

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS65191-LTf-54B (3/1)

Short Title: Amend Insurance Laws/Producers and Bail Bonds. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS RELATING TO LICENSING OF INSURANCE PRODUCERS AND BAIL BONDSMEN; TO MAKE CHANGES IN THE FEE STRUCTURES FOR AGENTS AND ADJUSTERS; TO AUTHORIZE THE OUTSOURCING OF CERTAIN FUNCTIONS RELATING TO THE ADMINISTRATION OF CONTINUING EDUCATION AND ADMINISTRATIVE PROGRAMS; TO AMEND THE LAW OF RETURN PREMIUMS UNDER PREMIUM FINANCE ARRANGEMENTS; AND TO MAKE OTHER SUBSTANTIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-26(g) reads as rewritten:

"(g) A limited representative may receive qualification for one or more licenses without examination for the following kinds of insurance:

- (1) Dental services.
- (2) Limited line credit insurance.
- (3) Limited lines insurance.
- (4) ~~Motor club.~~
- (5) Prearrangement insurance, as defined in G.S. 58-60-35(a)(2), when offered or sold by a preneed sales licensee licensed under Article 13D of Chapter 90 of the General Statutes.
- (6) Travel accident and baggage.
- (7) Vehicle service agreements and mechanical breakdown insurance."

SECTION 2. G.S. 58-33-26 is amended by adding a new subsection to read:

"(p) An individual shall not simultaneously hold an agent's and an adjuster's license in this State. An individual who holds a property and liability insurance license may apply for an adjuster license without having to take the adjuster examination in G.S. 58-33-30(e) if the individual applies for the adjuster license within 60 days after

surrendering the property and liability insurance license. An individual who holds an adjuster license may apply for a property and liability insurance license without having to take the property and liability insurance agent examination in G.S. 58-33-30(e) if the individual applies for the property and liability insurance license within 60 days after surrendering the adjuster license."

SECTION 3. G.S. 58-33-10(2) reads as rewritten:

"(2) "Adjuster" means any individual who, for salary, fee, commission, or other compensation of any nature, investigates or reports to his principal relative to claims arising under insurance contracts other than life or annuity. An attorney at law who adjusts insurance losses from time to time incidental to the practice of his profession or an adjuster of marine losses is not deemed to be an adjuster for purposes of this Article. ~~An individual may not simultaneously hold an agent's and an adjuster's license in this State.~~"

SECTION 4. G.S. 58-33-32(k) reads as rewritten:

"(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. As used in this subsection, "administrative action" includes enforcement action taken against the producer by the National Association of Securities Dealers. This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action."

SECTION 5. G.S. 58-33-46(a)(2) reads as rewritten:

"(2) ~~Violating any insurance laws, or law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator; regulator, or violating any rule of the National Association of Securities Dealers.~~"

SECTION 6. G.S. 58-33-46(a)(6) reads as rewritten:

"(6) Having been convicted of a ~~felony or of felony~~, a misdemeanor involving ~~dishonesty or dishonesty~~, a breach of ~~trust; trust, or a misdemeanor involving moral turpitude.~~"

SECTION 7. G.S. 58-33-125 reads as rewritten:

§ 58-33-125. Fees.

(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster.....	\$75.00
Adjuster, crop hail only	20.00
Agent appointment cancellation (paid by insurer).....	10.00
Agent appointment, individual	20.00
Agent appointment, nonindividual	50.00
Agent appointment, Medicare supplement and long-term care, individual	10.00
Agent appointment, Medicare supplement and	

1 long-term care, nonindividual20.00
 2 Agent, overseas military20.00
 3 Broker, nonresident.....50.00
 4 Broker, resident.....50.00
 5 Business entity100.00
 6 Limited representative20.00
 7 Limited representative cancellation (paid by insurer)10.00
 8 Motor vehicle damage appraiser.....75.00
 9 ~~Recertification, continuing education.....5.00~~
 10 Surplus lines licensee, corporate.....~~50.00~~ 100.00
 11 Surplus lines licensee, individual50.00

