

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 591

Pensions and Retirement/Insurance/State Personnel Committee Substitute Adopted 5/4/95

Short Title: Insurance Licenses/Continuing Ed.

(Public)

Sponsors:

Referred to:

April 5, 1995

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A LICENSE FOR CUSTOMER SERVICE REPRESENTATIVES, TO ESTABLISH A TEMPORARY LICENSE, AND TO MAKE CONFORMING CHANGES TO THE LAW THAT GOVERNS THE LICENSING AND CONTINUING EDUCATION REQUIREMENTS OF INSURANCE AGENTS AND BROKERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-33-130 reads as rewritten:

"§ 58-33-130. Continuing education program for licensees.

(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

- (1) The content of continuing education courses;
- (2) Accreditation of continuing education sponsors and programs;
- (3) Accreditation of videotape or other audiovisual programs;
- (4) Computation of credit;
- (5) Special cases and exemptions;

1 (6) General compliance procedures; and

2 (7) Sanctions for noncompliance.

3 (b) The Commissioner may adopt rules to provide for the continuing professional
4 education of all ~~agents and agents~~, brokers, including fraternal field marketers, and
5 customer service representatives, but excluding limited representatives. In adopting the
6 rules, the Commissioner may use the same criteria as specified in subsection (a) of this
7 section and shall provide that agents holding more than one license under G.S. 58-33-
8 25(c) are required to complete no more than 18 credit hours per year.

9 (c) On and after January 1, 1992, any individual ~~agent or broker~~ agent, broker, or
10 customer service representative desiring to renew an appointment or license shall offer
11 evidence satisfactory to the Commissioner that ~~he~~ the agent, broker, or customer service
12 representative has complied with the continuing professional education requirements
13 approved by the Commissioner.

14 (d) Annual continuing professional education hour requirements shall be
15 determined by the Commissioner, but shall not be more than 12 credit hours. Continuing
16 professional education hour requirements for customer service representatives shall not
17 be more than six credit hours per year.

18 (e) No more than seventy-five percent (75%) of the requirement relating to life or
19 health insurance agents or brokers may be met by taking courses offered by licensed life
20 or health insurance companies with which those agents or brokers have appointments.

21 (f) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 678, s. 18.

22 (g) The Commissioner shall permit any licensee to carry over to a subsequent
23 calendar year up to seventy-five percent (75%) of the required annual hours of continuing
24 professional education.

25 (h) Any licensee who offers evidence satisfactory to the Commissioner on forms
26 prescribed by the Commissioner that he has satisfactorily completed the required
27 continuing professional education courses shall be deemed to have complied with this
28 section.

29 (i) The Commissioner is authorized to approve continuing professional education
30 courses.

31 (j) The Commissioner is authorized to establish fees to be paid to the
32 Commissioner by licensees who are required to comply with this section or by course
33 vendors for the purpose of offsetting the cost of additional staff and resources to
34 administer the program authorized by this section. To assure continued and proper
35 administration of the program, any unexpended revenue from the fees shall not revert to
36 the General Fund.

37 (k) Repealed by Session Laws 1993, c. 409, s. 4."

38 Sec. 2. G.S. 58-33-65 reads as rewritten:

39 **"§ 58-33-65. Temporary licensing.**

40 (a) The Commissioner may issue a temporary license as an agent, broker, or
41 limited representative for a period without requiring an examination if the Commissioner
42 deems that such temporary license is necessary for the servicing of insurance business in
43 the following cases:

- 1 (1) To the surviving spouse or next of kin, or to the administrator or
2 executor or employee thereof, of such deceased licensee or to the
3 spouse, next of kin, employee, or legal guardian of such licensee who
4 becomes disabled;
- 5 (2) To a member or employee of a licensed partnership or officer or
6 employee of a licensed corporation, upon the death or disability of an
7 individual designated in or registered as to the license;
- 8 (3) To the designee of a licensee entering active service in the armed forces
9 of the United States of America; or
- 10 (4) To ~~an~~ any applicant for licensing who is appointed as an agent of a life
11 insurer that writes debit or industrial life or health ~~insurance~~ insurance
12 or who is performing limited administrative duties under the supervision
13 of a licensed agent or broker.

