

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

Finance Committee Substitute No. 2 Adopted 5/31/95

Short Title: Insurance Licenses/Continuing Ed.

(Public)

Sponsors:

Referred to: Appropriations

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;

- 1 (5) Special cases and exemptions;
2 (6) General compliance procedures; and
3 (7) Sanctions for noncompliance.

4 (b) The Commissioner may adopt rules to provide for the continuing professional
5 education of all ~~agents and agents~~, brokers, including fraternal field marketers, and
6 customer service representatives, but excluding limited representatives. In adopting the
7 rules, the Commissioner may use the same criteria as specified in subsection (a) of this
8 section and shall provide that agents holding more than one license under G.S. 58-33-
9 25(c) are required to complete no more than 18 credit hours per year.

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

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

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

22 (f) Repealed by Session Laws 1993 (Reg.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

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

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

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

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

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

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

40 "**§ 58-33-65. Temporary licensing.**

41 (a) The Commissioner may issue a temporary license as an agent, broker, or
42 limited representative for a period without requiring an examination if the Commissioner

1 deems that such temporary license is necessary for the servicing of insurance business in
2 the following cases:

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

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

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

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

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

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

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

37 Sec. 4. G.S. 58-33-1 reads as rewritten:
38 **"§ 58-33-1. Scope.**

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

1 of this Chapter. For purposes of this Article, all references to insurance include annuities,
2 unless the context otherwise requires."

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

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

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

10 "**§ 58-33-31. Licenses for customer service representatives.**

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

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

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

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

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

22 (4) Education and Training. –

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

28 b. All individual applicants for licensing shall furnish evidence
29 satisfactory to the Commissioner of successful completion of at
30 least 40 hours of instruction, which shall in all cases include the
31 general principles of insurance and any other topics that the
32 Commissioner establishes by rule and which shall include the
33 principles of personal property and liability insurance, including
34 fire and homeowners insurance, and personal automobile
35 insurance.

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

- 1 d. The examination shall be written and administered under the
2 Commissioner's supervision. The Commissioner shall determine
3 the times and places the examination shall be given to serve the
4 convenience of both the Commissioner and applicants. The
5 Commissioner may contract directly with persons for the
6 processing of examination application forms and for the
7 administration and grading of the examinations required by this
8 section, which shall not be subject to Article 3 of Chapter 143 of
9 the General Statutes. The Commissioner may charge a
10 reasonable fee in addition to the registration fee charged under
11 G.S. 58-33-125, to offset the cost of the examination contract
12 authorized by this subsection.
- 13 e. The Commissioner shall collect in advance the examination and
14 registration fees required by this Article. The Commissioner
15 shall make or cause to be made available to all applicants, for a
16 reasonable fee to offset the costs of production, materials that are
17 necessary for the applicants' proper preparation for the
18 examinations. The Commissioner may contract directly with
19 publishers and other suppliers for the production of preparatory
20 materials and the contract shall not be subject to Article 3 of
21 Chapter 143 of the General Statutes.

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

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

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

41 (f) A license of a customer service representative shall be renewed on April 1 of
42 each year and renewal fees shall be paid. The Commissioner is not required to print
43 licenses for the purpose of renewing licenses. The Commissioner is authorized to

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

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

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

10 **"§ 58-33-85. Rebates and charges in excess of premium prohibited; exceptions.**

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

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

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

36 **"§ 58-33-90. Rebate of premiums on credit life and credit accident and health**
37 **insurance; retention of funds by agent.**

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

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

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

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

17 "**§ 58-33-100. Payment of premium to agent valid; obtaining by fraud a crime.**

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

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

26 "**§ 58-33-120. Agent, adjuster, etc., acting without a license or violating insurance**
27 **law.**

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

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

41 "**§ 58-33-125. Fees.**

(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
Broker, resident	50.00
<u>Customer service representative</u>	<u>20.00</u>
<u>Customer service representative cancellation</u>	<u>10.00</u>
<u>(paid by insurer)</u>	
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).

(b) Whenever a temporary license may be issued pursuant to this Article, the fee shall be at the same rate as provided in subsection (a) of this section; and any amounts so paid for a temporary license may be credited against the fee required for an appointment by the sponsoring company.

(c) Any person not registered who is required by law or administrative rule to secure a license shall, upon application for registration, pay to the Commissioner a fee of thirty dollars (\$30.00). In the event additional licensing for other kinds of insurance is requested, a fee of thirty dollars (\$30.00) shall be paid to the Commissioner upon application for registration for each additional kind of insurance.

In addition to the fees prescribed by this subsection, any person applying for a supplemental license to sell Medicare supplement and long-term care insurance policies shall pay an additional fee of thirty dollars (\$30.00) upon application for registration for those kinds of insurance.

1 (d) The requirement for an examination, prelicensing education, continuing
2 education, or a registration fee does not apply to agents for domestic farmers' mutual
3 assessment fire insurance companies or associations who solicit and sell only those kinds
4 of insurance specified in G.S. 58-7-75(5)d for such companies or associations.

5 (e) In the event a license issued under this Article is lost, stolen, or destroyed, the
6 Commissioner may issue a duplicate license upon a written request from the licensee and
7 payment of a fee of five dollars (\$5.00).

8 (f) Whenever a printed record of an agent's or customer service representative's
9 file is requested, the fee shall be ten dollars (\$10.00) for each copy whether or not the
10 agent or customer service representative is currently licensed, previously licensed, or no
11 record of that agent exists.

12 (g) All fees prescribed by this section are nonrefundable."

13 Sec. 12. This act becomes effective January 1, 1996.