12 These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a
 13 person who is licensed or appointed to represent the insurer shall be paid to the
 14 Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner.
 15 ~~The recertification fee in this subsection shall be paid by persons subject to~~
 16 ~~G.S. 58-33-130 at the time they renew their licenses or appointments under~~
 17 ~~G.S. 58-33-130(e).~~

18 (b) Whenever a temporary license ~~may be~~ is issued ~~pursuant to~~ under this
 19 Article, the fee shall be at the same rate as provided in subsection (a) of this section; and
 20 any amounts so paid for a temporary license may be credited against the fee required for
 21 an appointment by the sponsoring company.

22 (c) Any person not registered who is required by law or administrative rule to
 23 secure a license shall, upon application for registration, pay to the Commissioner a fee
 24 of ~~thirty dollars (\$30.00)~~. In the event fifty dollars (\$50.00). If additional licensing for
 25 other kinds of insurance is requested, a fee of ~~thirty dollars (\$30.00)~~ fifty dollars
 26 (\$50.00) shall be paid to the Commissioner upon application for registration for each
 27 additional kind of insurance.

28 In addition to the fees prescribed by this subsection, any person applying for a
 29 supplemental license to sell Medicare supplement and long-term care insurance policies
 30 shall pay an additional fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) upon
 31 application for registration for those kinds of insurance.

32 (d) The requirement for an examination, prelicensing education, continuing
 33 education, or a registration fee does not apply to agents for domestic farmers' mutual
 34 assessment fire insurance companies or associations who solicit and sell only those
 35 kinds of insurance specified in G.S. 58-7-75(5)d for such companies or associations.

36 (e) ~~In the event a license issued under this Article is lost, stolen, or destroyed, the~~
 37 ~~Commissioner may issue a duplicate license upon a written request from the licensee~~
 38 ~~and payment of a fee of five dollars (\$5.00)~~. A resident licensee may obtain a duplicate
 39 photo-bearing license at times and places within this State that the Commissioner
 40 considers necessary and reasonable to serve the convenience of both the Commissioner
 41 and the licensee. The Commissioner may contract directly with persons for processing
 42 of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of
 43 Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for
 44 duplicating a photo-bearing license in an amount that offsets the costs to the Department

1 of duplicating the license, including costs associated with any contract entered into
2 pursuant to this subsection.

3 ~~(f) Whenever a printed record of an agent's file is requested, the fee shall be ten~~
4 ~~dollars (\$10.00) for each copy whether or not the agent is currently licensed, previously~~
5 ~~licensed, or no record of that agent exists.~~

6 (g) All fees prescribed by this section are nonrefundable."

7 **SECTION 8.** G.S. 58-33-130 reads as rewritten:

8 **"§ 58-33-130. Continuing education program for licensees.**

9 (a) The Commissioner may adopt rules to provide for a program of continuing
10 education requirements for the purpose of enhancing the professional competence and
11 professional responsibility of adjusters and motor vehicle damage appraisers. The rules
12 may include criteria for:

- 13 (1) The content of continuing education courses;
- 14 (2) Accreditation of continuing education sponsors and programs;
- 15 (3) Accreditation of videotape or other audiovisual programs;
- 16 (4) Computation of credit;
- 17 (5) Special cases and exemptions;
- 18 (6) General compliance procedures; and
- 19 (7) Sanctions for noncompliance.

20 The Commissioner may contract directly with persons for the administration of the
21 program provided for by this section, and those contracts shall not be subject to Article
22 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable
23 fee to course providers to offset the cost of the program, including costs associated with
24 contracts authorized by this subsection. The fee authorized by this subsection shall be in
25 addition to the fees specified in G.S. 58-33-133. As used in this section and in
26 G.S. 58-33-132, "administrator" means any person with whom the Commissioner has
27 contracted under this subsection.

28 (b) The Commissioner may adopt rules to provide for the continuing professional
29 education of all agents and brokers, including fraternal field marketers, but excluding
30 limited representatives. In adopting the rules, the Commissioner may use the same
31 criteria as specified in subsection (a) of this section and shall provide that agents
32 holding more than one license under G.S. 58-33-25(c) are required to complete no more
33 than 18 credit hours per year.

