

April 7, 2009

**H 1166. INSURANCE LAW CHANGES.** Filed 4/7/09. *TO MAKE VARIOUS CHANGES IN THE LAWS GOVERNING INSURANCE PRODUCERS AND BROKERS, BAIL BONDSMEN, MOTOR CLUBS, PREMIUM FINANCE COMPANIES, AND COLLECTION AGENCIES.*

Under current law, Article 33 of GS Chapter 58, *Insurance Law*, governs the qualifications and procedures for the licensing of agents, brokers, limited representatives, adjusters, and motor vehicle damage appraisers. Amends GS 58-33-10 (definitions as used in Article 33) to define *FINRA* as referring to the Financial Industry Regulatory Authority or any successor entity. Amends GS 58-33-26(e) (regarding general license requirements) to provide that a variable life and variable annuity products license authorizes a resident agent to sell, solicit, or negotiate variable contracts if the agent satisfies the Commissioner of Insurance (Commissioner) that the agent has met the FINRA (was, the National Association of Securities Dealers) requirements of the Secretary of State of North Carolina (Secretary). Also makes conforming changes to GS 58-33-32(k) and GS 58-33-46(a)(2) replacing references to the National Association of Securities Dealers with FINRA.

Amends GS 58-33-26(p) to provide that an individual cannot simultaneously hold a property, casualty, or personal lines insurance license and an adjuster's license in North Carolina (was, simultaneously hold an agent's and an adjuster's license). Provides that a person who holds a property, casualty, or personal lines insurance license (was, property and liability insurance license) may apply for an adjuster license without having to take the adjuster exam in GS 58-33-30(e) if the individual applies for the adjuster license within 60 days after surrendering the property, casualty, or personal lines insurance license. Also exempts an individual from taking the property and liability insurance agent examination if the individual applies for the property, casualty, or personal lines insurance license within 60 days after surrendering the adjuster license.

Enacts new GS 58-33-48 to authorize the Department of Justice (DOJ) to provide a criminal record check to the Commissioner for any person who has applied for or holds a license under Article 33 of GS Chapter 58. Provides that if a *person* is a corporation, partnership, or other entity, the DOJ may provide a criminal history record check to the Commissioner for any person who has control of that person, or who is the qualifying individual or a branch manager of that person. Also authorizes the Commissioner to provide fingerprints to the DOJ and those prints may be forwarded to the State Bureau of Investigations and in turn to the FBI for a national criminal history check. Provides additional criteria regarding conducting the criminal history check. Provides that the provisions regarding the criminal record check do not apply to a person applying for renewal or continuation of a home state insurance producer license or a nonresident insurance producer license. Effective October 1, 2010.

Amends GS 58-33-40(b) to provide that an insurer may appoint an individual as its agent by filing, in a format approved by the Commissioner, a notice of appointment within 15 days after the date that the first insurance application is submitted. Makes a conforming change to GS 58-33-40(a).

Repeals GS 58-33-35 (regarding exemptions from requirements for taking a written exam) and GS 58-33-40(c) (regarding setting a 30-day limit for filing information with the Commissioner on newly appointed agents), and (h) (prohibiting an insurer from accepting an insurance application from an individual who is not currently appointed by the insurer). Repeals GS 58-71-140(d), (regarding the obligation of professional bondsmen, surety bondsmen, and runners to file affidavits using a specified form with the clerk of court having appropriate jurisdiction). Repeals GS 58-33-26(m) (concerning the renewal of licenses for a broker, limited representative, adjuster, or motor vehicle damage appraisers).

Amends GS 58-21-65(f) to provide that nonresident surplus lines licensees are to be licensed in accordance with Article 33 of GS Chapter 58. Makes a clarifying change to GS 58-71-50(a) providing that an applicant for a license as a bail bondsman or runner is to furnish a complete set of fingerprints in a manner prescribed by the Commissioner. Amends GS 58-71-70 to provide that an applicant who is unable to complete the examination requirement for securing a license as a professional bondsman, surety bondsman, or runner within 30 days of receiving notice of the applicant's eligibility to take the exam, will have to submit to another criminal history

record check to ensure that the most current information is available for review with the application.

Amends GS 58-71-30 to provide a surety may arrest the defendant before the forfeiture of the undertaking for the purpose of surrendering the defendant (was, or the surety may request any judicial officer to order the arrest of the defendant on the surety's written authority endorsed on a certified copy of the undertaking). Amends GS 58-71-45 to provide that after notifying the Commissioner in writing, a professional bondsman who employs a runner may cancel the runner's authority (was, cancel the runner's authority and license) to act for the bondsman. Amends GS 58-71-120 to provide that a bail bondsman who stops writing bail bonds during the period for which he is licensed no longer has to notify the clerk of the superior court with whom he is registered.

Amends GS 58-70-5(q) to define the term *GAAP financial statement* to mean a financial statement as defined by accounting principles generally accepted in the United States. Amends GS 58-70-5(k) to require that an applicant seeking a permit to operate a collection agency or conduct collection agency business must submit a GAAP financial statement as a part of the application (was, a balance sheet). Amends GS 58-70-10 to also require submission of a GAAP financial statement (was, balance sheet) for a renewal permit application. Makes additional technical changes. Effective January 1, 2010.

