

# Eye on DOI

Spring 2006

The State of Insurance in North Carolina...and More

Jim Long, Commissioner

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## Flood Coverage: A New Approach for Agents, Better Service for Clients

Insurance Commissioner Jim Long asks: do you fully understand the importance of flood insurance?

Whether you are an agent or adjuster, insurance executive or just a homeowner yourself, flood insurance should be on your mind. Every North Carolinian should consider whether he or she needs the coverage; but insurance agents should take on an additional burden — learning enough about the coverage to properly advise clients.

Commissioner Long is urging agents across the state to consider flood insurance in a different light.

“As yet another hurricane season gets underway, with last year’s extensive flooding in spots around the nation still fresh on our minds, I want to take this opportunity to suggest a slightly different approach to flood insurance — treat it as a valuable product in the portfolio you offer your clients,” he says. “Many products available today are of interest to only a small portion of consumers, but often agencies advertise them as products that are available for purchase; I encourage you to make flood insurance one of the products that you talk with your clients about.”

An NAIC flood insurance study group contends that one of the largest problems with flood coverage is just plain ignorance on the part of agents, adjusters and

insureds alike. Since flooding can be a problem in North Carolina, it is important for agents and adjusters to be familiar with flood coverage.

“You wouldn’t sell auto, home or business insurance without being familiar with the product so that you can offer your client informed advice and the same should hold true for flood insurance. If you’re not familiar with it, take the steps necessary to learn about it,” Long says. “A good starting point

for learning about flood insurance is continuing education; we’ve included a flood course in the continuing education program since

1999, so if you haven’t taken it yet, take it this year, and if you took it several years ago, take it again, as the program is always changing.”

The Department’s Web site, [www.ncdoi.com](http://www.ncdoi.com), contains a section that can help consumers understand specific types of insurance, including flood insurance. By selecting “flood insurance,” consumers can read about the most frequently asked questions, including what a flood policy covers, what it doesn’t cover, and any restrictions that might apply. This consumer section provides a good primer on flood coverage, and there is also a link to the

*Flood insurance is a valuable product in your portfolio.*

*Continued on page 2...*

# Agents Reminded to Keep Department Advised of Address Changes

Agent Services Division generates several thousands of letters each year to our agents, brokers, adjusters, bail bondsmen and business entities. Unfortunately, many of these communications are never seen by our licensees because the addresses we have on file are out of date.

It is important for all licensees to remember that only the licensee can update his or her address with the Department. In accordance with N.C.G.S. §58-2-69(b), “Every licensee shall give written notification to the Commissioner of any change of the licensee’s residential address within 10

business days after the licensee moves into the licensee’s new residence. This requirement applies if the change of residential address is by governmental action and there has been no actual change of residence location; in which case the licensee must notify the Commissioner within 10 days after the effective date of the change.”

We know that our licensees do not want to miss important information about their license status such as continuing education notices, renewal billings and other updates, but the Department cannot change a licensee’s address

from the U.S. Postal Service forward information since we can only make the change at the licensee’s request.

If your mailing address is a post office box, we must have both a mailing and physical address on record. You can find a change of address form on the Department’s Web site at [www.ncdoi.com](http://www.ncdoi.com).

## North Carolina Department of Insurance

1201 Mail Service Center, Raleigh, NC 27699  
[www.ncdoi.com](http://www.ncdoi.com)  
Agent Services (919) 807-6800  
Consumer Services (800) 546-5664

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Chief Deputy Commissioner

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Assistant Commissioner

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Louis Belo  
Tim Bradley  
Angela Ford  
Ray Martinez

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Hazel Stephenson, Manufactured Building  
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*...continued from page 1.*

National Flood Insurance Program (NFIP) Web site, where consumers can find a wealth of information and direction on how to handle flood coverage.

“To make sure your clients are the most informed they can be, help yourself understand flood coverage,” urges Long. Some tips for becoming more familiar with flood insurance include:

**Know your community and the potential product market.** Your client does not have to live on a major river or near the ocean to qualify for flood coverage. Any resident of a jurisdiction participating in the NFIP is eligible to purchase coverage. North Carolina victims of the 2004 hurricane floods were mostly in the mountains, far from the ocean. A tropical storm can turn a peaceful mountain creek into a raging river overnight.

**Know how to write a flood policy.** If a client requested an auto policy, you would know how to quote a premium, which application to fill out and what information is needed in support. Can you do the same if a client needs or wants flood coverage?

**Establish a relationship with either the NFIP or a Write Your Own (WYO) program.** You don’t include business

coverage in your advertisements and then go looking for a company when you have a client. Investigate your major carriers for a WYO program and investigate how to work directly with the NFIP. After you decide how to go, set up a relationship and make sure everyone in your office who works with clients knows you are set up to do this coverage.

**Protect your client and yourself.** Make sure every client who might be eligible for flood coverage is offered flood insurance. Don’t be the agent who gets to tell a client whose home or business was destroyed by a flood that they could have purchased coverage from you had they only asked. Tell them they can buy it and from you, their agent.

Include flood on a worksheet that asks the questions about the extra coverages that apply to home or business property packages. Use this when selling or reviewing your client’s coverage, and if you client declines the coverage, obtain their signature on the form.

Don’t be ignorant of coverage that could help your clients. Learn how flood insurance can enhance your portfolio and better the services you offer your customers. Says Long, “Your client will thank you and your community will be better off for the effort.”

## Department Investigators Fight Insurance Fraud

### A Closer Look at Staged Accidents in North Carolina

The Department's Investigations Division saw the conclusion to one of their largest insurance fraud cases in years in 2005, when they successfully shut down a major auto insurance fraud ring in North Carolina.

