

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1166
PROPOSED COMMITTEE SUBSTITUTE H1166-PCS10985-RCf-19

Short Title: Insurance Law Changes.-AB

(Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS GOVERNING INSURANCE PRODUCERS AND BROKERS, BAIL BONDSMEN, MOTOR CLUBS, PREMIUM FINANCE COMPANIES, AND COLLECTION AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-10 is amended by adding a new subdivision to read:

"(4a) "FINRA" means the Financial Industry Regulatory Authority or any successor entity."

SECTION 2. G.S. 58-33-26(e) reads as rewritten:

"(e) 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 that the agent has met the ~~National Association of Securities Dealers~~FINRA requirements of the Secretary of State of North Carolina."

SECTION 3. G.S. 58-33-26(p) reads as rewritten:

"(p) An individual shall not simultaneously hold ~~an agent's a property, casualty, or personal lines insurance license~~ and an adjuster's license in this State. An individual who holds a ~~property and liability~~property, casualty, or personal lines 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~~property, casualty, or personal lines 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~~property, casualty, or personal lines insurance license within 60 days after surrendering the adjuster license."

SECTION 4. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-48. Criminal history record checks.

(a) An applicant for a license under this Article shall furnish the Commissioner with a complete set of the applicant's fingerprints in a manner prescribed by the Commissioner and a recent passport size full-face photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The fingerprints of every applicant shall be forwarded to the State Bureau of Investigation for a search of the applicant's criminal history record file, if any. If warranted, the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.



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1 An applicant shall pay the cost of the State and any national criminal history record check of
2 the applicant.

3 (b) In addition, if an applicant described in subsection (a) of this section is a
4 corporation, partnership, limited liability company, association, or trust, each key person must
5 furnish the Commissioner a complete set of the applicant's fingerprints and a recent passport
6 size full-face photograph of the applicant. The applicant's fingerprints shall be certified by an
7 authorized law enforcement officer. The fingerprints of every applicant shall be forwarded to
8 the State Bureau of Investigation for a search of the applicant's criminal history record file, if
9 any. If warranted, the State Bureau of Investigation shall forward a set of the fingerprints to the
10 Federal Bureau of Investigation for a national criminal history record check. An applicant shall
11 pay the cost of the State and any national criminal history record check of the applicant. As
12 used in this subsection, 'key person' means a proposed officer, director, or any other individual
13 who will be in a position to influence the operating decisions of the applicant.

14 (c) The Commissioner shall keep all information pursuant to this section privileged, in
15 accordance with applicable State law and federal guidelines, and the information shall be
16 confidential and shall not be a public record under Chapter 132 of the General Statutes.

17 (d) This section does not apply to a person applying for renewal or continuation of a
18 home state insurance producer license or a nonresident insurance producer license."

19 **SECTION 5.** G.S. 58-33-32(k) reads as rewritten:

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

26 **SECTION 6.** G.S. 58-33-35 is repealed.

27 **SECTION 7.** G.S. 58-33-40(a) reads as rewritten:

28 "(a) ~~No~~ Except as provided in subsection (b) of this section, no individual who holds a
29 valid insurance agent's license issued by the Commissioner shall, either directly or for an
30 insurance agency, solicit, negotiate, or otherwise act as an agent for an insurer by which the
31 individual has not been appointed."

32 **SECTION 8.** G.S. 58-33-40(b) reads as rewritten:

33 "(b) Any insurer authorized to transact business in this State may appoint as its agent any
34 individual who holds a valid agent's license issued by the Commissioner. To appoint an
35 individual as its agent, the appointing insurer shall file, in a format approved by the
36 Commissioner, a notice of appointment within 15 days after the date the first insurance
37 application is submitted. ~~Upon the appointment, the~~The individual shall be authorized to act as
38 an agent for the appointing insurer for all kinds of insurance for which the insurer is authorized
39 in this State and for which the appointed agent is licensed in this State, unless specifically
40 limited."

41 **SECTION 9.** G.S. 58-33-40(c) and (h) are repealed.

42 **SECTION 10.** G.S. 58-33-46(a)(2) and (a)(6) read as rewritten:

43 **"§ 58-33-46. Suspension, probation, revocation, or nonrenewal of licenses.**

44 (a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any
45 license issued under this Article, in accordance with the provisions of Article 3A of Chapter
46 150B of the General Statutes, for any one or more of the following causes:

47 ...

