

**People's Alliance PAC 2008 Questionnaire
for Insurance Commissioner Candidates**

PLEASE NOTE: After candidate interviews have taken place, these responses will be placed on the People's Alliance website <http://www.durhampa.org/>

Candidate's Name: DAVID C. SMITH

1. What are your primary qualifications for regulating the insurance industry in North Carolina?

I know how these products and companies operate, I know where the tricks are and how to close loopholes. I have worked for over fifteen years in insurance – in public and private settings. My initial work in state government was to help create affordable options for small businesses so that we could reduce the number of working uninsured in the state. I helped draft the laws that made it easier for small businesses to buy health insurance. We reduced the number of employees of small businesses without insurance but without a political advocate, the issue lost its glamour.

I have remained diligent on these health care issues. As a leader of the state's association of health insurance agents, I advocated for the creation of a high risk pool that will help individuals who cannot find affordable health insurance. The pool will provide a subsidized premium to those who are unable to find coverage due to their medical condition. In 2005, I opposed efforts initiated by the Department and the industry which permitted higher rates for small businesses, which resulted in a reduction in level of rate increases being proposed.

When I worked in the industry, I fought to have mental health parity protections included for businesses of all sizes, not just those with 50 or more employees, and made sure the laws providing for health insurance portability were not cumbersome so that they protected the people for which they were designed.

For the last seven years, I have worked extensively with small business owners throughout the state, helping them understand and comply fully with state insurance and federal benefit laws. I have helped ordinary people who were denied their rights to continue health care coverage after their jobs ended. I helped secure coverage for those who had been deprived of insurance for a discriminatory reason. I represented people who had a claim denied (recently for someone with breast cancer who wanted nontraditional treatment) to get their claims paid when no one else, including the Department of Insurance, would help.

Plus I have a unique perspective. As someone who ran his own law firm, I faced a situation many small business owners have had to confront about the cost of health insurance for themselves and their employees. I chose to provide coverage for my

employees and my children but not myself for a period of about eighteen months. It was a difficult and scary time (and one of the motivations for me to join another firm), but I knew that I did the right thing for my family and my employees and have no regrets in my decision to look after the needs of others before taking care of myself.

I have the ideas and the ability to help find solutions to the quagmire of insurance problems we face in North Carolina. I listen and bring people together to solve problems for the benefit of others. I will fight when I have to in order to protect working families and small businesses in our state.

I am not running for Insurance Commissioner as a stepping stone to run for some higher office. I am running for Insurance Commissioner because I am the most prepared for the job and the most committed to the purpose of the office, that is to benefit the people who buy and use insurance in North Carolina.

In addition, it is important to recognize that the Insurance Commissioner is also the state fire marshal. It is my belief that we need to reevaluate the mission and responsibility the office of state fire marshal so that we can focus on making our citizens safer with stronger building codes designed to protect our most vulnerable during times of crisis.

2. What is your overall vision for the post of Insurance Commissioner?

I am running for Insurance Commissioner to give North Carolinians an experienced, independent voice in addressing the critical insurance issues our state faces. We need a Commissioner who listens more than he talks and a Department committed to finding innovative solutions for our challenges.

I will make health insurance and health care reform a top priority at the Department of Insurance. I will protect our citizens by aggressively fighting insurance fraud. I will fight for low automobile rates, especially for good drivers in North Carolina.

And of equal importance, I will lead the Department from day one with the knowledge and experience to be an effective advocate for our state's citizens on insurance issues.

3. The North Carolina Rate Bureau has requested a thirteen percent increase in auto insurance rates, the highest in fourteen years. Do you accept this increase, and if not, what is your strategy to keep rates lower?

I do not accept this rate increase. First, no evidence exists to substantiate automobile industry insurance losses in North Carolina are at 13%.

Second, the rate increases forces good drivers to disproportionately subsidize the rates of bad drivers.

Third, it assumes a system where rate negotiation is necessary and thus the first rate request is always higher than necessary.

Fourth, it includes unnecessary underwriting expense being incurred to administer business in North Carolina due to our unique, consumer-unfriendly rules on assigning drivers to the reinsurance facility for bad drivers.

The rate-making process has become a political game between insurers and the Department of Insurance. This has added unnecessary, bureaucratic delays that keep consumers from getting the best coverage options at the best possible price in the most timely manner. My policy on rates will always be that if the facts do not support the rate filed, then I will deny it.

I propose to deal with rating issues efficiently, never taking more than 12 months to settle rate matters – anything beyond that only adds operational and administrative costs that get passed on to consumers. And, no political grandstanding or ethically questionable efforts to use my rate-making responsibilities for purely self-serving political purposes.

In terms of our current auto rates, they are low but there is no reason not to try and make them even lower. We can then eliminate the hidden surcharge all drivers must pay currently to cover the inadequate rates paid by some in the state's higher risk driver insurance pool (NC Reinsurance Facility) – we currently have the 8th lowest rates in the nation – if you eliminated the surcharge, we would fall to 6th (see: Oct 18 story in N&O by David Ranii, DOI actuary Kevin Conley acknowledges that when you include recoupment, we fall from 6th to 8th).

Our higher risk driver insurance pool has been allowed to grow too big (it contains 25% of all NC drivers, when the national average for such pools is less than 2%) and it contains too many folks who are not higher risk drivers – if we don't work to make sure only higher risk drivers are in the pool and that they are paying the appropriate rates, NC consumer will continue to have to pay this hidden surcharge and that is simply not fair.

