

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**HOUSE BILL 1388
RATIFIED BILL**

**AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO ISSUE
PERMITS TO ALIEN DEBT COLLECTORS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-70-5 reads as rewritten:

"§ 58-70-5. Application to Commissioner for permit.

Any person, firm, corporation or association desiring to secure a permit as provided by G.S. 58-70-1, shall make application to the Commissioner of Insurance for each location at which such person, firm, corporation or association desires to carry on the collection agency business as hereinafter defined. Such applicant shall be entitled to a permit upon submission to the Commissioner of Insurance of the following:

- (a) The name, trade name if any, street address, and telephone number of the applicant, including any home office address and telephone number, if different;
- (b) If the applicant is a corporation,
 - (1) A certified copy of the board of director's resolution authorizing the submission of the application;
 - (2) An authenticated copy of the Articles of Incorporation and all amendments thereto;
 - (3) An authenticated copy of the bylaws or other governing instruments;
 - (4) If the applicant is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the North Carolina Secretary of State;

(b1) In addition to the information required by subsection (b) of this section, if the applicant is an alien corporation, the corporation must be owned or majority controlled ultimately by a parent entity incorporated or organized under the laws of the United States or any jurisdiction within the United States, and the alien corporation may only service accounts held by an affiliate or subsidiary of the same parent entity. For purposes of this subsection, "control" is defined by G.S. 58-19-5(2). Should the alien corporation be sold to an entity unrelated to the parent entity, notice shall be provided to the Department of the pending sale 30 days in advance of the sale. Provision of Form 8-K, properly filed with the Securities and Exchange Commission, shall be deemed compliance with the notice requirement of this subsection. In the event of a sale, the new parent entity shall provide evidence to the Department within 30 days of the sale of its and the alien corporation's compliance with the requirements of this section. In the event that the new parent entity does not provide the evidence within 30 days after the sale, the alien corporation's permit shall be automatically suspended until the Department is provided the evidence of compliance which is satisfactory to the Commissioner;

(c) If the applicant is a partnership, an authenticated copy of the then current partnership agreement;

(d) If the trade name is used, certificates showing that the trade name has been filed as required by G.S. 66-68;

(e) A surety bond as required by ~~G.S. 58-70-20~~; G.S. 58-70-20. In the case of an alien corporation, the surety bond requirements shall be double the amount set by G.S. 58-70-20;

(f) A completed statement by each stockholder owning ten percent (10%) or more of the applicant's outstanding voting stock and each partner, director, and officer actively engaged in the collection agency business, containing: the name of the collection agency, the name and address of the individual completing the form, the positions held by the individual, each conviction of any criminal offense and any criminal charges pending other than minor traffic violations of the individual, and the name and address of three people not related to the individual who can attest to the individual's reputation for honesty and fair dealings;

(g) A statement sworn to by an appropriate corporate officer, partner, or individual proprietor giving a description of the collection method to be employed in North Carolina;

(h) A statement certifying that there are no unsatisfied judgments against the applicant;

(i) A list of all telephone numbers assigned to, or to be used by the applicant in the operation of the collection agency;

(j) The appropriate permit fee as required by G.S. 58-70-35;

(k) A balance sheet as of the last day of the month prior to the date of submission of the application, certified true and correct by a corporate officer, partner, or proprietor, setting forth the current assets, fixed assets, current liabilities and positive net worth of the applicant;

(l) The address of the location at which the applicant will make those records of its collection agency business described in G.S. 58-70-25 available for inspection by the Commissioner of Insurance.

(m) A statement certifying that no officer, individual proprietor or partner of the applicant has been convicted of a felony involving moral turpitude, or any violation of any State or federal debt collection law.

(n) If the collection agency's office or records, as described in G.S. 58-70-25, are located outside of North Carolina, a statement sworn to by an appropriate corporate officer, partner, or individual proprietor consenting to and authorizing the reimbursement, to the Commissioner by the collection agency, of expenses incurred by the Commissioner in conducting routine examinations, audits, and in investigating written complaints against the collection agency or its employees. All reimbursements shall be paid to the Commissioner no more than 30 days after the date of billing. In the case of an alien corporation, the sworn statement must provide that the corporation will make available to the Commissioner for his inspection, in North Carolina, those records described in G.S. 58-70-25, at the expense of the corporation;

(o) If the applicant is a foreign corporation, a statement authorizing the Commissioner to be its agent for service of process, which shall be administered pursuant to the provisions of G.S. 58-16-30.

(p) In the case of an alien corporation, when the corporation is in violation of this Article, the parent entity must agree to cure the violation by the alien corporation.

(q) For purposes of this Article, the following definitions apply:

(1) "Alien corporation" means a company incorporated or organized under the laws of any jurisdiction outside of the United States.

(2) "Foreign corporation" means a company incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State."

SECTION 2. G.S. 58-70-40 is amended by adding a new subsection to read:

"(d) In the case of an alien corporation that has been issued a permit under this Article, in an action brought by the Commissioner, service of process upon the parent entity is sufficient service of process on the alien corporation."

SECTION 3. G.S. 58-70-65(c) reads as rewritten:

"(c) Each permit holder located outside this State shall deposit in a separate trust account, designated for its North Carolina creditors, funds to pay all monies due or owing all collection creditors or forwarders located within this State. In the case of alien

corporations that are permit holders, the trust account must be established with a bank located in the United States or in any bank approved by the Commissioner."

SECTION 4. This act becomes effective October 1, 2006.

In the General Assembly read three times and ratified this the 11th day of July, 2006.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2006