

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1310

Short Title: Designated Insurance Agents.

(Public)

Sponsors: Representative Beard.

Referred to: Commerce.

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE AND IMPROVE THE DESIGNATED AGENTS
3 PROGRAM IN THE NORTH CAROLINA MOTOR VEHICLE REINSURANCE
4 FACILITY.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 25A of Chapter 58 of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 58-248.42. Designated agents.**

9 (a) Upon the application of any licensed fire and casualty agent meeting all of the
10 standards set forth below as determined by the Facility within 10 days of its receipt of
11 the application, the Facility shall contract with one or more members within 20 days of
12 the making of the determination to appoint such licensed fire and casualty agent as a
13 designated agent in accordance with reasonable rules as are established by the plan of
14 operation. Such standards shall be:

15 (1) The applicant has been, for the preceding 12 months, a licensed fire
16 and casualty agent; and has actively conducted his business of
17 selling and servicing of motor vehicle liability insurance in the
18 community in which designation is sought during the 12 months
19 preceding application.

20 (2) The applicant has generated a minimum of fifty thousand dollars
21 (\$50,000) of fire and casualty premium, of which twenty-five
22 thousand dollars (\$25,000) is motor vehicle liability insurance; or
23 has demonstrated in the preceding 12 months the capability of
24 generating such volume.

1 (3) The applicant shall secure, and maintain in force during
2 designation, a bond for the benefit of the designated carrier in the
3 amount of not less than the following:

4 a. Twenty-five thousand dollars (\$25,000); or

5 b. Fifty thousand dollars (\$50,000), if the applicant's annual
6 premium volume is in excess of fifty thousand dollars
7 (\$50,000).

8 (4) The applicant shall be financially responsible and have no
9 unsatisfied judgments, delinquent accounts, or claims against
10 himself or the agency.

11 The applicant shall meet all eligibility requirements listed under this subsection and
12 shall continue to meet such eligibility requirements throughout the designation. The
13 designation may be transferred, in the event of the retirement, incapacity, or death of the
14 applicant, to any person who qualifies under this section; provided, however, such
15 person to whom the designation is transferred shall have 13 months from the date of the
16 transfer to satisfy the requirements of subdivisions (1) and (2) of this subsection.

17 (b) The applicant shall furnish the Facility with adequate documentation to verify
18 books, records, and accounts for the agency.

19 (c) Designated carriers shall monitor the books of business and business practices
20 of agents appointed to them on an ongoing basis to ascertain that each designated agent
21 is adhering to minimum bookkeeping standards regarding premium billings and
22 collections, completion of applications, and reporting of claims.

23 (d) The Facility shall develop a comprehensive audit report for completion
24 annually by designated carriers on each designated agent. The annual audit shall be the
25 means for determining further eligibility.

26 (e) With respect to business produced by designated agents, adequate provision
27 shall be made by the Facility to assure that such business is rated using Facility rates.
28 All business produced by designated agents may be ceded to the Facility, except
29 designated agents may place liability insurance policies with a voluntary carrier as long
30 as all policies written by the voluntary carrier are retained by the voluntary carrier
31 unless ceded to the Facility using Facility rates. No agent may be designated under this
32 section to any insurer that does not actively write voluntary market business.
33 Designated agents must provide the Facility with a list of such policies written by the
34 voluntary carrier at least annually, or as requested by the Facility, on a form approved
35 by the Facility. If no insurer is willing to contract with any such agent on terms
36 acceptable to the Board, the Facility shall license such agent to write directly on behalf
37 of the Facility. However, for this purpose the Facility does not act as an insurer, but
38 acts only as the statutory agent of all of the members of the Facility, which shall be
39 bound on risks written by the Facility's appointed agent. The Facility may contract with
40 one or more servicing carriers and shall promulgate fair and reasonable underwriting
41 procedures to require that business produced by Facility agents and written through said
42 servicing carrier shall be rated using Facility rates. All business produced by Facility
43 agents may be ceded to the Facility.