Amends GS 58-70-40 to require a collection agency to notify the Commissioner in writing of the conviction of an individual proprietor, officer, or partner of the collection agency in any court of competent jurisdiction for a crime involving dishonesty or breach of trust within 10 days after the date of the conviction. Directs a collection agency to report to the Commissioner any administrative action taken against the collection agency by another state or by a government agency within this state within 30 days after the final disposition of the matter. Requires the collection agency to include any documents filed in the proceeding. Enacts new GS 58-69-60 to require notice from a motor club to the Commissioner within 10 days after the date of the conviction of an individual proprietor, officer, or partner of a motor club who has been convicted in a court of competent jurisdiction for any crime that involves dishonesty or breach of trust. Directs a motor club to report to the Commissioner any administrative action taken against the motor club by another state or by a government agency within this state within 30 days after the final disposition of the matter. Requires the motor club to include any documents filed in the proceeding. Enacts new GS 58-35-22 to require notice from a premium finance company to the Commissioner within 10 days after the date of the conviction of an individual proprietor, officer, or partner of a premium finance company who has been convicted in a court of competent jurisdiction for any crime that involves dishonesty or breach of trust. Directs a premium finance company to report to the Commissioner any administrative action taken against the premium finance company by another state or by a government agency within this state within 30 days after the final disposition of the matter. Requires the premium finance company to include any documents filed in the proceeding. Provides that *conviction* includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere. Effective October 1, 2009.

Amends GS 58-35-5(b) to provide that an application for a license under Article 35 (*insurance premium financing*) must include a current GAAP financial statement of the applicant prepared by a certified public or qualified independent accountant. Effective January 1, 2010.

Clarifies that the Commissioner may suspend, place on probation, revoke, or refuse to renew any license issued under Article 33 of GS Chapter 58 if there is a conviction of the licensee for a felony or a misdemeanor involving dishonesty, a breach of trust, or moral turpitude.

Amends GS 58-2-69(b) to require that an applicant for a license supply an e-mail address to the Commissioner and provide notice within 10 business days of any change in that email address. Effective January 1, 2010.

Except as otherwise indicated, this act is effective when it becomes law.

**Intro. by Goforth, Wray.**

GS 58

June 1, 2009

**H 1166. INSURANCE LAW CHANGES.** Filed 4/7/09. House committee substitute makes the following changes to 1st edition. Deletes repeal of GS 58-33-26(m) (regarding the renewal of licenses for brokers, limited representatives, adjusters, or motor vehicle damage appraisers).

Amends proposed GS 58-33-48 by requiring that the license applicant, which includes each key person if the applicant is a corporation, partnership, limited liability company, association, or trust, must furnish the Commissioner of Insurance (Commissioner) with a complete set of fingerprints in a manner prescribed by the Commissioner and a recent passport size full-face photograph of the applicants to be forwarded to the State Bureau of Investigation (SBI) (was, the Commissioner would provide or cause to be provided the applicant's fingerprints and any additional required information to the Department of Justice (DOJ), who would then forward that information to the SBI. Requires the applicant's fingerprints to be certified by an authorized law enforcement officer. Provides that the SBI must forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check, *if warranted*. Requires the applicant to pay the cost of the state and any national criminal history record check (was, DOJ allowed to charge a fee to applicants for conducting the checks of criminal history records).

Deletes amendment to GS 58-71-30, which would have eliminated that, for the purpose of surrendering a defendant, a surety may request any judicial officer to order arrest of the defendant by written authority endorsed on a certified copy of the undertaking.

Deletes amendments to GS 58-70-5, GS 58-70-10, and GS 58-35-5, which required applicants to submit GAAP financial statements.

Makes technical changes to GS 58-71-120 and GS 58-35-22. Makes other conforming and organizational changes.

Clarifies that new GS 58-33-48 applies to applications made on or after October 1, 2010.

July 22, 2009

**H 1166. INSURANCE LAW CHANGES.** Filed 4/7/09. House committee substitute makes the following changes to 2nd edition. Amends GS 58-33-48 to clarify that an applicant for an *insurance producer* license must provide the Commissioner of Insurance (Commissioner) with a complete set of the applicant's fingerprints in a manner prescribed by the Commissioner. Deletes requirement that the applicant provide a recent passport size full-face photograph. Also deletes the provision requiring that if the applicant for a license is a business entity that the key persons in that entity must provide fingerprints and other information requested to complete a criminal history background check.

Deletes provision that repealed GS 58-71-140(d) (regarding the filing by professional and surety bondsmen and runners of a prescribed affidavit with the clerk of court having jurisdiction over the principal). Deletes changes to GS 58-35-1(2) (defining *insurance premium finance agreement*).