In cooperation with the North Carolina Attorney General's Special Prosecutions Unit, the United States Postal Inspectors Service and the National Insurance Crime Bureau (NICB), and along with special investigative units from Nationwide, State Farm, Allstate and GMAC insurance companies, investigators brought to justice eight ringleaders of the scheme, which included an extensive family network of fraudsters in Siler City.

Investigators found that the fraud ring filed at least 480 fraudulent auto crash claims with insurance companies since 1992. The companies paid out an estimated \$2 million in phony claims.

Investigators were tipped off by the insurance companies and a special agent from NICB, who began to notice a trend in auto accident claims from the

Chatham County, Randolph County and Alamance County areas. Specific interest grew as the claims began to concentrate on the cities of Siler City and Asheboro. City, county and state law enforcement agencies were briefed on the trends and joined the elaborate task force, which Department investigators cite as being one of the most technologically advanced investigative endeavors to date.

Relying heavily on a computerized link analysis provided by the Chicago Office

*Industry statistics estimate that 10 cents of every dollar spent in insurance premiums go towards paying a fraudulent claim.*

of NICB, investigators were able to show the relationships and frequencies of each suspected family member in the fraud ring. Combining the computerized forensics available today with old fashioned police work, the task force infiltrated the family network and obtained sufficient evidence for the

Chatham County grand jury to return 45 separate indictments on eight key suspects.

An April 12, 2005, early morning raid produced seven arrests. In the months that followed, the Attorney General's special prosecutor presented overwhelming evidence condemning the seven, who then entered negotiated guilty pleas in Chatham County Superior Court. "I'm so proud that the Department had a hand in bringing these criminals to justice," said Insurance

Commissioner Jim Long. "I hope this can serve as a lesson to others who are considering committing insurance fraud."

During his 21 year tenure, Commissioner Long has demonstrated a "zero tolerance" position regarding insurance fraud. Keeping North Carolina's auto insurance rates the fifth

lowest in the nation requires not only strict and aggressive enforcement, but also educational efforts. By working together with federal, state and local law enforcement agencies, Department investigators hope to make North Carolina a tough place to commit insurance fraud.

## Accessibility Code Certified by U.S. Department of Justice

### North Carolina Only the 6<sup>th</sup> State to Receive Federal Approval

In November 2005, the U.S. Department of Justice certified North Carolina's Accessibility Code as being compliant with the Americans with Disabilities Act (ADA) Accessibility Guidelines. As only the sixth state in the nation to adopt an accessibility building code that meets federal approval, the newly certified Accessibility Code will improve access for persons with disabilities in communities throughout the state.

While the certification went into effect last November, several North Carolina Department of Insurance Office of State Fire Marshal (OSFM) employees worked toward ADA compliance for many years. In fact, OSFM's own Jeff Kanner personally wrote and illustrated the new Accessibility Code, which is considered a separate volume in the state's building code.

"I know the hard work that went into getting this code written and approved by the Department of Justice will be well worth it," said Insurance Commissioner and State Fire Marshal Jim Long. "I'm proud that our folks played such a major role in improving the way North Carolina's citizens with disabilities will get around everyday."

# Department Congratulates Thirteen New Deputy Commissioners, Senior Staff Members

In an effort to always serve the people of North Carolina well, the Department of Insurance saw a reshuffling of staff during the past year. Some new faces joined our workforce and some long-time employees moved into management positions new for them. Please join us in congratulating and welcoming the following staff.

**Barbara Morales Burke, chief deputy commissioner**

— Morales Burke, a familiar face in the Department, previously served as assistant commissioner, senior deputy commissioner for Technical Services and deputy commissioner for Managed Care. She has worked with private health insurance organizations including the N.C. State Employees' Health Plan. Morales Burke graduated from Fordham University in New York with a degree in business administration and finance, and has an M.H.A. from the University of North Carolina, Chapel Hill. When she's not working, Barbara enjoys cooking and fine dining and, along with her with her husband Scott, taking long walks with their beagle, Beauregard.

**Wayne Goodwin, assistant commissioner** — Goodwin previously served as assistant general counsel for DOI. Prior to coming to work with the Department, Goodwin practiced law in Richmond County and served four terms in the N.C. House of Representatives. He also served as adjunct professor at Richmond Community College. Goodwin is a graduate of the University of North

Carolina, Chapel Hill where he earned degrees in political science and law. He is married to State Representative Melanie Wade Goodwin and they have one daughter, Madison.



*Wayne Goodwin and Barbara Morales Burke*

public accountant in New York and Florida and got a degree in accounting from Iona. Ray lives in north Raleigh with his wife Andrea and their two dogs.

**Larry Brewer, chief information systems officer** — Brewer has worked continuously with DOI since 1972, the longest continuous tenure of anyone currently still with the Department. For the last 20 years, Brewer has been with Information Systems; prior to that he worked in the Consumer Services Division as well as the Fire and Casualty Division. He is a graduate of North Carolina State University with a degree in applied mathematics. Brewer is married with two children and one set of twin grandchildren.

**Ray Martinez, senior deputy for Company Services**

— Martinez worked with the Department for 18 years as deputy commissioner for Financial Evaluation prior to becoming senior deputy. Before he came to DOI, Martinez worked for Peat, Marwick, Mitchell and Company, and served as chief financial officer for two insurance companies. He is a licensed certified

**Kevin Conley, chief actuary** —

Conley worked for the Department for barely a year prior to becoming chief actuary; however, he has been an actuary for more than 20 years, previously working for APCapital, the state of Iowa, CNA and Allstate. He is a fellow of the Casualty Actuarial Society and graduate of Valparaiso University of Indiana, where he majored in both history and math. Kevin and his wife, Patsy, have seven children, ranging from 4 to 16.