14 (b) To be eligible for any such temporary license, an individual must be qualified
15 as for a permanent license except as to experience, training or the taking of the
16 examination. Upon meeting all license requirements the agent will be issued a permanent
17 license. The temporary license will be cancelled and will be deemed to be a company
18 appointment by the sponsoring company, if any.

19 (c) No temporary license shall be effective for more than 90 days ~~in any 12-month~~
20 ~~period~~ and shall automatically terminate upon such temporary licensee's failing the
21 examination required in G.S. 58-33-30. A temporary license issued under this section
22 shall not be renewed.

23 (d) An individual requesting a temporary license on account of death or disability
24 of an agent or broker shall be licensed to represent only those insurers that had appointed
25 such agent at the time of death or commencement of disability.

26 (e) The fee paid to the Commissioner for issuance of a temporary license shall be
27 credited toward the fee required for an appointment by the sponsoring company that is
28 recorded upon the licensee's qualifying for a permanent license."

29 Sec. 3. The title to Article 33 of Chapter 58 of the General Statutes reads as
30 rewritten:

31 **"ARTICLE 33.**
32 **LICENSING OF AGENTS, BROKERS, LIMITED**
33 **REPRESENTATIVES, CUSTOMER SERVICE REPRESENTATIVES,**
34 **AND ADJUSTERS."**

35 Sec. 4. G.S. 58-33-1 reads as rewritten:

36 "**§ 58-33-1. Scope.**

37 This Article governs the qualifications and procedures for the licensing of agents,
38 brokers, limited representatives, adjusters, customer service representatives, and motor
39 vehicle damage appraisers. This Article applies to any and all kinds of insurance and
40 insurers under Articles 1 through 67 of this Chapter. Except as provided in G.S. 58-33-
41 125, this Article does not apply to the licensing of surplus lines licensees under Article 21
42 of this Chapter. For purposes of this Article, all references to insurance include annuities,
43 unless the context otherwise requires."

1 Sec. 5. G.S. 58-33-10 is amended by adding a new subsection to read:

2 "(c1) 'Customer service representative' means a person who is licensed to negotiate
3 policies of insurance and to underwrite applications for insurance under the supervision
4 of a licensed agent or broker but who does not solicit policies of insurance outside the
5 confines of the agent's or broker's office."

6 Sec. 6. Article 33 of Chapter 58 of the General Statutes is amended by adding
7 a new section to read:

8 **"§ 58-33-31. Licenses for customer service representatives.**

9 (a) No person shall act as a customer service representative unless licensed
10 pursuant to this Article.

11 (b) An applicant for a customer service representative license shall meet the
12 following requirements:

13 (1) Application. – Application shall be made to the Commissioner by the
14 applicant on a form prescribed by the Commissioner.

15 (2) Age. – Every individual applicant for license under this Article must be
16 at least 18 years of age.

17 (3) Character. – An applicant must be deemed by the Commissioner to be
18 competent, trustworthy, and financially responsible, and must have not
19 willfully violated the insurance laws of this or any other state.

20 (4) Education and Training. –

21 a. Each applicant must have had special education, training, or
22 experience of sufficient duration and extent reasonably to satisfy
23 the Commissioner that the applicant possesses the competence
24 necessary to fulfill the responsibilities of a customer service
25 representative.

26 b. All individual applicants for licensing shall furnish evidence
27 satisfactory to the Commissioner of successful completion of at
28 least 35 hours of instruction, which shall in all cases include the
29 general principles of insurance and any other topics that the
30 Commissioner establishes by regulation and which shall include
31 the principles of personal property and liability insurance,
32 including fire and homeowners insurance, and personal
33 automobile insurance.

34 c. After completion and filing of the application with the
35 Commissioner, the Commissioner shall require each applicant for
36 license as a customer service representative to take a written
37 examination as to the applicant's competence to be licensed. The
38 applicant must take and pass the examination according to
39 requirements prescribed by the Commissioner, with emphasis on
40 personal property and liability insurance, including fire and
41 homeowners insurance, and personal automobile insurance.