48 (2) Violating any insurance law of this or any other state, violating any
49 administrative rule, subpoena, or order of the Commissioner or of another
50 state's insurance regulator, or violating any rule of the ~~National Association~~
51 ~~of Securities Dealers-FINRA~~.

1 ...

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

4 **SECTION 11.** G.S. 58-21-65(f) reads as rewritten:

5 "(f) A person licensed as a surplus lines licensee under the laws of a state bordering this
6 State may be licensed as a surplus lines licensee under this Article, if: (i) the laws of the
7 bordering state are substantially similar to the provisions of this Article and (ii) the bordering
8 state has a law or regulation substantially similar to this subsection that permits surplus lines
9 licensees licensed under this Article to be licensed by the bordering state and (iii) the person
10 complies with all requirements of this Article and submits himself or herself to the
11 Commissioner's jurisdiction. Nonresident surplus lines licensees shall be licensed in accordance
12 with Article 33 of this Chapter."

13 **SECTION 12.** G.S. 58-71-50(a) reads as rewritten:

14 "(a) An applicant for a license as a bail bondsman or runner shall furnish the
15 Commissioner with a complete set of the applicant's fingerprints in a manner prescribed by the
16 Commissioner and a recent passport size full-face photograph of the applicant. The applicant's
17 fingerprints shall be certified by an authorized law-enforcement officer. The fingerprints of
18 every applicant shall be forwarded to the State Bureau of Investigation for a search of the
19 applicant's criminal history record file, if any. If warranted, the State Bureau of Investigation
20 shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national
21 criminal history record check. An applicant shall pay the cost of the State and any national
22 criminal history record check of the applicant."

23 **SECTION 13.** G.S. 58-71-70 reads as rewritten:

24 "**§ 58-71-70. Examination; fees.**

25 Each applicant for a license as a professional bondsman, surety bondsman, or runner shall
26 appear in person and take ~~a written~~ an examination prepared by the Commissioner testing the
27 applicant's ability and qualifications. Each applicant is eligible for examination 30 days after
28 the date the application is received by the Commissioner. If an applicant is unable to complete
29 the examination requirement within 30 days after notification from the Commissioner of the
30 applicant's eligibility to take the examination, the applicant shall again be subject to the
31 criminal history record check prescribed by G.S. 58-71-50(a) so that current information is
32 available for review with the application. Each examination shall be held at a time and place as
33 designated by the Commissioner. Each applicant shall be given notice of the designated time
34 and place no sooner than 15 days before the examination. The Commissioner may contract with
35 a person to process applications for the examination and administer and grade the examination
36 in the same manner as for agent examinations under Article 33 of this Chapter.

37 The fee for each examination is twenty-five dollars (\$25.00) plus an amount that offsets the
38 cost of any contract for examination services. This examination fee is nonrefundable.

39 An applicant who fails an examination may take a subsequent examination, but at least one
40 year must intervene between examinations."

41 **SECTION 14.** G.S. 58-71-45 reads as rewritten:

42 "**§ 58-71-45. Terms of licenses.**

43 A license issued to a bail bondsman or to a runner authorizes the licensee to act in that
44 capacity until the license is suspended or revoked. Upon the suspension or revocation of a
45 license, the licensee shall return the license to the Commissioner. A license of a bail bondsman
46 and a license of a runner shall be renewed on July 1 of each year upon payment of the
47 applicable renewal fee under G.S. 58-71-75. The Commissioner is not required to print renewal
48 licenses. After notifying the Commissioner in writing, a professional bondsman who employs a
49 runner may cancel ~~the runner's license and~~ the runner's authority to act for the professional
50 bondsman."

51 **SECTION 15.** G.S. 58-71-140(d) is repealed.

1 **SECTION 16.** G.S. 58-71-120 reads as rewritten:
2 "**§ 58-71-120. Bail bondsman to give notice of discontinuance of business; cancellation of**
3 **license.**

4 Any bail bondsman who discontinues writing bail bonds during the period for which ~~he the~~
5 **bail bondsman is licensed shall notify the clerks of the superior court with whom he is**
6 **registered and return his the license to the Commissioner for cancellation within 30 days after**
7 **such the discontinuance.**"

8 **SECTION 17.** G.S. 58-70-40(b) reads as rewritten:

9 "**(b) If an individual proprietor, officer, or partner of the collection agency has been**
10 **convicted in any court of competent jurisdiction for any crime involving dishonesty or breach**
11 **of trust, the collection agency shall notify the Commissioner in writing of the conviction within**
12 **10 days after the date of the conviction. As used in this subsection, "conviction" includes an**
13 **adjudication of guilt, a plea of guilty, or a plea of nolo contendere.** The conviction by a court of
14 competent jurisdiction of any permittee for a violation of this Article shall automatically have
15 the effect of suspending the permit of that permittee until such time that the permit is reinstated
16 by the Commissioner. As used in this subsection, "conviction" includes an adjudication of guilt,
17 a plea of guilty, and a plea of nolo contendere."