34 (c) The license of any person who fails to comply with the continuing education
35 requirements under this section shall ~~lapse. The Commissioner may, for good cause~~
36 ~~shown, grant extensions of time to licensees to comply with these requirements. lapse~~
37 ~~except that the Commissioner or administrator may either grant an extension of time for~~
38 ~~good cause shown or charge an administrative fee of seventy-five dollars (\$75.00), or~~
39 ~~both, in lieu of having the person's license lapse.~~

40 (d) Annual continuing professional education hour requirements shall be
41 determined by the Commissioner, but shall not be more than 12 credit hours.

42 (e) No more than seventy-five percent (75%) of the requirement relating to life or
43 health insurance agents or brokers may be met by taking courses offered by licensed life
44 or health insurance companies with which those agents or brokers have appointments.

1 (f) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 678, s. 18, effective
2 July 5, 1994.

3 (g) The Commissioner or administrator shall permit any licensee to carry over to
4 a subsequent calendar year up to seventy-five percent (75%) of the required annual
5 hours of continuing professional education.

6 (h) Any licensee who, after obtaining an extension under subsection (c) of this
7 section, offers evidence satisfactory to the Commissioner or administrator that the
8 licensee has satisfactorily completed the required continuing professional education
9 courses is in compliance with this section.

10 (i) The Commissioner or administrator is authorized to approve continuing
11 professional education courses.

12 (j) Repealed by Session Laws 2002-144, s. 3, as amended by Session Laws
13 2003-284, s. 22.2, and as amended by Session Laws 2004-124, s. 21.1, effective July 1,
14 2002.

15 (k) Repealed by Session Laws 1993, c. 409, s. 4, effective July 1, 1993."

16 **SECTION 9.** G.S. 58-33-132 reads as rewritten:

17 "**§ 58-33-132. Qualifications of instructors.**

18 (a) The Commissioner may adopt rules to establish requisite qualifications for
19 and issuance, renewal, summary suspension, and termination of provider, presenter, and
20 instructor authority for prelicensing and continuing insurance education courses. During
21 any suspension, the instructor shall not engage in any instruction of prelicensing or
22 continuing insurance education courses prior to an administrative review. No person
23 shall provide, present, or instruct any course unless that person has been qualified and
24 possesses a license from the ~~Commissioner~~. Commissioner or administrator.

25 (b) The Commissioner or administrator may summarily suspend or terminate the
26 authority of an instructor, course provider, or presenter if the course presentation:

27 (1) Is determined to be inaccurate; or

28 (2) Receives an evaluation of poor from any Department monitor and a
29 majority of attendees responding to Department questionnaires about
30 the presentation."

31 **SECTION 10.** G.S. 58-33-133 reads as rewritten:

32 "**§ 58-33-133. Continuing education course provider fees.**

33 (a) Each course provider shall ~~submit~~ pay to the Commissioner a fee of ~~one~~
34 ~~dollar~~ ~~(\$1.00)~~ two dollars (\$2.00) per approved credit hour per individual who
35 successfully completes a course under G.S. 58-33-130.

36 (b) At the time a course provider submits an application to the Commissioner for
37 approval of a course under G.S. 58-33-130, the provider shall pay to the Commissioner
38 a filing fee of one hundred dollars (\$100.00) per course up to a two thousand five
39 hundred dollars (\$2,500) per calendar year maximum.

40 (b1) Licensees who are required to comply with G.S. 58-33-130 shall pay to the
41 Commissioner a fee of two dollars (\$2.00) per credit hour earned. These fees also apply
42 to national designation courses and other courses approved by the Commissioner from
43 other State or federal programs.

1 (c) Fees collected by the Commissioner under this section and under
2 G.S. 58-33-130 shall be credited to the Insurance Regulatory Fund created under
3 ~~G.S. 58-6-25~~ G.S. 58-6-25 for the purpose of offsetting the cost of administering the
4 program authorized by G.S. 58-33-130."