42 d. The examination shall be written and administered under the
43 Commissioner's supervision. The Commissioner shall determine

1 the times and places the examination shall be given to serve the
2 convenience of both the Commissioner and applicants. The
3 Commissioner may contract directly with persons for the
4 processing of examination application forms and for the
5 administration and grading of the examinations required by this
6 section, which shall not be subject to Article 3 of Chapter 143 of
7 the General Statutes. The Commissioner may charge a
8 reasonable fee in addition to the registration fee charged under
9 G.S. 58-33-125, to offset the cost of the examination contract
10 authorized by this subsection.

11 e. The Commissioner shall collect in advance the examination and
12 registration fees required by this Article. The Commissioner
13 shall make or cause to be made available to all applicants, for a
14 reasonable fee to offset the costs of production, materials that are
15 necessary for the applicants' proper preparation for the
16 examinations. The Commissioner may contract directly with
17 publishers and other suppliers for the production of preparatory
18 materials and the contract shall not be subject to Article 3 of
19 Chapter 143 of the General Statutes.

20 (5) Denial of License. – If the Commissioner finds that the applicant has not
21 met the requirements for licensing, the Commissioner shall refuse to
22 issue the license and shall notify in writing the applicant and the
23 appointing insurer, if any, of the denial, stating the grounds for the
24 denial. The application may also be denied for any reason for which a
25 license may be suspended, revoked, or not renewed under G.S. 58-33-
26 45(a). Within 30 days after service of the notification, the applicant
27 may make a written demand upon the Commissioner for a review to
28 determine the reasonableness of the Commissioner's action. The review
29 shall be completed without undue delay, and the applicant shall be
30 notified promptly in writing as to the outcome of the review. Within 30
31 days after service of the notification as to the outcome, the applicant
32 may make a written demand upon the Commissioner for a hearing under
33 Article 3A of Chapter 150B of the General Statutes if the applicant
34 disagrees with the outcome.

35 (c) The license shall state the name, the social security or other identifying number
36 of the licensee, the date of issue, and any other information required by the
37 Commissioner.

38 (d) A license issued to a customer service representative authorizes the
39 representative to act until the license is otherwise suspended or revoked. Upon the
40 suspension or revocation of a license, the licensee or any person having possession of the
41 license shall return it to the Commissioner.

42 (e) A license of a customer service representative shall be renewed on April 1 of
43 each year and renewal fees shall be paid. The Commissioner is not required to print

1 licenses for the purpose of renewing licenses. The Commissioner is authorized to
2 establish for the licenses 'staggered' license renewal dates that will apportion renewals
3 throughout each calendar year. If a system of staggered licensing is adopted, the
4 Commissioner is authorized to extend the licensure period for some licensees. License
5 renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they are
6 commensurate with extensions.

7 (f) Customer service representatives licensed pursuant to this section shall be
8 required to comply with continuing professional education requirements annually as
9 required by G.S. 58-33-130."

10 Sec. 7. G.S. 58-33-85 reads as rewritten:

11 "**§ 58-33-85. Rebates and charges in excess of premium prohibited; exceptions.**

12 (a) No insurer, agent, ~~broker~~ broker, customer service representative, or limited
13 representative shall knowingly charge, demand or receive a premium for any policy of
14 insurance except in accordance with the applicable filing approved by the Commissioner.
15 No insurer, agent, ~~broker~~ broker, customer service representative, or limited
16 representative shall pay, allow, or give, or offer to pay, allow, or give, directly or
17 indirectly, as an inducement to insurance, or after insurance has been effected, any rebate,
18 discount, abatement, credit, or reduction of the premium named in a policy of insurance,
19 or any special favor or advantage in the dividends or other benefits to accrue thereon, or
20 any valuable consideration or inducement whatever, not specified in the policy of
21 insurance. No insured named in a policy of insurance, nor any employee of such insured,
22 shall knowingly receive or accept, directly or indirectly, any such rebate, discount,
23 abatement or reduction of premium, or any special favor or advantage or valuable
24 consideration or inducement. Nothing herein contained shall be construed as prohibiting
25 the payment of commissions or other compensation to ~~duly licensed agents, brokers and~~
26 ~~limited representatives,~~ nor as prohibiting any participating insurer from distributing to its
27 policyholders dividends, savings or the unused or unabsorbed portion of premiums and
28 premium deposits. As used in this section the word 'insurance' includes suretyship and the
29 word 'policy' includes bond.