**Wanda Edwards, deputy commissioner, Engineering Division** —

Edwards was promoted to deputy commissioner after serving for several years as a supervisor and code consultant in the Engineering Division. She has degrees in both architecture and civil engineering with a construction option from North Carolina State University; Edwards also has a Professional Engineer designation. Prior to coming to DOI, she was self-employed as president of a construction company and worked for Carolina Power and Light (now Progress Energy). She has two children, Patrick and Adrienne Piche.

**Fred Fuller, deputy commissioner, Property and Casualty Division** —

Fuller has worked in the Department for 15 years in both the Property and Casualty and Market Examinations



*Ray Martinez, Jeff Trendel and Tony Riddick*

Divisions. Prior to coming to work for DOI, he worked for Crum and Forster. Fuller has a degree in business administration from East Carolina University. He and his wife Krista have one son, Jack, who is in the first grade, and one 55 lb. black poodle, Zoe.

**Ted Hamby, deputy commissioner, Life and Health Division** — Over the past 18 years, Hamby has worked in management positions in the Managed Care, Life and Health and Consumer Services Divisions. Prior to coming to DOI, Hamby worked 19 years in the insurance industry with experience in underwriting, claims and sales administration. He has a Fellow designation from the Life Office Management Association and various other industry educational designations and achievements. He and his wife Roberta have a son who is a certified public accountant and a daughter with two grandchildren.

**Bob Lisson, deputy commissioner, Consumer Services Division** — Lisson was assistant deputy commissioner of the Managed Care Division for five and a half years, prior to moving into the Consumer Division. Before joining the Department, he was employed in the managed care sector with the Morrisville regional office of Magellan Behavioral Health. Lisson has an undergraduate degree in economics and psychology from Duke, and a masters and Ph.D. from the University of North Carolina, Greensboro. He lives in Raleigh with his wife Lisa, who is a physical therapist at Duke Health Raleigh Hospital, and their two children ages 11 and 7.

**Etta Maynard, deputy commissioner, Agent Services Division**

— Maynard has been involved in the insurance arena for 19 years, with experience in both operations and underwriting in



*Bob Lisson*

the personal lines market. Her regulatory experience began in 2000 when she came to DOI as the agency examination



*Fred Fuller, Etta Maynard and Ted Hamby*

supervisor. Maynard has a degree from the University of North Carolina at Pembroke and is a member of the Insurance Regulatory Examiners Society. She lives with her husband, Tom, and their dog, Abigail. Her interests include going to the beach, reading, and hosting social events with her husband.

**Tony Riddick, deputy commissioner, Financial Evaluation Division** — Riddick worked with the Department in the Financial Evaluation Division as an examiner and examination supervisor for more than 11 years prior to becoming head of the

Division. He is a certified public accountant and certified financial examiner. Prior to working with the Department, he worked for Reliance Insurance Company and Great American Insurance Company. Riddick is a graduate of North Carolina Central University with a degree in accounting. He is on the board of directors for the North Carolina Association of Certified Public Accountants and the Society of Financial

Examiners. He and his wife, Sharon, have been married for 15 years, and he is an active volunteer with the youth

mentoring organization, 100 Black Men of America.

**Hazel Stephenson, deputy commissioner, Manufactured Building Division**

— Stephenson has worked with the Department for more 20 years, all of that time with the Manufactured Building Division.

Her duties in that division included serving as a hearing officer and supervisor. Prior to DOI, she worked with the Department of Transportation. Stephenson

is married and has two daughters, but she is most proud of being a doting grandmother to her six grandchildren, five boys and one girl.

**Jeff Trendel, deputy commissioner, Regulatory Actions Division**

— Trendel worked for the Department for eight years prior to his promo-



*Wanda Edwards and Hazel Stephenson*

tion to the Regulatory Actions Division, with most of that time spent as manager of the special entities section in the Financial Evaluation Division. Prior to working with the Department, Trendel worked for Raleigh Federal Savings Bank. He is a 1988 graduate of the Citadel, the Military College of South Carolina, with a major in business administration. Trendel is married with five sons ranging in age from 2 to 17, and is actively involved in coaching both basketball and baseball.

# Agent Advertising: What You Don't Know Can Hurt You

**D**OI discovered that some agents are not following North Carolina's laws regarding advertising insurance products. Because these laws are aimed at protecting consumers' interests, please review these laws so that you can protect not only your clients and yourself, but also the insurance companies for which you work.

Independently developed advertisements are a tricky issue because approval requirements differ depending on the advertised subject matter. First, agents should be aware that any advertising piece that is presented as an inducement to purchase insurance, whether in print, on television, on radio or in any other form, is the responsibility of the insurer. This is the case regardless of who wrote, created, designed or presented the advertisement. In fact, many insurers maintain strict control over the content of advertising to avoid possible deceptive practices which may hold them liable, and many agents have signed contracts with appointed companies which require advertising approval by the company prior to use.

North Carolina's insurance laws explicitly require insurers to obtain approval from the DOI's Life and Health Division prior to actually using certain advertising materials. These laws specifically pertain to long-term care, annuities, Medicare supplement and interest sensitive life products. An important detail to note is that the Life and Health Division

accepts and reviews these materials only when submitted by the insurer — they do not accept, review or approve advertising materials submitted directly by agents.

In addition, regulations stipulate all advertising (including that which is not required to be filed with the Department) must be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead. These requirements are so strict that, for example, there are certain words that cannot be used in life and annuity advertising.

