

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1016
Finance Committee Substitute Adopted 6/19/92

Short Title: Stock Broker Privilege License Tax.

(Public)

Sponsors:

Referred to:

May 28, 1992

A BILL TO BE ENTITLED

AN ACT TO CONVERT THE SECURITY DEALER PRIVILEGE LICENSE TAX FROM A TAX BASED ON THE NUMBER OF OFFICES FROM WHICH SECURITIES ARE SOLD TO A TAX ON EACH INDIVIDUAL WHO SELLS SECURITIES, THEREBY TREATING SELLERS OF SECURITIES THE SAME AS OTHER PROFESSIONALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-41(a) reads as rewritten:

"(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. The tax for each license is fifty dollars (\$50.00); the tax does not apply to an individual who is at least 75 years old.

(1) An attorney-at-law.

(2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a chiropodist, a dentist, an ophthalmologist, an optician, an optometrist, or another person who practices a professional art of healing.

(3) A professional engineer, as defined in G.S. 89C-3.

(4) A registered land surveyor, as defined in G.S. 89C-3.

(5) A person who sells or offers to sell a security, as defined in G.S. 78A-2.

(6) An architect.

(7) A landscape architect.

- 1 (8) A photographer, a canvasser for any photographer, or an agent of a
2 photographer in transmitting photographs to be copied, enlarged, or
3 colored.
4 (9) A real estate broker or a real estate salesman, as defined in G.S. 93A-2.
5 (10) A person who collects any rents as agent for another for compensation.
6 (11) A person who solicits or negotiates loans on real estate as agent for
7 another for a commission, brokerage, or other compensation.

8 ~~Every practicing attorney at law, practicing physician, veterinary, surgeon, osteopath,~~
9 ~~chiropractor, chiropodist, dentist, oculist, optician, optometrist, any person practicing~~
10 ~~any professional art of healing for a fee or reward, every practicing professional~~
11 ~~engineer as defined in Chapter 89C of the General Statutes, every practicing land~~
12 ~~surveyor as defined in Chapter 89C of the General Statutes, every architect and~~
13 ~~landscape architect, photographer, canvasser for any photographer, agent of a~~
14 ~~photographer in transmitting pictures or photographs to be copied, enlarged or colored~~
15 ~~(including all persons enumerated in this section employed by the State, county,~~
16 ~~municipality, a corporation, firm or individual), and every person, whether acting as an~~
17 ~~individual, as a member of a partnership, or as an officer and/or agent of a corporation,~~
18 ~~who is engaged in the business of selling or offering for sale, buying or offering to buy,~~
19 ~~negotiating the purchase, sale, or exchange of real estate, or who is engaged in the~~
20 ~~business of leasing or offering to lease, renting or offering to rent, or of collecting any~~
21 ~~rents as agent for another for compensation, or who is engaged in the business of~~
22 ~~soliciting and/or negotiating loans on real estate as agent for another for a commission,~~
23 ~~brokerage and/or other compensation, shall apply for and obtain from the Secretary of~~
24 ~~Revenue a statewide license for the privilege of engaging in such business or profession,~~
25 ~~or the doing of the act named, and shall pay for such license fifty dollars (\$50.00);~~
26 ~~Provided, that no professional man or woman shall be required to pay a privilege tax~~
27 ~~after he or she has arrived at the age of 75 years. Further provided, that it~~

28 It shall be unlawful for a nonresident of this State to engage in the real estate
29 business in this State, as defined in this section, unless the State of residence of such
30 person will permit a resident of this State to engage in such business. Any person who
31 shall engage in the real estate business in this State in violation of the terms of this
32 provision shall be guilty of a misdemeanor and shall be punished in the discretion of the
33 court; and further provided, that the obtaining of a real estate dealer's license by such
34 person shall not authorize such nonresident to engage in the real estate business in this
35 State, and provided further that in all prosecutions under this section, a certificate under
36 the hand and seal of the Secretary of Revenue—that the accused filed no income tax
37 returns with ~~his department~~ the Department of Revenue for the preceding taxable year
38 shall be **prima facie** evidence that the accused is a nonresident and that ~~his~~ the accused's
39 license is void."

40 Sec. 2. G.S. 105-67 is repealed.

41 Sec. 3. G.S. 105-83 reads as rewritten:

42 "**§ 105-83. Installment paper dealers.**

43 (a) ~~Every person, firm, or corporation, foreign or domestic, person engaged in the~~
44 ~~business of dealing in, buying, and/or or discounting installment paper, notes, bonds,~~

1 contracts, ~~or evidences of debt and/or other securities,~~ debt, where at the time of or in
2 connection with the execution of said instruments, a lien is reserved or taken upon
3 personal property located in this State to secure the payment of such obligations, shall
4 apply for and obtain from the Secretary ~~of Revenue~~ a State license for the privilege of
5 engaging in such business or for the purchasing of such obligations in this State, and
6 shall pay for such license an annual tax of one hundred dollars (\$100.00).

7 (b) In addition to obtaining a State license from the Secretary, each person
8 subject to the tax levied in subsection (a) of this section, ~~such person, firm, or corporation~~
9 shall submit to the ~~Revenue~~ Secretary quarterly no later than the twentieth day of
10 January, April, July, and October of each year, upon forms prescribed by the said
11 Secretary, a full, accurate, and complete statement, verified by the officer, agent, or
12 person making ~~such the~~ statement, of the total face value of the installment paper, notes,
13 bonds, contracts, and evidences of debt, and/or other securities described in this section ~~debt~~
14 ~~dealt in, bought and/or bought, or discounted~~ within the preceding three calendar months
15 and, at the same time, shall pay a tax of two hundred and seventy-five thousandths of
16 one percent (.275%) of the face value of ~~such obligations dealt in, bought and/or discounted~~
17 for such period these obligations.

18 (c) If any ~~person, firm, or corporation, foreign or domestic,~~ shall deal person
19 deals in, buy and/or discount buys, or discounts any such paper, notes, bonds, contracts,
20 evidences of debt and/or other securities obligations described in this section without
21 applying for and obtaining a the license for the privilege of engaging in such business of
22 dealing in such obligations, or shall fail, refuse, or neglect to pay the taxes levied in this
23 section, such obligation shall not be recoverable or the collection thereof enforceable at
24 law or by suit in equity in any of the courts of this State until and when the license taxes
25 prescribed in this section have been paid, together with any and all penalties prescribed
26 in this Article for the nonpayment of taxes. required by this section or paying a tax
27 imposed by this section, the person may not bring an action in a State court to enforce
28 collection of an obligation dealt in, bought, or discounted during the period of
29 noncompliance with this section until the person obtains the license and pays the
30 amount of tax, penalties, and interest due.

31 (d) This section does not apply to corporations liable for the tax levied under
32 G.S. 105-102.3.

33 (e) Counties, ~~eties~~ cities, and towns shall not levy any license tax on the business
34 taxed under this section."

35 Sec. 4. This act becomes effective July 1, 1992.