30 (b) No insurer, agent, broker, customer service representative, or limited
31 representative shall knowingly charge to or demand or receive from an applicant for
32 insurance any money or other consideration in return for the processing of applications or
33 other forms or for the rendering of services associated with a contract of insurance, which
34 money or other consideration is in addition to the premium for such contract, unless the
35 applicant consents in writing before any services are rendered."

36 Sec. 8. G.S. 58-33-90 reads as rewritten:

37 "**§ 58-33-90. Rebate of premiums on credit life and credit accident and health**
38 **insurance; retention of funds by agent.**

39 It shall be unlawful for any insurance carrier, or officer, agent or representative of an
40 insurance company writing credit life and credit accident and health insurance, as defined
41 in G.S. 58-58-10 and G.S. 58-51-100, or combination credit life, accident and health,
42 hospitalization and disability insurance in connection with loans, to permit any agent or
43 representative of such company to retain any portion of funds received for the payment of

1 losses incurred, or to be incurred, under such policies of insurance issued by such
2 company, or to pay, allow, permit, give or offer to pay, allow, permit or give, directly, or
3 indirectly, as an inducement to insurance, or after insurance has been effected, any rebate,
4 discount, abatement, credit or reduction of the premium, to any loan agency, insurance
5 agency or broker, or to any creditor of the debtor on whose account the insurance was
6 issued, or to any person, firm or corporation which received a commission or fee in
7 connection with the issuance of such insurance: Provided, that this section shall not
8 prohibit the payment of commissions to a licensed insurance agent or agency or limited
9 representative on the sale of a policy of credit life and credit accident and health
10 insurance, or combination credit life, accident and health, hospitalization and disability
11 insurance in connection with loans.

12 It shall be unlawful for any agent, agency, broker, customer service representative,
13 limited representative, or insured named in any such policy, or for any loan agency or
14 broker, or any agent, officer or employee of any loan agency or broker to receive or
15 accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of
16 the premium as set out in this section."

17 Sec. 9. G.S. 58-33-100 reads as rewritten:

18 "**§ 58-33-100. Payment of premium to agent valid; obtaining by fraud a crime.**

19 Any agent, ~~broker~~customer service representative, or limited representative
20 who acts for a person other than himself negotiating a contract of insurance is, for the
21 purpose of receiving the premium therefor, the company's agent, whatever conditions or
22 stipulations may be contained in the policy or contract. Such agent, broker or limited
23 representative knowingly procuring by fraudulent representations payment, or the
24 obligation for the payment, of a premium of insurance, shall be guilty of a Class 1
25 misdemeanor."

26 Sec. 10. G.S. 58-33-120 reads as rewritten:

27 "**§ 58-33-120. Agent, adjuster, etc., acting without a license or violating insurance**
28 **law.**

29 If any person shall assume to act either as principal, agent, broker, limited
30 representative, customer service representative, adjuster or motor vehicle damage
31 appraiser without license as is required by law or pretending to be a principal, agent,
32 broker, limited representative, customer service representative, adjuster or licensed motor
33 vehicle damage appraiser, shall solicit, examine or inspect any risk, or shall examine into,
34 adjust, or aid in adjusting any loss, investigate or advise relative to the nature and amount
35 of damages to motor vehicles or the amount necessary to effect repairs thereto, or shall
36 receive, collect, or transmit any premium of insurance, or shall do any other act in the
37 soliciting, making or executing any contract of insurance of any kind otherwise than the
38 law permits, or as principal or agent shall violate any provision of law contained in
39 Articles 1 through 64 of this Chapter, the punishment for which is not elsewhere provided
40 for, ~~he that person~~ shall be deemed guilty of a Class 1 misdemeanor."

41 Sec. 11. G.S. 58-33-125 reads as rewritten:

42 "**§ 58-33-125. Fees.**

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

4 Adjuster \$ 75.00	
5 Adjuster, crop hail only	20.00
6 Agent appointment cancellation (paid by insurer)	10.00
7 Agent appointment, individual	20.00
8 Agent appointment, nonindividual	50.00
9 Agent appointment, Medicare supplement 10 and long-term care, individual	10.00