There have been some problems with some agents developing and using advertising materials that require prior approval, but that were not receiving any approval at all because it was not understood that the materials met the definitions of "advertisements" found in the North Carolina Administrative Code. Specifically, the two areas of concern are materials used in sales seminars conducted by agents and sales presentation spreadsheets, which consolidate the policy terms and conditions of different insurers for side-by-side comparison.

To clear up this confusion, the North Carolina Administrative Code 11 NCAC 12.0517 defines accident and health advertisements to include the following:

- printed and published material, audio visual material and descriptive literature of an insurer used in direct

mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays;

- descriptive literature and sales aids of ALL kinds issued by an insurer, agent or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;
- prepared sales talks, presentations and material for use by agents, brokers and solicitors.

Further, North Carolina Administrative Code 11 NCAC 12.0424 defines life insurance and annuity advertising to include all of the above definitions found in accident and health advertisements and also adds:

- material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;
- material used for recruitment, training, and education of an insurer's sales personnel, agents, solicitors, and brokers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy.

The Agent Services Division has ruled that generic business cards identifying licensees' qualifications do not require prior approval by the Department; however, if questions remain regarding logos or content of the business card, agents should consult with their appointed company. Remember, too, that all agents should submit advertising materials to their appointed company for approval PRIOR to use and consult with them directly on any questions they may have in developing material to ensure it is in compliance with company and DOI requirements.

## Agents, need to look up your records?

**Our new Record Look-Up Service is now available online!**

The following information can now be obtained via [www.ncdoi.com](http://www.ncdoi.com):

- license status (individual licensees and business entities)
- verification of annual renewal payments
- CE status, including listing of courses completed by year
- CE course offering and provider information by license type

Please note that the CE and licensing Voice Response Units (VRU) have been disabled and will no longer be updated.



## Message to Agents from DOI, Secretary of State: Know the Signs of Investment Fraud! Securities Laws May Apply to Your Business

Insurance Commissioner Jim Long and Secretary of State Elaine Marshall are working together to ensure that insurance agents are educated on North Carolina's securities laws and how they may affect an agent's business. Securities laws may apply to types of products offered to sell.

The Secretary of State's office has seen an increase in fraudulent, unregistered securities offerings and is warning agents that the sale of these investment opportunities may result in violations of the North Carolina Securities Act. As an agent, it is important that you understand that most non-insurance investment offerings are considered "securities" under both state and federal law.

Licensed insurance professionals are receiving solicitations asking for their participation in the offer and sale of various investments and/or business opportunities to clients; often, these solicitations promise above-average commissions to lure you into selling these products. These solicitations target you because, as an agent, you have an extensive client list and a good business reputation in your community, so that you can reel in unsuspecting investors. Naturally, these scam artists claim that these investment products are not "securities" and aren't regulated by state or federal law. Don't believe them!

Agents should be aware that these disclaimers will not protect those who violate the North Carolina Securities Act. These securities products often have attractive terms, are often described as "safe" or "guaranteed" investment products, purport to offer unreasonably high rates of return, and usually have lucrative sales incentives or commissions. Recent examples of these products

include "prime bank" notes, brokered or callable certificates of deposit, offshore investments, bond trading programs and promissory notes.

The Department of the Secretary of State, through the Securities Division, regulates the offer and sale of investments by and to North Carolina residents. Under North Carolina law, sales of unregistered securities or sales of securities by unregistered persons, as well as other violations of the anti-fraud provisions of the North Carolina Securities Act, carry possible civil and criminal penalties.

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*Please be aware that such investment products are subject to intensive regulation.*

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Certain essentially "passive" investment products have also been marketed to the public in recent years, including pay telephone investments, ATM investment and equipment sale and leaseback opportunities. Please be aware that such passive investment products, where the investor does not have to actively participate in managing the business in order to realize investment profits, are "securities" and are subject to intensive regulation under the securities laws.

Any offer or sale of these products also subjects the seller to the stockbroker registration provisions of the North Carolina Securities Act. Additionally, even though under current North Carolina law variable annuities are not considered "securities," the persons who offer and sell them are required to be registered as representatives.

Generally speaking, people who engage in the business of advising others for a

fee as to the value of securities or as to the advisability of investing in, purchasing or selling securities, are required to be registered with the Securities Division as investment advisers. Providing investment advice or asset management services for a fee without proper state registration, or making misrepresentations or omissions of a material fact in the course of providing investment advisory services, can subject you to civil and criminal penalties, as well as subject you to lawsuits brought by your clients. Insurance agents who are approached to market one of the above-mentioned types of investments, to provide investment advisory services for a fee or to solicit investment advisory services on behalf of another, but are not registered as a stockbroker, investment adviser or investment adviser representative should

contact the Securities Division at 1-800-688-4507 to determine:

1. whether the investment is required to be registered as a security;
2. whether the agent should be registered as a stockbroker in order to offer or sell these investments; and
3. whether the agent should be registered as an investment adviser or investment adviser representative before giving investment advice or managing someone's investments, or soliciting investment advisory services on behalf of another.

If you have any questions about these matters, or have been approached by someone to participate in some of these activities, please contact the Securities Division so that we can stop potential securities fraud. For more information, call 1-800-688-4507, or visit the Secretary of State's Web site at [www.sosnc.com](http://www.sosnc.com).

## Terrorism Risk Insurance Extension Act of 2005

On Dec. 22, 2005, President Bush signed the Terrorism Risk Extension Act of 2005 into law. This law extends the Terrorism Risk Insurance Act of 2002 (TRIA), which provides a federal back-stop for defined acts of terrorism and imposes certain obligations on the insurance industry. TRIA was developed in response to the substantial losses experienced by the industry resulting from the tragic events that occurred on Sept. 11, 2001. Through the Extension Act, it is now extended through Dec. 31, 2007.

