

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 52

Short Title: Exempt Business Brokers.

(Public)

Sponsors: Senator Block.

Referred to: Judiciary III.

January 25, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT BUSINESS BROKERS ARE NOT SECURITIES DEALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-2(2) reads as rewritten:

"(2) 'Dealer' means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. 'Dealer' does not include:

a. A salesman,

b. A bank, savings institution, or trust company,

c. A person who has no place of business in this State if

1. He effects transactions in this State exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. In the case of a person registered as a dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934 and in one or more states, during any period of 12 consecutive months he does not effect more than 15 purchases or sales in this State in any manner with persons other than

1                   those specified in clause 1, whether or not the dealer or any of  
2                   the purchasers or sellers is then present in this State, or

3           d. An issuer if

- 4               1.    The security is exempted under subdivisions (1), (2), (3), (4),  
5               (5)[,] (7), (9), (10), (11), (13), or (14) of G.S. 78A- 16, or the  
6               transaction is exempted under G.S. 78A-17, and such  
7               exemption has not been denied or revoked under G.S. 78A-18,  
8               or  
9               2.    The security is registered under this Chapter and it is offered  
10              and sold through a registered dealer, or  
11              3.    All of the following conditions are met: (i) No commission or  
12              other remuneration is paid or given directly or indirectly for  
13              soliciting any prospective purchaser in this State; (ii) the total  
14              amount of the offering, both within and without this State, does  
15              not exceed two million five hundred thousand dollars  
16              (\$2,500,000); and (iii) the total number of purchasers, both  
17              within and without this State, does not exceed 100. Provided,  
18              however, the Administrator may by rule or order waive the  
19              condition imposed by subdivision (iii) hereof; or  
20              4.    The security is issued by an open-end management company  
21              that is registered under the Investment Company Act of 1940  
22              and so long as no sales load is paid or given, directly or  
23              indirectly.

24           e.    An individual or company primarily engaged in acting as a business  
25               broker whose only compensation is a commission on the sale of a  
26               business."

27           Sec. 2. This act is effective upon ratification.