based capital as determined by the NAIC or the Commissioner.

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Amended by Laws 1945, c. 386; Laws 1947, c. 721; Laws 1963, c. 943; Laws 1965, c. 947; Laws 1967, c. 300; Laws 1971, c. 536; Laws 1973, c. 686; Laws 1979, c. 421, § 1; Laws 1983, c. 472; Laws 1985, c. 666, § 75; Laws 1985 (Reg. Sess., 1986), c. 1013, § 10; Laws 1989, c. 485, § 53; [Laws 1991, c. 644, § 32](#); [Laws 1991, c. 681, § 27](#); [Laws 1995, c. 193, § 17, eff. June 7, 1995](#); [S.L. 2001-223, § 5.1, eff. June 15, 2001](#); [S.L. 2007-127, § 4, eff. July 1, 2007](#); [S.L. 2008-124, § 2.6, eff. July 28, 2008](#).

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