5 **SECTION 11.** G.S. 58-71-40(d) reads as rewritten:

6 "(d) When a license is issued under this section, the Commissioner shall issue a
7 picture identification card, of design, size, and content approved by the Commissioner,
8 to the licensee. Each licensee must carry this card at all times when working in the
9 scope of the licensee's employment. A licensee whose license terminates or is
10 terminated shall surrender the identification card to the Commissioner within 10
11 working days after the termination. The Commissioner may contract directly with
12 persons for the processing and issuance of picture identification cards required by this
13 section and may charge a reasonable fee in addition to the license fee charged under
14 G.S. 58-71-55 in an amount that offsets the cost of the service, including the costs
15 associated with the contract authorized by this subsection. Contracts entered into
16 pursuant to this subsection shall not be subject to Article 3 of Chapter 143 of the
17 General Statutes."

18 **SECTION 12.** G.S. 58-71-115 reads as rewritten:

19 "**§ 58-71-115. Insurers to annually report surety bondsmen; notices of**
20 **appointments and terminations; information confidential.**

21 (a) Before July 1 of each year, every insurer shall furnish the Commissioner a list
22 of all surety bondsmen appointed by the insurer to write bail bonds on the insurer's
23 behalf. An insurer who appoints a surety bondsman in the State on or after July 1 of
24 each year ~~must~~ shall notify the Commissioner of the appointment. All appointments are
25 subject to the issuance of the proper license to the appointee under this Article.

26 (b) An insurer terminating the appointment of a surety bondsman shall file a
27 written notice of the termination with the Commissioner, together with a statement that
28 the insurer has given or mailed notice of the termination to the surety bondsman ~~and to~~
29 ~~the clerk of superior court of any county in the State in which the insurer has been~~
30 ~~obligated on bail bonds through the surety bondsman within the past three years.~~
31 bondsman. The notice to the Commissioner shall state the reasons, if any, for the
32 termination. Information furnished in the notice to the Commissioner shall be privileged
33 and shall not be used as evidence in or basis for any action against the insurer or any of
34 its representatives."

35 **SECTION 13.** G.S. 58-71-141 reads as rewritten:

36 "**§ 58-71-141. Appointment of bail bondsmen; affidavit required.**

37 (a) ~~Prior to~~ Before receiving an appointment, a surety bondsman shall submit to
38 the Commissioner an affidavit, signed under oath, by the surety bondsman and by any
39 former insurer, stating that the surety bondsman does not owe any premium or
40 unsatisfied judgment to any insurer and that the bondsman agrees to discharge all
41 outstanding forfeitures and judgments on bonds previously written. The affidavit shall
42 be in a form prescribed by the ~~Commissioner.~~ Commissioner and shall be submitted by
43 the surety bondsman to the former insurer. If the surety bondsman does not satisfy or
44 discharge all forfeitures or judgments, the former insurer shall submit a notice, with

1 supporting documents, to the appointing insurer, the surety bondsman, and the
2 Commissioner, which states, under oath, that the surety bondsman has failed to satisfy,
3 in a timely manner, the forfeitures and judgments on bonds written by the surety
4 bondsman and that the former insurer has satisfied the forfeiture or judgment from its
5 own funds. The former insurer shall submit the notice and supporting documents to the
6 appointing insurer, the surety bondsman, and the Commissioner within 30 days after the
7 former insurer receives the affidavit from the surety bondsman. Upon receipt of the
8 ~~notification~~ notice and supporting documents, the appointing insurer shall immediately
9 cancel the surety bondsman's appointment. The surety bondsman may be reappointed
10 only upon certification by the former insurer that all forfeitures and judgments on bonds
11 written by the surety bondsman have been discharged. The appointing insurer or surety
12 bondsman may, within 10 days ~~of the receipt of~~ after receiving the notice and
13 supporting documents from the former insurer, appeal to the Commissioner.

14 (b) The Commissioner shall adopt rules, including rules regarding the ~~process of~~
15 procedures for appeals and stays of the requirements of this section, to implement this
16 section.