Several provisions of TRIA have changed in the recent extension; these changes include:

1. Deletion of commercial automobile, burglary and theft, surety, professional liability (with the exception of directors and officers liability) and farmowners multiple peril coverages from eligible lines.
2. Increase in the individual company deductible for 2006 and 2007 to 17.5 percent and 20 percent, respectively.
3. Increase the industry aggregate retention level from \$15 billion to \$25 billion in 2006 and to \$27.5 billion in 2007.
4. Reduction in the federal share of compensation for covered losses from 90 percent to 85 percent for 2007.

5. Maintains the \$5 million threshold for certification of a terrorist act, while establishing a per event trigger for federal participation in aggregate insured losses of \$50 million for losses occurring after March 31, 2006, and before Jan. 1, 2007, and \$100 million for losses occurring in the 2007 program ending year.
6. Extension of existing litigation management provisions and codification of regulations requiring submission and approval of proposed settlements.

“Basically, according to the federal Department of the Treasury, insurers have until Jan. 31, 2006, to offer terrorism insurance to those policyholders whose coverage was scheduled to lapse in connection with TRIA’s expiration on Dec. 31, 2005,” explains Fred Fuller, DOI’s deputy commissioner for the Property and Casualty Division. “But, insurers will not be required to make new offers of terrorism to policyholders who previously declined coverage that would have been in effect in 2006.”

The National Association of Insurance Commissioner’s (NAIC) adopted a model bulletin on Dec. 28, 2005, that is intended to aid state insurance regulators in advising insurers about regulatory requirements related to the Extension Act. Further, the bulletin

provides guidance to insurers related to rate filings and policy form language that state regulators would find acceptable to protect businesses from acts of terrorism.

“Currently, the Department is working to adopt a version of the NAIC model bulletin that advises insurers of these Extension Act changes and provides them with guidance about whether rate and policy form filings might be needed in North Carolina,” Fuller stated.

### New Companies in 2005

- Allstate Property and Casualty Insurance Company, 12-31-05
- American Equity Investment Life Insurance Company, 04-15-05
- Atlantic Coast Life Insurance Company, 09-30-05
- COUNTRY Life Insurance Company, 05-13-05
- Coastal Casualty Insurance Company, 12-31-05
- EastGUARD Insurance Company, 04-15-05
- Fidelis SecureCare of North Carolina, Inc., 07-15-05
- General Fidelity Insurance Company, 04-15-05
- Housing Authority Property Insurance, A Mutual Company, 06-15-05
- MGIC Indemnity Corporation, 03-21-05
- Nationwide Insurance Company of America, 08-12-05
- Progressive Halcyon Insurance Company, 12-31-05
- Starmount Life Insurance Company, 11-10-05
- United Concordia Life and Health Insurance Company, 02-15-05
- VantisLife Insurance Company, 04-15-05
- Western General Insurance Company, 04-15-05



### New Phone Number for Agent Services

The phone number for the Agent Services Division has changed! Please update your records and make note of it.

**(919) 807-6800**

When you call the Division after May 22, 2006, you will hear an automated attendant feature which will give you prompts to direct your call. The Division has a staff of specialists who will assist licensees with licensure and compliance questions.

# Felony Convictions: How They Affect Your Agency

The Agent Services Division has seen a recent upswing in the number of inquiries from agency managers wishing to employ convicted felons — and the trend causes some concern. These managers wish to hire convicted felons not to handle insurance work that requires a license, but rather for general office duties. While such a job description fits within the exception of who needs to hold a license, the Department urges caution — in today's increasingly downsized and computerized agency, there are fewer activities that fit within the licensure exception.

If you, as an agency manager, intend to hire a new receptionist, ask yourself: will this person only answer the phone and greet visitors? Or will there be occasion for this person to give insurance quotes to clients or prospective clients?

All agency managers and employees should be aware of the provisions of the federal Violent Crime Control and Law Enforcement Act of 1994 (the Act), 18 U.S.C. §§ 1033 and 1034. The Act prohibits a person who has been convicted of certain crimes from engaging in the business of insurance unless that person obtains written consent from the appropriate chief state insurance regulatory official — for North Carolina, that would be Insurance Commissioner Jim Long. This broad definition makes the Act applicable to anyone working for an insurance agency, regardless of whether or not that person is acting as an agent. The Act provides for federal penalties, both for the convicted person and any employer of that person in the business of insurance if the commissioner's consent is not obtained.

The Act realizes that those who made poor choices in the past could potentially demonstrate that they deserve a second chance. Individuals who merit a second chance can be employed in the business of insurance; however, they must first receive the required consent.

There are no exceptions, and individuals must obtain the consent before being employed in an agency. As an employer in the business of insurance, your duty is to identify these individuals and guide them in the right, and lawful, direction.

## Felonies Explained

The felonies that fall under the Act include those involving dishonesty or breach of trust. Examples include, but are not limited to, embezzlement, theft, misappropriation and fraud. It is important that employers screen employees for all felonies, because ignorance to prior felony convictions involving dishonesty or breach of trust is not an excuse for failing to comply with the Act; further, ignorance does not exempt employers from receiving penalties.

## Business of Insurance

The Act defines the business of insurance as:

- a) the writing of insurance, or
- b) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

It is also important to note that DOI has taken the position that anyone working in any capacity in an insurance agency must obtain the required consent.

## Written Consent

All requests for written consent are processed by DOI's Agent Services Division. The application for the commissioner's consent appears on the Department's Web site, [www.ncdoi.com/Industry/Agent/Licensing/Forms/FedCrime.PDF](http://www.ncdoi.com/Industry/Agent/Licensing/Forms/FedCrime.PDF). The written consent application and required documents should be sent to DOI's Agent Services Division; because the application requires court documentation, it is recommended that all forms be sent via overnight delivery to: NC-

DOI, Agent Services Division, 430 N. Salisbury Street, Raleigh, NC 27603.

