

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-122
HOUSE BILL 1699

AN ACT TO EQUALIZE RESIDENT AND NONRESIDENT INSURANCE BROKER LICENSE FEES; TO MAKE NORTH CAROLINA INSURANCE PRODUCER LICENSING LAWS COMPLY WITH THE RECIPROCITY REQUIREMENTS IN THE FEDERAL GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102; TO AMEND THE MINIMUM EDUCATION REQUIREMENTS FOR THE DEPARTMENT OF INSURANCE FINANCIAL EXAMINER AND ANALYST APPLICANTS; TO AMEND THE DEFINITION OF "PERSON" IN THE BEACH AND FAIR PLAN LAWS; TO AMEND THE DEFINITION OF "BRANCH OFFICE" IN THE MOTOR CLUB LAWS; TO INCREASE THE BOND AMOUNT FOR MANUFACTURED HOUSING LICENSEES; TO REQUIRE NOTIFICATION TO THE MANUFACTURED HOUSING BOARD FROM MANUFACTURED HOUSING LICENSEES OF CHANGES IN OWNERSHIP CONTROL AND BANKRUPTCIES; AND TO EXPEDITE BUILDING PLAN REVIEWS BY EXEMPTING REVIEWS OF COUNTY AND CITY BUILDINGS COMPRISING FEWER THAN TEN THOUSAND SQUARE FEET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-33-125(a) reads as rewritten:

"(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster	\$ 75.00
Adjuster, crop hail only	20.00
Agent appointment cancellation (paid by insurer)	10.00
Agent appointment, individual	20.00
Agent appointment, nonindividual	50.00
Agent appointment, Medicare supplement and long-term care, individual	10.00
Agent appointment, Medicare supplement and long-term care, nonindividual	20.00
Agent, overseas military	20.00
Broker, nonresident	100.00 50.00
Broker, resident	50.00
Limited representative	20.00

Limited representative cancellation (paid by insurer)	10.00
Motor vehicle damage appraiser	75.00
Recertification, continuing education	5.00
Surplus lines licensee, corporate	50.00
Surplus lines licensee, individual	50.00

These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner. The recertification fee in this subsection shall be paid by persons subject to G.S. 58-33-130 at the time they renew their licenses or appointments under G.S. 58-33-130(c)."

Section 2. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-32. Interstate reciprocity in producer licensing.

(a) The purpose of this section is to make North Carolina insurance producer licensing comply with the reciprocity requirements in the federal Gramm-Leach-Bliley Act, Public Law 106-102. This section does not apply to surplus lines licensees in Article 21 of this Chapter, except as provided in subsections (c) and (d) of this section.

(b) As used in this section:

- (1) 'Home state' means the District of Columbia and any state or territory of the United States in which an insurance producer maintains a principal place of residence or principal place of business and is licensed to act as an insurance producer.
- (2) 'Insurance producer' or 'producer' means a person required to be licensed under this Article to sell, solicit, or negotiate insurance.
- (3) 'License' means a document issued by the Commissioner authorizing a person to act as an insurance producer for the kinds of insurance specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurance carrier.
- (4) 'Limited line credit insurance' includes any type of credit insurance written under Article 57 of this Chapter, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commissioner determines should be designated a form of limited line credit insurance.
- (5) 'Limited line credit insurance producer' means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.
- (6) 'Negotiate' means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or

- conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.
- (7) 'Sell' means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.
 - (8) 'Solicit' means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.
 - (9) 'Uniform Application' means the most recent version of the NAIC Uniform Application for resident and nonresident producer licensing.
 - (10) 'Uniform Business Entity Application' means the most recent version of the NAIC Uniform Business Entity Application for a resident and a nonresident corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) Unless denied licensure under G.S. 58-33-30 or G.S. 58-33-50, a nonresident person shall receive a nonresident producer license if:

- (1) The person is currently licensed as a resident and in good standing in that person's home state;
- (2) The person has submitted the proper request for licensure and has paid the fees required by G.S. 58-33-125;
- (3) The person has submitted or transmitted to the Commissioner the application for licensure that the person submitted to that person's home state, or in lieu of the same, a completed Uniform Application or Uniform Business Entity Application; and
- (4) The person's home state awards nonresident producer licenses to residents of this State on the same basis.

