

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 655*

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

Sponsors: Representatives Wainwright; Alexander and Wray.

Referred to: Insurance.

March 15, 2007

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

1 to take the property and liability insurance agent examination in G.S. 58-33-30(e) if the
2 individual applies for the property and liability insurance license within 60 days after
3 surrendering the adjuster license."

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

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

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

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

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

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

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

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

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

31 **"§ 58-33-125. Fees.**

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

35	Adjuster.....	\$75.00
36	Adjuster, crop hail only	20.00
37	Agent appointment cancellation (paid by insurer).....	10.00
38	Agent appointment, individual	20.00
39	Agent appointment, nonindividual	50.00
40	Agent appointment, Medicare supplement and	
41	long-term care, individual	10.00
42	Agent appointment, Medicare supplement and	
43	long-term care, nonindividual	20.00
44	Agent, overseas military	20.00

1	Broker, nonresident.....	50.00
2	Broker, resident.....	50.00
3	<u>Business entity</u>	<u>100.00</u>
4	Limited representative	20.00
5	Limited representative cancellation (paid by insurer)	10.00
6	Motor vehicle damage appraiser.....	75.00
7	Recertification, continuing education.....	5.00
8	Surplus lines licensee, corporate.....	50.00 100.00
9	Surplus lines licensee, individual	50.00

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

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

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

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

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

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

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

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

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

6 "**§ 58-33-130. Continuing education program for licensees.**

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

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

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

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

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

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

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

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

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

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

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

10 (j) Repealed by Session Laws 2002-144, s. 3, as amended by Session Laws
11 2003-284, s. 22.2, and as amended by Session Laws 2004-124, s. 21.1, effective July 1,
12 2002.

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

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

15 "**§ 58-33-132. Qualifications of instructors.**

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

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

25 (1) Is determined to be inaccurate; or

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

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

30 "**§ 58-33-133. Continuing education course provider fees.**

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

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

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

42 (c) Fees collected by the Commissioner under this section and under
43 G.S. 58-33-130 shall be credited to the Insurance Regulatory Fund created under

1 ~~G.S. 58-6-25.~~ G.S. 58-6-25 for the purpose of offsetting the cost of administering the
2 program authorized by G.S. 58-33-130."

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

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

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

17 "**§ 58-71-115. Insurers to annually report surety bondsmen; notices of**
18 **appointments and terminations; information confidential.**

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

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

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

34 "**§ 58-71-141. Appointment of bail bondsmen; affidavit required.**

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

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

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

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

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

19 **"§ 58-71-165. Monthly report required.**

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

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

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

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

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

35 **"§ 58-2-69. Notification of criminal convictions and changes of address; service of**
36 **notice; notice; contracts for online services, administrative services, or**
37 **regulatory data systems.**

38 (a) As used in this section:

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

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

42 (b) Every applicant for a license shall inform the Commissioner of the applicant's
43 residential address. Every licensee shall give written notification to the Commissioner
44 of any change of the licensee's residential address within 10 business days after the

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

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

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

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

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

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

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

38 "(5) When an insurance contract is cancelled in accordance with this
39 section, the insurer shall promptly return the gross unearned premiums
40 that are due under the contract to the insurance premium finance
41 company effecting the cancellation, for the benefit of the insured or
42 insureds, no later than 30 days after the effective date of cancellation.
43 When the return premium is more than the amount the insured owes
44 the insurance premium finance company under the agreement, the

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

20 **SECTION 17.** This act becomes effective January 1, 2008, and applies to
21 fees or charges due, and actions occurring, on or after that date.