Adds two new subsections, (r) and (s), to GS 58-70-5, *Application to Commissioner for permit*. Allows applicants for a permit to engage in the collection agency business, who are subsidiaries of a parent holding company, to file the parent company's balance sheet accompanied by a guarantee by the parent company of the subsidiary's performance in lieu of the subsidiary filing its own balance sheet. Provides that the parent company remains responsible for the guarantee of the subsidiary's performance unless a new parent company acquires the subsidiary, in which case the new parent company must file a guarantee of the subsidiary's performance. Provides that if the subsidiary does not have a parent company, then the subsidiary is to file its own balance sheet as provided under current law.

Enacts new GS 58-70-6 to provide a definitions section applicable to GS 58-70-5.

Enacts new GS 58-58-97 to specify that only persons who are licensed to practice funeral directing, or are employees of a licensed funeral home, may request information about a deceased person's life insurance policy. Requires the life insurance company to provide information about the life insurance policy, including the amount of payable benefits to the beneficiaries and the amount of any loans or liens outstanding on the policy, to the authorized person as soon as possible after receiving the request. Directs the insurer to provide a claim form to any person or assignee making the request. Provides that a person making a written request to the insurer for the policy information who does not receive a timely response from the insurer may

refer the request to the Consumer Services Division of the Department of Insurance and the referral is to be treated as a consumer complaint. Directs persons who have received the information about the policy to make reasonable efforts to locate the beneficiaries within 100 hours of receiving the information when the beneficiary of record is not the estate of the deceased. Requires that before discussing the financial arrangements, the recipients of the policy information must provide written notice, in bold print, to all beneficiaries, that they have no obligation to spend any of the life insurance money on the funeral or any other debts or obligations of the deceased. Provide that any licensee or employee of a licensed funeral home who makes a false request for information or fails to adhere to the notice requirements in subsection (c) is guilty of fraud or misrepresentation in the practice of funeral service as defined in GS 90-210.25(e)(1)b. and unfit to practice funeral service. Effective October 1, 2010.

Amends GS 58-39-75 to add a person providing funeral service to a deceased insured person and making an inquiry under GS 58-58-97 to the list of persons authorized to be given personal or privileged information about an individual by an insurance institution, agent, or insurance-supported organization. Effective October 1, 2010.

Directs the Department of Insurance to report to the Chairs of the House Insurance and Senate Commerce Committees by March 11, 2011, a range of information relating to requests of insurers referred to the Department for follow-up under the provisions of new GS 58-58-97. Effective October 1, 2010.

Effective October 1, 2009, amends GS 58-2-85 and GS 58-2-90(a) to remove provisions related to assignments of error.

Makes organizational changes. Makes conforming changes to the title.

July 23, 2009

**H 1166. INSURANCE LAW CHANGES.** Filed 4/7/09. House amendment makes the following changes to 3rd edition. Amends GS 58-33-30(e)(1) to delete a reference to GS 58-33-35, which is repealed in this act.

August 4, 2009

**H 1166. INSURANCE LAW CHANGES.** Filed 4/7/09. Senate committee substitute makes the following changes to 4th edition. Changes title to *AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS GOVERNING INSURANCE PRODUCERS AND BROKERS, BAIL BONDSMEN, MOTOR CLUBS, PREMIUM FINANCE COMPANIES, AND COLLECTION AGENCIES, TO REQUIRE AN INSURER TO PROVIDE CERTAIN INFORMATION REGARDING A DECEASED PERSON'S LIFE INSURANCE TO A FUNERAL DIRECTOR OR ESTABLISHMENT, TO DELETE OBSOLETE REFERENCES TO ASSIGNMENTS OF ERROR, AND TO MAKE OTHER CHANGES.* Amends GS 58-2-90, concerning the extent of review by an appellate court, to eliminate the restriction on an appellant relying on a ground for relief that was not included in the appellant's notice of appeal filed with the Commissioner of Insurance. Adds provision that changes the effective date of S 660, concerning an alternative method of determining property damages as a part of motor vehicle liability insurance, to January 1, 2010 (was, October 1, 2009) if that bill becomes law.

September 1, 2009

**SL 2009-566 (H 1166). INSURANCE LAW CHANGES.** *AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS GOVERNING INSURANCE PRODUCERS AND BROKERS, BAIL BONDSMEN, MOTOR CLUBS, PREMIUM FINANCE COMPANIES, AND COLLECTION AGENCIES, TO REQUIRE AN INSURER TO PROVIDE CERTAIN INFORMATION REGARDING A DECEASED PERSON'S LIFE INSURANCE TO A FUNERAL DIRECTOR OR*

*ESTABLISHMENT, TO DELETE OBSOLETE REFERENCES TO ASSIGNMENTS OF ERROR, AND TO MAKE OTHER CHANGES.* Summarized in *Daily Bulletin* 4/7/09, 6/1/09, 7/22/09, 7/23/09, and 8/4/09. Enacted August 28, 2009. Sections 4 and 23–25 are effective October 1, 2010. Sections 16–19 and 26–27 are effective October 1, 2009. Section 20 is effective January 1, 2010. The remainder is effective August 28, 2009.