The Commissioner may verify the producer's licensing status through the producer database maintained by the NAIC or affiliates or subsidiaries of the NAIC.

(d) Notwithstanding any other provision of this section, a person licensed as a surplus lines producer in that person's home state shall receive a nonresident surplus lines license pursuant to the provisions of this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of Article 21 of this Chapter.

(e) Notwithstanding any other provision of this section, a person licensed or registered as a viatical settlement broker, viatical settlement provider, or viatical settlement representative, as defined in G.S. 58-58-42(a), in that person's home state shall receive a nonresident viatical settlement broker, viatical settlement provider, or viatical settlement representative license pursuant to this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of G.S. 58-58-42.

(f) Notwithstanding any other provision of this section, a person licensed as a limited line credit insurance producer or other type of insurance producer in that person's home state shall receive a nonresident limited lines producer license pursuant to the provisions of this section, granting the same scope of authority as granted under the license issued by the producer's home state.

(g) An individual who applies for an insurance producer license in this State who was previously licensed for the same kinds of insurance in that individual's home state shall not be required to complete any prelicensing education or examination. This exemption is available only if:

- (1) The applicant is currently licensed in the applicant's home state; or
- (2) The application is received within 90 days after the cancellation of the applicant's previous license and the applicant's home state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or
- (3) The home state's producer database records, maintained by the NAIC or affiliates or subsidiaries of the NAIC, indicate that the producer is or was licensed in good standing for the kind of insurance requested.

(h) The Commissioner shall not assess a greater fee for an insurance license or related service to a nonresident producer based solely on the fact that the producer does not reside in this State.

(i) The Commissioner shall waive any license application requirements for a nonresident license applicant with a valid license from the applicant's home state, except the requirements imposed by subsection (c) of this section, if the applicant's home state awards nonresident licenses to residents of this State on the same basis.

(j) A nonresident producer's satisfaction of the nonresident producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this State on the same basis.

(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. This report shall include a copy of the order or consent order and other relevant legal documents.

(l) Within 30 days after the initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer taken in any state. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents."

Section 3. G.S. 58-33-30(h)(2)b. reads as rewritten:

"b. ~~A~~ Except as provided in G.S. 58-33-32, a nonresident of this State may be licensed without taking an otherwise required written examination if the ~~Commissioner~~ insurance regulator of the state of the applicant's residence certifies that the applicant has passed a similar written examination or has been a continuous holder, prior to the time such written examination was required, of a license like the license being applied for in this State."

Section 4. G.S. 58-2-25(b) reads as rewritten:

"(b) The minimum education requirements for financial analysts and examiners referred to in subsection (a) of this section are a bachelors degree, with the appropriate

courses in accounting as defined in 21 NCAC 8A.0309, and other courses that are required to qualify the applicant as a candidate for the uniform certified public accountant examination, based on the examination requirements in effect at the time of ~~employment by the Department of the analyst or examiner.~~ graduation by the analyst or examiner from an accredited college or university."

Section 5. Article 45 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-45-6. Persons who can be insured by the Association.

As used in this Article, 'person' includes any county, city, or other political subdivision of the State of North Carolina."

Section 6. Article 46 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-46-2. Persons who can be insured by the Association.

As used in this Article, 'person' includes any county, city, or other political subdivision of the State of North Carolina."

Section 7. G.S. 58-69-2(1) reads as rewritten:

"(1) 'Branch or district office' means any physical location, other than a motor club's home office, ~~where the motor club or its representatives conduct~~ office, that is used by the motor club or its representatives as a principal place of business for conducting any type of business authorized under this Article. Article and as a place of business that is used by clients or prospective clients in meeting or dealing with the motor club or its representatives in the normal course of business authorized under this Article."