18 **SECTION 18.** G.S. 58-70-40 is amended by adding a new subsection to read:

19 "**(e) A collection agency shall report to the Commissioner any administrative action**
20 **taken against the collection agency by another state or by another governmental agency in this**
21 **State within 30 days after the final disposition of the matter. This report shall include a copy of**
22 **the order or consent order and other information or documents filed in the proceeding necessary**
23 **to describe the action.**"

24 **SECTION 19.** Article 35 of Chapter 58 of the General Statutes is amended by
25 adding a new section to read:

26 "**§ 58-69-60. Notification of criminal or administrative actions.**

27 **(a) If an individual proprietor, officer, or partner of a motor club has been convicted in**
28 **any court of competent jurisdiction for any crime involving dishonesty or breach of trust, the**
29 **motor club shall notify the Commissioner in writing of the conviction within 10 days after the**
30 **date of the conviction. As used in this subsection, "conviction" includes an adjudication of**
31 **guilt, a plea of guilty, or a plea of nolo contendere.**

32 **(b) A motor club shall report to the Commissioner any administrative action taken**
33 **against the motor club by another state or by another governmental agency in this State within**
34 **30 days after the final disposition of the matter. This report shall include a copy of the order or**
35 **consent order and other information or documents filed in the proceeding necessary to describe**
36 **the action.**"

37 **SECTION 20.** G.S. 58-35-1(2) reads as rewritten:

38 "(2) "Insurance premium finance agreement" means a promissory note or other
39 written agreement by which an insured promises or agrees to pay to, or to
40 the order of, an insurance premium finance company the amount advanced
41 or to be advanced under the agreement to an insurer ~~or to an insurance agent,~~
42 in payment of premiums on an insurance contract, together with a service
43 charge as authorized and limited by this Article."

44 **SECTION 21.** Article 35 of Chapter 58 of the General Statutes is amended by
45 adding a new section to read:

46 "**§ 58-35-22. Notification of criminal or administrative actions.**

47 **(a) If an individual proprietor, officer, or partner of an insurance premium finance**
48 **company has been convicted in any court of competent jurisdiction for any crime involving**
49 **dishonesty or breach of trust, the premium finance company shall notify the Commissioner in**
50 **writing of the conviction within 10 days after the date of the conviction. As used in this**

1 subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo
2 contendere.

3 (b) An insurance premium finance company shall report to the Commissioner any
4 administrative action taken against the premium finance company, including any branch office,
5 by another state or by another governmental agency in this State within 30 days after the final
6 disposition of the matter. This report shall include a copy of the order or consent order and
7 other information or documents filed in the proceeding necessary to describe the action."

8 **SECTION 22.** G.S. 58-2-69(b) reads as rewritten:

9 "(b) Every applicant for a license shall inform the Commissioner of the applicant's
10 residential ~~address~~ address and provide the applicant's e-mail address to which the
11 Commissioner can send electronic notifications and other messages. Every licensee shall give
12 written notification to the Commissioner of any change of the licensee's residential or e-mail
13 address within 10 business days after the licensee moves into the licensee's new
14 ~~residence~~ residence or obtains a different e-mail address. This requirement applies if the change
15 of residential address is by governmental action and there has been no actual change of
16 residence location; in which case the licensee shall notify the Commissioner within 10 business
17 days after the effective date of the change. A violation of this subsection is not a ground for
18 revocation, suspension, or nonrenewal of the license or for the imposition of any other penalty
19 by the Commissioner, though a licensee who violates this subsection shall pay an
20 administrative fee of fifty dollars (\$50.00) to the Commissioner."

21 **SECTION 23.** Sections 17, 18, 19, and 21 of this act become effective October 1,
22 2009. Section 22 of this act becomes effective January 1, 2010. Section 4 of this act becomes
23 effective October 1, 2010, and applies to applications made on or after that date. The remainder
24 of this act is effective when it becomes law.