

Laws of 1955 unless and until such certificate of incorporation shall be amended as provided in Section 9 of Chapter 1146 of the Session Laws of 1955.

Sec. 3½. G. S. 53A-9 is hereby amended by striking out the word "thirty" immediately following the word "within" in the first line of the second paragraph and inserting in lieu thereof the words and figures "one hundred and twenty (120)".

Sec. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 5. This Act shall be in full force and effect on and after January 1, 1963.

In the General Assembly read three times and ratified, this the 8th day of May, 1963.

S. B. 109

CHAPTER 394

AN ACT TO PROHIBIT THE BUSINESS OR PRACTICE OF DEBT ADJUSTING OR ACTING FOR A CONSIDERATION AS INTERMEDIARIES BETWEEN DEBTORS AND THEIR CREDITORS AND TO PROVIDE INJUNCTIVE RELIEF AND PENALTIES FOR A VIOLATION THEREOF.

WHEREAS, a national organization known as National Better Business Bureau states: "that those who have swarmed into the debt adjustment field recently have included a large proportion of unscrupulous or incompetent opportunists whose activities have spread misery throughout the land. They have used extravagant and deceptive advertising to claim far more than they were in position to deliver. They have made false promises to persons whom they knew, or should have known, were beyond redemption credit-wise. They have withheld their own fees from the debtors' payments and have failed to promptly make agreed payments to creditors or to obtain creditors' accession to the pro rata plan devised. The net result of their activities, in many cases, has been to leave already desperate people more hopelessly mired in debt and litigation than before."; and

WHEREAS, said debt adjusters and their business and practices are known by several names, such as pro raters, debt-poolers, debt managers, credit counsellors, budget systems, funding agencies, debt-liquidators, and debt-lumpers, and these practices have grown to such proportions that for the most part they have become a national menace by preying upon unfortunate people and harassed debtors, and those engaged in such practices, except for a few, have engaged in false advertising, have falsely held themselves out as being competent and able to solve debt problems regardless of any and all circumstances, have lured ignorant and unsuspecting people into executing contracts heavily loaded in their favor and have charged large fees for alleged services which results in piling debt upon debt; and

WHEREAS, such practices have been condemned by Merchants Bureaus, Boards of Trade, Better Business Bureaus, Chambers of Commerce, and have been designated by the National Legal Aid Association

as "The Meanest Racket Out", and many magazines of national circulation such as Good Housekeeping, Readers Digest, the Kiplinger Magazine and Changing Times, and many other reputable publications have published articles condemning such practices; and

WHEREAS, said debt adjusters are now increasing in number in the State of North Carolina and many instances of their unwarranted practices are now being made known in the State, and instances of many sharp practices, hardships on the unfortunate, no services actually performed, and increase of debt through false advertising and other fraudulent means, have been committed and have been carried out in the capital City of Raleigh, with the result that there are many cases before justices of the peace wherein creditors have brought suits against debtors although these debtors have executed contracts and paid money to those who hold themselves out as performing the service or business of debt adjusters: Now, therefore,

The General Assembly of North Carolina do enact:

Section 1. As used in this Act certain terms or words are hereby defined as follows:

(a) The word "person" means an individual, firm, partnership, limited partnership, corporation or association.

(b) The term "debt adjuster" means a person who engages in, attempts to engage in, or offers to engage in the practice or business of debt adjusting as said term is defined in this Act.

(c) The term "debt adjusting" shall mean the entering into or making of a contract, express or implied, with a particular debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaged in the debt adjusting business and who shall for a consideration, agree to distribute, or distribute the same among certain specified creditors in accordance with a plan agreed upon. The term "debt adjusting" is further defined and shall also mean the business or practice of any person who holds himself out as acting or offering or attempting to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or in anywise altering the terms of payment of any debt of a debtor, and to that end receives money or other property from the debtor, or on behalf of the debtor, for the payment to, or distribution among, the creditors of the debtor.

(d) The term or word "debtor" means an individual, and includes two or more individuals who are jointly and severally, or jointly or severally indebted to a creditor or creditors.

Sec. 2. If any person shall engage in, or offer to or attempt to, engage in the business or practice of debt adjusting, or if any person shall hereafter act, offer to act, or attempt to act as a debt adjuster, he shall be guilty of a misdemeanor and upon conviction or plea of guilty shall be punished in the discretion of the court by fine or imprisonment or by both such fine and imprisonment.

Sec. 3. The Superior Court shall have jurisdiction, in an action brought in the name of the State by the Solicitor of the Solicitorial Dis-

trict, to enjoin any person from acting, offering to act, or attempting to act as a debt adjuster, or engaging in the business of debt adjusting; and, in such action, may appoint a receiver for the property and money employed in the transaction of business by such person as a debt adjuster, to insure, so far as may be possible, the return to debtors of so much of their money and property as has been received by the debt adjuster, and has not been paid to the creditors of the debtors.

Sec. 4. The following individuals or transactions shall not be deemed debt adjusters or as being engaged in the business or practice of debt adjusting: (1) Any person or individual who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts; (2) Any person or individual acting pursuant to any order or judgment of a court, or pursuant to authority conferred by any law of this State or of the United States; (3) Any person who is a creditor of the debtor, or an agent of one or more creditors of the debtor, and whose services in adjusting the debtor's debts are rendered without cost to the debtor; (4) Any person who at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting such debts; (5) An intermittent or casual adjustment of a debtor's debts, for compensation, by an individual or person who is not a debt adjuster or who is not engaged in the business or practice of debt adjusting, and who does not hold himself out as being regularly engaged in debt adjusting.

Sec. 5. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 6. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1963.

S. B. 210

CHAPTER 395

AN ACT AUTHORIZING THE ESTABLISHING OF A TOWN LIQUOR CONTROL STORE IN THE TOWN OF BUNN UPON A VOTE OF THE PEOPLE AND PROVIDING FOR THE ALLOCATION OF THE NET PROCEEDS FROM THE OPERATION OF SUCH STORE.

The General Assembly of North Carolina do enact:

Section 1. The Board of Commissioners of the Town of Bunn may on its own motion, and shall upon a petition to said board signed by at least fifteen per cent (15%) of the registered and qualified voters of the municipality, order an election to be held on the question of whether or not a town liquor control store may be operated in the Town of Bunn and if a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for a liquor control store to be set up and operated in said town, but if a majority of the votes cast