17 (c) As used in this section, "former insurer" means the insurer with whom the
18 surety bondsman had a prior appointment and who is responsible for any outstanding
19 bonds written by the surety bondsman."

20 **SECTION 14.** G.S. 58-71-165 reads as rewritten:

21 **"§ 58-71-165. Monthly report required.**

22 (a) Each professional bail bondsman ~~and surety bondsman~~ shall file with the
23 Commissioner a written report in form prescribed by the Commissioner regarding all
24 bail bonds on which the bondsman is liable as of the first day of each month showing (i)
25 each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the
26 bond, (iv) the State or local official to whom given, and (v) the fee charged for the
27 bonding service in each instance.

28 (b) Each insurer that appoints surety bondsmen in this State shall file with the
29 Commissioner a written report in a form adopted by the Commissioner regarding all
30 bail bonds on which the insurer is liable as of the first day of each month showing the
31 total dollar amount for which the insurer is liable.

32 (c) ~~The report~~ reports required by subsections (a) and (b) of this section shall be
33 filed on or before the fifteenth day of each month.

34 (d) Any person who knowingly and willfully falsifies a report required by this
35 section is guilty of a Class I felony."

36 **SECTION 15.** G.S. 58-2-69 reads as rewritten:

37 **"§ 58-2-69. Notification of criminal convictions and changes of address; service of**
38 **~~notice.~~ notice; contracts for online services, administrative services, or**
39 **regulatory data systems.**

40 (a) As used in this section:

41 (1) "License" includes any license, certificate, registration, or permit
42 issued under this Chapter.

43 (2) "Licensee" means any person who holds a license.

1 (b) Every applicant for a license shall inform the Commissioner of the applicant's
2 residential address. Every licensee shall give written notification to the Commissioner
3 of any change of the licensee's residential address within 10 business days after the
4 licensee moves into the licensee's new residence. This requirement applies if the change
5 of residential address is by governmental action and there has been no actual change of
6 residence location; in which case the licensee ~~must~~ shall notify the Commissioner
7 within 10 business days after the effective date of the change. A violation of this
8 subsection is not a ground for revocation, suspension, or nonrenewal of the license or
9 for the imposition of any other penalty by the ~~Commissioner~~. Commissioner though a
10 licensee who violates this subsection shall pay an administrative fee of seventy-five
11 dollars (\$75.00) to the Commissioner.

12 (c) If a licensee is convicted in any court of competent jurisdiction for any crime
13 or offense other than a motor vehicle infraction, the licensee shall notify the
14 Commissioner in writing of the conviction within 10 days after the date of the
15 conviction. As used in this subsection, "conviction" includes an adjudication of guilt, a
16 plea of guilty, or a plea of nolo contendere.

17 (d) Notwithstanding any other provision of law, whenever the Commissioner is
18 authorized or required to give any notice under this Chapter to a licensee, the notice
19 may be given personally or by sending the notice by first-class mail to the licensee at
20 the address that the licensee has provided to the Commissioner under subsection (b) of
21 this section.

22 (e) The giving of notice by mail under subsection (d) of this section is complete
23 upon the expiration of four days after the deposit of the notice in the post office. Proof
24 of the giving of notice by mail may be made by the certificate of any employee of the
25 Department.

26 (f) Notification by licensees under subsection (b) of this section may be
27 accomplished by submitting written notification directly to the Commissioner or by
28 using any online services approved by the Commissioner for this purpose.

29 (g) The Commissioner may contract with the NAIC or other persons for the
30 provision of online services to licensees, for the provision of administrative services to
31 licensees, or for the provision of regulatory data systems to the Commissioner. The
32 NAIC or other person with whom the Commissioner contracts may charge licensees a
33 reasonable fee for the costs associated with the licensees' use of online services and
34 administrative services. The fee shall be agreed to by the Commissioner and the other
35 contracting party and shall be stated in the contract. Contracts for the provision of
36 online services, contracts for the provision of administrative services, and contracts for
37 the provision of regulatory data systems shall not be subject to Article 3, 3C, or 8 of
38 Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General
39 Statutes."