Section 8. G.S. 143-143.12(a) reads as rewritten:

"(a) A person licensed as a manufactured home salesperson shall not be required to furnish a bond, but each applicant approved by the Board for license as a manufacturer, dealer, or set-up contractor shall furnish a corporate surety bond, cash bond or fixed value equivalent in the following amounts:

- (1) For a manufacturer, two thousand dollars (\$2,000) per manufactured home manufactured in the prior license year, up to a maximum of one hundred thousand dollars (\$100,000). When no manufactured homes were produced in the prior year, the amount required shall be based on the estimated number of manufactured homes to be produced during the current year.
- (2) For a dealer who has ~~four or less places~~ one place of business, the amount shall be ~~twenty five~~ thirty-five thousand dollars ~~(\$25,000)~~ (\$35,000).
- (3) For a dealer who has more than ~~four places~~ one place of business, the amount shall be ~~fifty thousand dollars (\$50,000)~~ twenty-five thousand dollars (\$25,000) for each additional place of business.
- (4) For a set-up contractor, the amount shall be ~~five ten~~ ten thousand dollars ~~(\$5,000)~~ (\$10,000)."

Section 9. G.S. 143-143.11A reads as rewritten:

"§ 143-143.11A. Notification of change of address; ~~service of notice.~~ address, control of ownership, and bankruptcy.

(a) Every applicant for a license shall inform the Board of the applicant's business address. Every licensee shall give written notification to the Board of any change in the licensee's business address, for whatever reason, within 10 business days after the licensee moves to a new address or a change in the address takes place. A violation of this subsection shall not constitute grounds for revocation, suspension, or non-renewal of a license or for the imposition of any other penalty by the Board.

(b) Notwithstanding any other provision of law, whenever the Board is authorized or required to give notice to a licensee under this Article, the notice may be delivered personally to the licensee or sent by first-class mail to the licensee at the address provided to the Board under subsection (a) of this section. Notice shall be deemed given four days after mailing, and any Department employee may certify that notice has been given.

(c) Every person licensed under this Article, except for a person licensed as a manufactured home salesperson, shall give written notification to the Board of any change in ownership or control of the licensee's business within 30 business days after the change. A 'change in ownership or control' means the sale or conveyance of the capital stock of the business or of an owner's interest in the business, which operates to place a person or group of persons, not previously in control of the business, in effective control of the business. A violation of this subsection shall not constitute grounds for revocation, suspension, or nonrenewal of a license or for the imposition of any other penalty by the Board.

(d) Upon the filing for protection under the United States Bankruptcy Code by any licensee, or by any business in which the licensee holds a position of employment, management or ownership, the licensee shall notify the Board of the filing of protection within three business days after the filing. Upon the appointment of a receiver by a court of this State for any licensee, or for any business in which the licensee holds a position of employment, management, or ownership the licensee shall notify the Board of the appointment within three business days after the appointment."

Section 10. G.S. 58-31-40 reads as rewritten:

"§ 58-31-40. Commissioner to inspect State property; plans submitted.

(a) ~~It is the duty of the Commissioner at least once in each year, or oftener, if deemed necessary, to~~ The Commissioner shall, at least once every year or more often if the Commissioner considers it necessary, visit, inspect, and thoroughly examine each State institution or other every State property with a view to its to analyze and determine its protection from fire, as well as to the safety of its inmates or the property therein including the property's occupants or contents. in case of fire, and call to the attention of the board or officer having the same ~~The Commissioner shall notify the agency or official in charge of the property of any defect noted by him~~ The Commissioner or any improvement deemed considered by the Commissioner to be necessary.

(b) ~~No agency board, commission, superintendent, or other person or persons authorized and or directed by law to select plans a plan and erect buildings a building~~

for the use of the State of North Carolina or any institution thereof, State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or erect a building comprising 10,000 square feet or more for the use of any county, city, or incorporated town or school district shall receive and approve of any plans the plan until they are it is submitted to and approved by the Commissioner of Insurance of the State as to the safety of the proposed buildings building from fire, as well as the protection of the inmates in case of fire. including the property's occupants or contents."

Section 11. Sections 8 and 9 of this act become effective September 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:43 a.m. this 14th day of July, 2000