1 (f) The Commissioner shall require, as a condition precedent to the issuance,
2 renewal, or continuation of a resident agent's license to any designated agent to act for
3 the company appointing such designated agent under contract with the Facility, that the
4 designated agent file and thereafter maintain in force while so licensed a bond in favor
5 of the State of North Carolina executed by an authorized corporate surety approved by
6 the Commissioner, cash, mortgage on real property, or other securities approved by the
7 Commissioner, in an amount to be determined by the Commissioner, but in no event
8 less than fifteen thousand dollars (\$15,000), for the use of aggrieved persons. Such
9 bond, cash, mortgage, or other securities shall be conditioned on the accounting by the
10 designated agent to any person requesting the designated agent to obtain motor vehicle
11 insurance for moneys or premiums collected in connection therewith. Any such bond
12 shall remain in force until the surety is released from liability by the Commissioner, or
13 until the bond is cancelled by the surety. Without prejudice to any liability accrued
14 prior to such cancellation, the surety may cancel the bond upon 30 days' advance notice
15 in writing filed with the Commissioner."

16 Sec. 2. G.S. 58-248.33(g) reads as rewritten:

17 "(g) Except as may be delegated specifically to others in the plan of operation or
18 reserved to the members, power and responsibility for the establishment and operation
19 of the Facility is vested in the Board of Governors, which power and responsibility
20 include but is not limited to the following:

21 (1) To sue and be sued in the name of the Facility. No judgment
22 against the Facility shall create any direct liability in the individual
23 member companies of the Facility.

24 (2) To receive and record cessions.

25 (3) To assess members on the basis of participation ratios established
26 in the plan of operation to cover anticipated or incurred costs of
27 operation and administration of the Facility at such intervals as are
28 established in the plan of operation.

29 (4) To contract for goods and services from others to assure the
30 efficient operation of the Facility.

31 (5) To hear and determine complaints of any company, agent or other
32 interested party concerning the operation of the Facility.

33 ~~(6) Upon the request of any licensed fire and casualty agent meeting~~
34 ~~any two of the standards set forth below as determined by the~~
35 ~~Commissioner of Insurance within 10 days of the receipt of the~~
36 ~~application, the Facility shall contract with one or more members~~
37 ~~within 20 days of receipt of the determination to appoint such~~
38 ~~licensed fire and casualty agent as designated agents in accordance~~
39 ~~with reasonable rules as are established by the plan of operation.~~
40 ~~Such standard shall be:~~

41 a. ~~Whether the agent's evidence establishes that he has been~~
42 ~~conducting his business in a community for a period of~~
43 ~~at least one year;~~

- 1 b. ~~Whether the agent's evidence establishes that he had a~~
2 ~~gross premium volume during the 13 months next~~
3 ~~preceding the date of his application of at least twenty~~
4 ~~thousand dollars (\$20,000) from motor vehicle~~
5 ~~insurance;~~
6 e. ~~Whether the agent's evidence establishes that the number~~
7 ~~of eligible risks served by him during the 13 months next~~
8 ~~preceding the date of application was 200 or more;~~
9 d. ~~Whether the agent's evidence establishes a growth in~~
10 ~~eligible risks served and premium volume during his~~
11 ~~years of service as an agent;~~
12 e. ~~Whether the agent's evidence establishes that he made~~
13 ~~available to eligible risks premium financing or any~~
14 ~~other plan for deferred payment of premiums.~~
15 ~~With respect to business produced by designated agents,~~
16 ~~adequate provision shall be made by the Facility to~~
17 ~~assure that such business is rated using Facility rates.~~
18 ~~All business produced by designated agents may be~~
19 ~~ceded to the Facility, except designated agents appointed~~
20 ~~prior to September 1, 1987, may place liability insurance~~
21 ~~policies with a voluntary carrier, provided that all~~
22 ~~policies written by the voluntary carrier are retained by~~
23 ~~the voluntary carrier unless ceded to the Facility using~~
24 ~~Facility rates. Designated agents must provide the~~
25 ~~Facility with a list of such policies written by the~~
26 ~~voluntary carrier at least annually, or as requested by the~~
27 ~~Facility, on a form approved by the Facility. If no~~
28 ~~insurer is willing to contract with any such agent on~~
29 ~~terms acceptable to the Board, the Facility shall license~~
30 ~~such agent to write directly on behalf of the Facility.~~
31 ~~However, for this purpose the Facility does not act as an~~
32 ~~insurer, but acts only as the statutory agent of all of the~~
33 ~~members of the Facility, which shall be bound on risks~~
34 ~~written by the Facility's appointed agent. The Facility~~
35 ~~may contract with one or more servicing carriers and~~
36 ~~shall promulgate fair and reasonable underwriting~~
37 ~~procedures to require that business produced by Facility~~
38 ~~agents and written through said servicing carriers shall~~
39 ~~be rated using Facility rates. All business produced by~~
40 ~~Facility agents may be ceded to the Facility.~~
41 ~~The Commissioner shall require, as a condition~~
42 ~~precedent to the issuance, renewal, or continuation of a~~
43 ~~resident agent's license to any designated agent to act for~~
44 ~~the company appointing such designated agent under~~