40 **SECTION 16.** G.S. 58-35-85(5) reads as rewritten:

41 "(5) When an insurance contract is cancelled in accordance with this
42 section, the insurer shall promptly return the gross unearned premiums
43 that are due under the contract to the insurance premium finance
44 company effecting the cancellation, for the benefit of the insured or

1 insureds, no later than 30 days after the effective date of cancellation.
2 When the return premium is more than the amount the insured owes
3 the insurance premium finance company under the agreement, the
4 excess shall be promptly remitted to the order of the insured, as
5 provided in subdivision (8) of this section, subject to the minimum
6 service charge provided for in this Article. If a premium is subject to
7 an audit to determine the final premium amount, the amount to be
8 refunded to the premium finance company shall be calculated upon the
9 deposit premium, and the insurer shall return that amount to the
10 premium finance company no later than 90 days after the effective date
11 of cancellation. All return premiums shall be calculated on a pro rata
12 basis. However, where the insurance contract to be cancelled is subject
13 to minimum premium and the contractual amount is minimum
14 premium, the minimum premium is determined to be earned when
15 written, and there shall be no return premium upon early cancellation.
16 Where the insurance contract to be cancelled is subject to minimum
17 premium and the contractual amount is in excess of the minimum
18 premium, the return premium shall be based only upon the portion of
19 the contract amount in excess of minimum premium and shall be
20 calculated on a pro rata basis. This subdivision does not limit any other
21 remedies the insurer may have against the insured for additional
22 premiums."

23 **SECTION 17.** Article 36 of Chapter 58 of the General Statutes is amended
24 by adding a new section to read:

25 **"§ 58-36-86. Policy cancellation by insured; premium refund.**

26 When a policy subject to this Article is cancelled by the insured, all return premiums
27 shall be calculated on a pro rata basis. However, where the insurance contract to be
28 cancelled is subject to minimum premium and the contractual amount is minimum
29 premium, the minimum premium is determined to be earned when written, and there
30 shall be no return premium upon early cancellation. Where the insurance contract to be
31 cancelled is subject to minimum premium and the contractual amount is in excess of the
32 minimum premium, the return premium shall be based only upon the portion of the
33 contract amount in excess of minimum premium and shall be calculated on a pro rata
34 basis."

35 **SECTION 18.** Article 40 of Chapter 58 of the General Statutes is amended
36 by adding a new section to read:

37 **"§ 58-40-145. Policy cancellation by insured; premium refund.**

38 When a policy subject to this Article is cancelled by the insured, all return premiums
39 shall be calculated on a pro rata basis. However, where the insurance contract to be
40 cancelled is subject to minimum premium and the contractual amount is minimum
41 premium, the minimum premium is determined to be earned when written, and there
42 shall be no return premium upon early cancellation. Where the insurance contract to be
43 cancelled is subject to minimum premium and the contractual amount is in excess of the
44 minimum premium, the return premium shall be based only upon the portion of the

1 contract amount in excess of minimum premium and shall be calculated on a pro rata
2 basis."

3 **SECTION 19.** Article 41 of Chapter 58 of the General Statutes is amended
4 by adding a new section to read:

5 **"§ 58-41-16. Policy cancellation by insured; premium refund.**

6 When a policy subject to this Article is cancelled by the insured, all return premiums
7 shall be calculated on a pro rata basis. However, where the insurance contract to be
8 cancelled is subject to minimum premium and the contractual amount is minimum
9 premium, the minimum premium is determined to be earned when written, and there
10 shall be no return premium upon early cancellation. Where the insurance contract to be
11 cancelled is subject to minimum premium and the contractual amount is in excess of the
12 minimum premium, the return premium shall be based only upon the portion of the
13 contract amount in excess of minimum premium and shall be calculated on a pro rata
14 basis."

15 **SECTION 20.** This act becomes effective January 1, 2008, and applies to
16 fees or charges due, and actions occurring, on or after that date.