The Agent Services Division can process a request for the Commissioner's consent in approximately two week's time, depending upon existing workload. Please note that a person may not work in an agency while awaiting the Commissioner's consent, and doing so exposes both the employer and employee to the following penalties:

- Any person who has been convicted of a felony involving dishonesty or breach of trust and willfully engages in the business of insurance without the commissioner's consent will be fined, or imprisoned for not more than five years, or both.
- Any individual engaged in the business of insurance who willfully permits the participation in the agency of such a person will be fined, or imprisoned for not more than five years, or both.

## Due Diligence

Here are suggested guidelines to ensure that you exercise due diligence to protect you and your agency from violating the Act:

1. Have a felony criminal conviction question as part of your employment application.
2. If the person has a felony conviction, complete the application for the commissioner's consent and submit the application to the Agent Services Division for review and approval.

Occasionally, DOI receives application for consent for a felony that is not covered by the Act; in this case, the person will receive a letter stating that the felony does not require the commissioner's consent. If you have a question about the criminal past of a current or potential employee, call Elizabeth Guido or Robert Cunningham in the Agent Services Division at (919) 807-6800.

## Regulatory Actions for 2005

### Insurance Agents

**Christopher S. Russell**, License Denial Upheld by Administrative Hearing, 1/14/05, Property/Liability, Concord

**Ana C. Colon**, Voluntary Surrender, 1/19/05 Property/Liability, William Laurie Nationwide Agency, Charlotte

**Angela H. Vestal**, \$500 administrative fine, 1/28/05, Life/Health; Property/Liability; Med Supp/LTC; Motor Club; Broker, Advantage Insurance Services, Asheboro

**Gary Bryant**, \$250 administrative fine, 2/18/05, Life/Health; Property/Liability, Gastonia

**Melanie D. Frye**, Voluntary Surrender, 2/24/05, Property/Liability; Broker, Summit Insurance Agency, Asheboro

**Teresa D. Brank**, Voluntary Surrender, 3/1/05, Property/Liability, Brank Insurance, Weaverville

**Larry M. Drake**, Voluntary Surrender, 3/2/05, Life/Health; Property/Liability; Med Supp/LTC; Broker, Denver Insurance Agency, Lumberton

**Rebecca F. Bright**, \$500 administrative fine, 3/16/05, Life/Health; Property/Liability; Med Supp/LTC; Broker, formerly of NC Farm Bureau Mutual Insurance Co., Kinston

**Dyrell M. Oates**, \$500 administrative fine, 3/22/05, Life/Health; Property/Liability; Motor Club, Mt. Olive

**Louann M. Gimber**, Voluntary Surrender, 4/1/05, Life/Health, Property/Liability, formerly of Summerlin Insurance and Realty, Inc., Jacksonville

**Robert A. Roberts**, Voluntary Surrender, 4/1/05, Life/Health; Property/Liability; Med Supp/LTC; Broker, formerly of Roberts Insurance Agency, Wilmington

**Karl Rabe**, License Denial Upheld by Administrative Hearing, 4/7/05, Life/Health, Carrboro

**Thomas C. Bradley**, License Revoked, 4/8/05, Life/Health; Med Supp/LTC, formerly of Bradley and Associates, Pinehurst

**Wesley K. Miller**, Voluntary Surrender, 4/18/05, Life/Health; Property/Liability, formerly of First Choice Mobile Homes, Kinston

**Troy G. Clark**, Voluntary Surrender, 4/19/05, Life/Health, Lexington

**Michael C. Carbajal**, License Suspended for six months, 4/21/05, Life/Health; Property/Liability; Med Supp/LTC; Motor Club, Veracruz Insurance Agency, Charlotte

**Emily R. Villegas**, Voluntary Surrender, 5/18/05, Property/Liability, formerly of Olympia Latin Services, Charlotte

**Brenda B. McClellan**, \$2,000 administrative fine, 6/3/05, Life/Health; Property/Liability; Broker, McClellan Insurance Agency, Inc., Spruce Pine

**Ashley J. "AJ" Baugstat**, \$250 administrative fine, 6/10/05, Life/Health; Med Supp/LTC, Harrisburg

**Ivon Medina**, \$1,000 administrative fine, 6/10/05, Life/Health; Property/Liability, formerly of Allstate, Charlotte

**Joseph S. Brown, IV**, \$500 administrative fine, 6/10/05, Life/Health; Property/Liability, formerly of United Healthcare, Greensboro

**Jordan H. Wilkins**, License Revoked, 6/27/05, Life/Health; Property/Liability, Louisburg

**Joseph S. Brown, IV**, License Surrender, 7/14/05, Life/Health, Greensboro

**Patrick J. Cusack**, \$100 administrative fine, 8/23/05, Life/Health; Property/Liability; Med Supp/LTC; Broker, Asheville

**Duncan H. Dawkins**, Voluntary Surrender, 7/28/05, Life/Health, formerly of Mountain Eagle Insurance Agency, Hendersonville

**Lisa D. Yates**, Voluntary Surrender 7/28/05, Life/Health; Property/Liability, formerly of Mountain Eagle Insurance Agency, Hendersonville

**William R. Goldstein**, Voluntary Surrender, 8/24/05, Life/Health; Property/Liability, Charlotte

**Ann Y. Williams**, Voluntary Surrender, 9/14/05, Credit Life; Credit Unemployment, Bunn Level

**Amanda J. Boyd**, Voluntary Surrender, 10/3/05, Property/Liability, formerly of Winterville Insurance Agency, Greenville