1 ~~contract with the Facility, that the designated agent file~~
2 ~~and thereafter maintain in force while so licensed a bond~~
3 ~~in favor of the State of North Carolina executed by an~~
4 ~~unauthorized corporate surety approved by the~~
5 ~~Commissioner, cash, mortgage on real property, or other~~
6 ~~securities approved by the Commissioner, in the amount~~
7 ~~of ten thousand dollars (\$10,000) for the use of~~
8 ~~aggrieved persons. Such bond, cash, mortgage, or other~~
9 ~~securities shall be conditioned on the accounting by the~~
10 ~~designated agent (i) to any person requesting the~~
11 ~~designated agent to obtain motor vehicle insurance for~~
12 ~~moneys or premiums collected in connection therewith,~~
13 ~~and (ii) to the company providing coverage with respect~~
14 ~~to any such moneys or premiums under contract with the~~
15 ~~Facility. Any such bond shall remain in force until the~~
16 ~~surety is released from liability by the Commissioner, or~~
17 ~~until the bond is cancelled by the surety. Without~~
18 ~~prejudice to any liability accrued prior to such~~
19 ~~cancellation, the surety may cancel the bond upon 30~~
20 ~~days' advance notice in writing filed with the~~
21 ~~Commissioner.~~

22 ~~No agent may be designated under this subdivision to~~
23 ~~any insurer that does not actively write voluntary market~~
24 ~~business.~~

25 (7) To maintain all loss, expense, and premium data relative to all
26 risks reinsured in the Facility, and to require each member to
27 furnish such statistics relative to insurance reinsured by the
28 Facility at such times and in such form and detail as may be
29 required.

30 (8) To establish fair and reasonable procedures for the sharing among
31 members of any loss on Facility business which cannot be
32 recouped pursuant to G.S. 58-248.34(f) or which cannot be
33 recouped or allocated under G.S. 58-248.41, and other costs,
34 charges, expenses, liabilities, income, property and other assets of
35 the Facility and for assessing or distributing to members their
36 appropriate shares. Such shares may be based on the member's
37 premiums for voluntary business for the appropriate category of
38 motor vehicle insurance or by any other fair and reasonable
39 method.

40 (9) To receive or distribute all sums required by the operation of the
41 Facility.

42 (10) To accept all risks submitted in accordance with this Article.

- 1 (11) To establish procedures for reviewing claims practices of member
2 companies to the end that claims to the account of the Facility will
3 be handled fairly and efficiently.
4 (12) To adopt and enforce all rules and to do anything else where the
5 Board is not elsewhere herein specifically empowered which is
6 otherwise necessary to accomplish the purpose of the Facility and
7 is not in conflict with the other provisions of this Article."
8 Sec. 3. This act shall become effective October 1, 1989.