

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 12  
SENATE BILL 52

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 those specified in clause 1, whether or not the dealer or any of the purchasers or sellers is then present in this State, or
- d. An issuer if
  1. The security is exempted under subdivisions (1), (2), (3), (4), (5)[,] (7), (9), (10), (11), (13), or (14) of G.S. 78A- 16, or the transaction is exempted under G.S. 78A-17, and such exemption has not been denied or revoked under G.S. 78A-18, or
  2. The security is registered under this Chapter and it is offered and sold through a registered dealer, or
  3. All of the following conditions are met: (i) No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective purchaser in this State; (ii) the total amount of the offering, both within and without this State, does not exceed two million five hundred thousand dollars (\$2,500,000); and (iii) the total number of

purchasers, both within and without this State, does not exceed 100. Provided, however, the Administrator may by rule or order waive the condition imposed by subdivision (iii) hereof; or

4. The security is issued by an open-end management company that is registered under the Investment Company Act of 1940 and so long as no sales load is paid or given, directly or indirectly.

e. A person who acts as a business broker with respect to a transaction involving the offer or sale of all of the stock in any closely held corporation provided that such stock is sold to no more than one person, as that term is defined herein.

Sec. 2. Nothing contained in this act shall be construed to affect any litigation pending at the time of ratification.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of March, 1989.