We must eliminate this unfair surcharge (to make sure good drivers are actually getting the best possible rate) by making sure the rate charged those drivers in the Reinsurance Facility covers the cost of accidents they cause. And, all drivers being placed in the Reinsurance Facility, where they pay higher risk rates, deserve to be told so by their insurer, so they can shop around for a better deal elsewhere; we should make it possible for any insurer who wants to, to be able to offer higher risk drivers a rate lower than the Reinsurance Facility rate.

Additionally, we need to reduce the cost to the rest of us from uninsured motorists by cracking down on those who cause accidents but have no insurance to pay for damages. I proposed that driving without coverage should cost you not only the license plate off your car, but your driver's license as well. And, we should explore making uninsured motorist coverage mandatory, as it is in many other states, to make sure victims of accidents caused by uninsured drivers have a way to pay for their car repairs and medical costs.

4. Should all new construction projects require sprinkler systems? If so, how do you respond to builders' objections about its cost?

Yes, I favor a sprinkler system rule, similar to the one already in place for commercial and some multi-family residential projects. Putting such a requirement for single-family residential will carry certain cost considerations and must be weighed against the impact to affordable housing costs and the ultimate cost of saving lives from fires.

I will listen carefully to affordable housing advocates because they will be least biased and most likely to give a good perspective on these issues for the Department.

We have made real progress in the last twenty years – through a better building code, through broader use of smoke and fire detection and improvements to fire response. We can do better and we will under my leadership. I favor a statewide mandate on fire/smoke detectors for all rental housing in North Carolina to be backed up by stiff fines and penalties for failing to have working devices. I will push very hard in the legislature to create this statewide mandate as Commissioner.

5. What is the best strategy the state can take to reduce hurricane and other natural disaster-related damages? Does this include changes in building codes and coastal setbacks?

First, we need to better coordinate our building codes and our public policy on building within high wind, flood and hurricane prone areas. But this coordination should not just be on the coast – The most expensive hurricanes in North Carolina were significant inland events – Hugo, Fran, and Floyd – and our current system is too bifurcated to permit proper planning statewide for these events in our construction phases.

I am committed to working outside of silos on these issues with the Coastal Management Commission, the Department of Environment and Natural Resources, financial institutions, federal agencies and local counties to address this critical area of neglect.

Here are some highlights of my hurricane mitigation plan:

1. Better coordination of building code guidelines between the Department of Insurance, Coastal Management Commissions and DENR. By setting aside egos and by working together, we can reach consensus among the various players on building standards to withstand the torrent of rain and wind and better designate areas where building should not occur to reduce future exposure to property loss in the event of a hurricane.
2. Adequately fund and manage our state's Beach and Fair Plans. North Carolina, through quasi-private entities, provides insurance of last resort to many residential and commercial properties in areas most threatened by extreme weather. However those funds are simply unprepared for a real disaster. For the last ten years, these underfunding/underinsured concerns have fallen on deaf ears – much like in pre-

Katrina New Orleans.

Today, the Beach plan has the ability to cover approximately \$1 billion in losses while the most conservative estimates project that a Cat 3 or 4 storm along our coast would result in insurance losses of over \$4 billion. These losses would require payments from all insurers to make up the losses and would likely result in a Florida-type abandonment of our insurance markets and a number of failed insurance companies. This is unacceptable. We are being left with this crisis. It will require real leadership to resolve to avoid further neglect. We should not be left holding the bag after Jim Long retires.

3. Strict enforcement of building codes and insurance requirements for lenders in North Carolina. Lenders in North Carolina are not vigilant in requiring flood insurance or even carrying an appropriate amount of insurance for residential and commercial property. I will not allow lenders to minimize these requirements when loans are originated and then let insurers walk away without meeting their obligations when disaster strikes.
4. I favor more environmentally friendly building codes to create incentives for green building, zero-carbon standards and sustainable practices which address the long-term environmental impact of our state's growth. This is an area in which the Commissioner can lead the way. Global warming is real and we need to create incentives for builders to adopt green building standards for new construction to reduce our carbon footprint. One example would be allowing builders to use gray water systems in residential and commercial settings to improve our water usage practices.

6. Will you take part in the state public financing program for the Insurance Commissioner race?

Yes and I have gone further by limiting contributions to \$200 and promised not to accept any political action committee donations (as currently permitted in the initial \$20,000 under the current rules). I have long been a proponent of public financing, including during my race for State House in 1998 and while serving on the Common Cause of North Carolina Governing Board in the early part of this decade.

7. Will you reject any campaign contributions from individuals employed by companies that are regulated by the Insurance Commissioner?

I will accept contributions up to \$200 from qualified individuals according to the rules of the public financing program. Unfortunately the realities of paying for a modern campaign require a high level of funding, but I believe by limiting contributions to \$200, accepting no PAC funds and fully disclosing all my contributors is evidence that I will not be unduly influenced.

8. Will you oppose any effort by Blue Cross Blue Shield of North Carolina to convert to a for-profit enterprise?

Absolutely and without hesitation. I have spoken with their leadership and they assure me that there are no current plans to do so. Regardless of their position, I would oppose any effort to convert to a for-profit enterprise.

I would never favor a for-profit conversion by BCBSNC. The allure of the “conversion money” that would come to the state, like the tobacco settlement money, would be seen by future policymakers as just a pool of money to spend on unrelated projects. I do not believe conversion would benefit health insurance consumers in our state because a for-profit Blue Cross would not remain headquartered in North Carolina. In fact, a for-profit company is more likely to be absorbed by the “Blue” Wellpoint/Anthem giant that has monopoly power in far too many states and has already lost most of the original Blue Cross mission of helping individuals to afford health care in their local community.

As Commissioner, I will work to ensure that the public trust is maintained by Blue Cross Blue Shield of North Carolina and all other health insurance carriers so that health insurance premiums are appropriate and fair, and that appropriate reserves are maintained.