**Willard D. McNair Jr.**, \$1,350 administrative fine, 10/6/05, Life/Health; Property/Liability; Broker, Laurinburg

**Arthur Mitchell, Jr.**, \$1500 administrative fine, 10/6/05, Life/Health; Property/Liability, Allstate Mitchell Agency, Elizabeth City

**Terry W. Johnson**, Voluntary Surrender, 10/19/05, Life/Health; Med Supp/LTC, Willow Springs

**Annie M. Green**, Voluntary Surrender, 10/24/05, Property/Liability, formerly of Gateway Insurance Service, Elizabeth City

**Joseph F. Lineberger**, Voluntary Surrender, 11/10/05, Life/Health; Property/Liability; Broker, formerly of AB Insurance Agency, Charlotte

**John F. McLure**, Voluntary Surrender, 11/10/05, Life/Health; Property/Liability; Med Supp/LTC; Broker, formerly of McLure Insurance Agency, Pinehurst

**Angela R. Queen**, Voluntary Surrender, 11/10/05, Property/Liability, formerly of AllCare Insurance Agency, Charlotte

**Margaret C. Humphrey**, Voluntary Surrender, 12/6/05, Life/Health; Property/Liability; Med, formerly of the Nationwide-Brent King Agency Supp/LTC, Kinston

**Larry T. Russ**, Voluntary Surrender, 12/6/05, Property/Liability, formerly of S&D Insurance Agency, Concord

**James R. Dupree**, Voluntary Surrender, 12/9/05, Life/Health; Property/Liability; Broker, formerly of Dupree Ins. Services LLC, Raleigh

**Spyros Kroustalis**, Voluntary Surrender, 12/29/05, Life/Health, formerly of United Healthcare, Clemmons

**Winsome Purrier-Epting**, \$500 administrative fine, 1/9/06, Life/Health; Property/Liability, formerly of Allstate, Fayetteville

### Bail Bondsmen

**Eagle A. Collins**, \$500 administrative fine, 3/11/05 Surety Bail Bondsman, Manteo

**Ronald K. Baker**, \$500 administrative fine, 3/16/05, Surety Bail Bondsman, Goldsboro

**Ondra D. Richardson**, License Revoked, 4/20/05, Surety Bail Bondsman, Charlotte

**Andrea L. Grizzle**, \$500 administrative fine, 5/3/05, Surety and Professional Bail Bondsman, Moyock

**Andrew E. Harris, III**, \$750 administrative fine, 7/18/05, Surety Bail Bondsman, Durham

**Bobby L. Jenkins**, \$500 administrative fine, 8/1/05, Surety and Professional Bail Bondsman, Wilson

**Shawn T. Williams**, \$500 administrative fine, 6/13/05, Surety Bail Bondsman, Wilmington

**Calandra W. Gray**, \$250 administrative fine, 8/10/05, Surety Bail Bondsman, Charlotte

**Leroy C. Richardson**, \$750 administrative fine, 8/10/05, Surety Bail Bondsman, Winston-Salem

**Crystal B. Wright**, \$250 administrative fine, 8/22/05, Surety Bail Bondsman, Gastonia

**Derrick D. Harrington**, \$1,000 administrative fine, 9/1/05, Surety Bail Bondsman, Raleigh

**Elliot C. Hunter**, \$750 administrative fine, 10/24/05, Surety Bail Bondsman, Charlotte

**George Lilly, Jr.**, \$250 administrative fine, 12/9/05, Surety and Professional Bail Bondsman, Fayetteville

**Carlester J. Massey**, \$500 administrative fine, 12/19/05, Professional Bail Bondsman, Charlotte

### Insurance Companies

**Harco National Ins. Co.**, \$1,000 administrative fine, 5/5/05, Surety Company, Raleigh

### Collection Agencies

**Syndicated Office Systems**, \$1000 administrative fine, 1/18/05, Anaheim, CA

**Commercial Recovery Systems**, \$5000 administrative fine, 3/29/05, Dallas, TX

**Collectors Training Institute**, \$500 administrative fine, 4/21/05, Chicago, IL

**National Credit Systems Inc.**, \$1,000 administrative fine, 7/7/05, New York, NY

### Premium Finance Companies

**Columbus Insurance Finance Company**, \$1000 administrative fine, 7/18/05 Whiteville

**The Hallmart Agency, Inc.**, \$1000 administrative fine, 7/27/05, Wilson

### Market Examinations Division

**Provident Life and Accident Insurance Company**, settled on 3/11/05 for \$70,250.00.

**Massachusetts Mutual Life Insurance Company**, settled on 5/4/05 for \$97,700.00.

**WellPath Select, Inc.**, settled on 5/5/05 for \$9,200.

**BlueCross BlueShield of North Carolina**, settled on 6/10/05 for \$6,600.

**American General Life & Accident**, settled on 6/27/05 for \$124,150.00.

**Waddell & Reed Companies (Multi-State)**, settled on 8/17/05 for \$12,761.65.

**New York Life Insurance Co.**, settled on 9/1/05 for \$31,400.

**Republic Western (Bid Rigging)**, settled on 9/9/05 for \$20,000.

**Celtic Insurance Company**, settled on 10/18/05 for \$37,900.

**BlueCross BlueShield of NC**, settled on 12/8/05 for \$15,700.

# Market Examinations — How DOI Helps Companies and Consumers

Just last year, the Market Examinations Division got bigger.

This Division, which is responsible for conducting examinations of life and health, property and casualty and premium finance companies, absorbed what was previously the Managed Care and Health Benefits Division. Now the Division also reviews annual filings submitted by health maintenance organizations (HMO) and preferred provider organizations (PPO). The Division's main purpose is to determine whether companies are in compliance with relevant statutes and administrative codes pertaining to the business of insurance in North Carolina.

Historically, examinations were scheduled based on the insurer's market share, number of consumer complaints on file, date of last examination and premium volume written in the state of North Carolina; however, this approach has been discontinued in favor of a market analysis approach. This new approach involves gathering and analyzing data on specific insurers, and permits a more in-depth review of filed complaints to identify areas of concern that may result in compliance problems that may warrant some form of regulatory resolution.

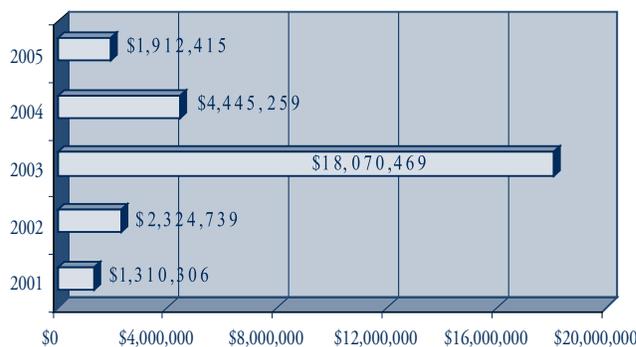
"Our market analysis unit was implemented in March 2005 and currently consists of four market analysts and a market analysis manager," explains Ernest Nickerson, deputy commissioner for the Market Examinations Division. "In the last five years, the Department's market conduct exams have yielded in excess of \$28 million to North Carolina's consumers because of the insurers' noncompliance with relevant insurance laws." (see Figure 1 for details)

The Division is currently comprised of three life and health examination teams and two property and casualty examination teams which have completed an average of 48 examinations

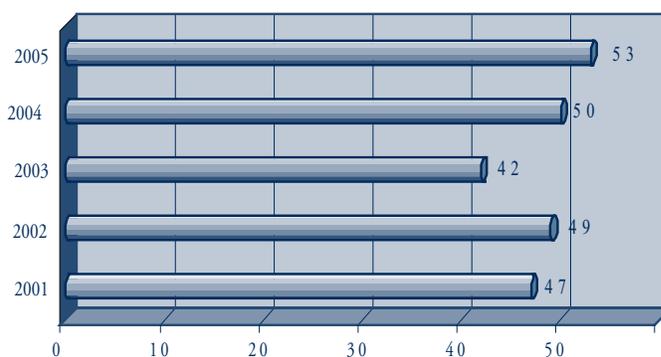
per year during the past five years (see Figure 2). Examination results reveal that the majority of the monies returned to affected policyholders stem from the insurers failure to process life and health claims accurately and/or timely, failure to apply the correct or approved rates for property and casualty policies, and failure to refund the correct amount of monies resulting from private passenger automobile rate settlements.

**Market conduct examinations are conducted on domestic HMOs at least every three years as required by N.C.G.S. 58-67-100. Examinations of domestic life and health (other than HMOs) and property and casualty insurers are scheduled at least every five years; however, unlike domestic market exams, examinations of foreign insurers are not required to be performed on a routine basis. Pursuant to N.C.G.S. 58-3-91, HMO and PPO annual filings are reviewed annually.**

**Figure 1: Five Year Historical Summary of Monies Returned to N.C. Consumers and Producers**



**Figure 2: Five Year Historical Summary of Completed Examinations**



# Consumer Services Continues Tradition of Helping, Educating North Carolina's Citizens

Since its creation in 1973, the DOI's Consumer Services Division has continued to work towards its goal of providing assistance to insurance consumers, as well as providing accurate and relevant information to educate North Carolina's consumers.

The Consumer Services Division stays busy helping consumers who bring their insurance questions and concerns to us by phone, email, in writing or in person. "During 2005, the Division handled over 143,000 telephone calls, which made up the majority of the contacts Consumer had with the public," explained Bob Lisson, the deputy commissioner for Consumer Services. "A lot of times, we can answer general insurance questions through one of the Department's many consumer guides; last year we distributed more than 25,000 hard copy guides, and many more were downloaded from the Department's Web page, [www.ncdoi.com](http://www.ncdoi.com)."

Lisson also reports that Consumer Services processed nearly 11,000 written

complaints in 2005. "When we need to contact an insurance company on behalf of a consumer, we ask that a written complaint be filed with our Division," he stated. While the specialists were not able to satisfy every consumer complaint, many insurance problems were resolved after the DOI became involved. In fact, Departmental involvement benefited North Carolinians to the tune of approximately \$14,780,000. Consumers were assisted with issues such as payment of claims, return of premium and reinstated coverage.

"Consumers in North Carolina can always find someone willing to assist them at the Department of Insurance," said Lisson. "Anyone with insurance-related problems or questions can reach the Consumer Services Division by calling 1-800-546-5664 or visit us online at [www.ncdoi.com](http://www.ncdoi.com)." The Consumer Services Division may also be reached by mail at 1201 Mail Service Center, Raleigh, NC 27699-1201.

The following amounts represent the approximate dollar amounts recovered by North Carolina consumers, in conjunction with complaints submitted to the Department of Insurance (for complaints closed during calendar year 2005). These amounts are rounded up and are broken down by line of business.

Automobile	\$1,632,456
Homeowners	\$621,915
Liability	\$62,189
Fire, Allied and CMP	\$95,681
Miscellaneous Lines	\$908,842
Life and Annuity	\$6,322,740
Accident and Health	\$1,677,744
Health Complaints from Providers and Facilities	\$3,461,884
<b>Total</b>	<b>\$14,783,452</b>

## **North Carolina Department of Insurance**

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