

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 629  
HOUSE BILL 503

AN ACT TO PROVIDE FOR A SINGLE LICENSE SYSTEM FOR INSURANCE  
AGENTS, BROKERS, AND ADJUSTERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 45.

"Licensing of Agents, Brokers, Limited  
Representatives, and Adjusters.

"§ 58-610. **Scope.**—This Article governs the qualifications and procedures for the licensing of agents, brokers, limited representatives, adjusters, and motor vehicle damage appraisers. This Article applies to any and all kinds of insurance and insurers under Chapters 57, 57B, and this Chapter of the General Statutes. Except as provided in G.S. 58-634, this Article does not apply to the licensing of surplus lines licensees under Article 36 of this Chapter. For purposes of this Article, all references to insurance include annuities, unless the context otherwise requires.

"§ 58-611. **Definitions.**—As used in this Article, the following definitions apply:

(a) 'Agent' means a person licensed to solicit applications for, or to negotiate a policy of, insurance. A person not duly licensed who solicits or negotiates a policy of insurance on behalf of an insurer is an agent within the intent of this Article, and thereby becomes liable for all the duties, requirements, liabilities and penalties to which an agent of such company is subject, and such company by compensating such person through any of its officers, agents or employees for soliciting policies of insurance shall thereby accept and acknowledge such person as its agent in such transaction.

(b) 'Adjuster' means any individual who, for salary, fee, commission, or other compensation of any nature, as an independent contractor, as an employee of an independent contractor, as an employee of an insurer, or as an adjuster for any insured, investigates or reports to his principal relative to claims arising under insurance contracts other than life or annuity. An attorney at law who adjusts insurance losses from time to time incidental to the practice of his profession or an adjuster of marine losses is not deemed to be an adjuster for purposes of this Article. An individual may not simultaneously hold an agent's and an adjuster's license in this State.

(c) 'Broker' means a person who, being a licensed agent, procures insurance for a party other than himself through a duly authorized agent of an insurer that is licensed to do business in this State but for which the broker is not authorized to act as agent. A person not duly licensed who procures insurance for a party other than himself is a

broker within the intent of this Article, and thereby becomes liable for all the duties, requirements, liabilities and penalties to which such licensed brokers are subject.

(d) 'Limited representative' means a person who is authorized by the Commissioner to solicit or negotiate contracts for the particular kinds of insurance identified in G.S. 58-614(d) and which kinds of insurance are restricted in the scope of coverage afforded.

(e) 'Motor vehicle damage appraiser' means an individual who, for salary, fee, commission, or other compensation of any nature, as an independent contractor or as an employee of an independent contractor, regularly investigates or advises relative to the nature and amount of damage to motor vehicles located in this State or the amount of money deemed necessary to effect repairs thereto and who is not:

- (1) An adjuster licensed to adjust insurance claims in this State;
- (2) An agent for an insurance company who is not required by law to be licensed as an adjuster;
- (3) An attorney at law who is not required by law to be licensed as an adjuster; or
- (4) An individual who, incident to his regular employment in the business of repairing defective or damaged motor vehicles, investigates and advises relative to the nature and amount of motor vehicle damage or the amount of money deemed necessary to effect repairs thereto.

**"§ 58-612. Restricted license for overseas military agents.**—Notwithstanding any other provision of this Article, an individual may be licensed by the Commissioner as a foreign military sales agent to represent a life insurance company domiciled in this State, provided the agent represents the insurance company only in a foreign country or territory and either on a United States military installation or with United States military personnel. The Commissioner may, upon request of the insurance company on application forms furnished by the Commissioner and upon payment of the fee specified in G.S. 58-634, issue to the applicant a restricted license which will be valid only for the representation of the insurance company in a foreign country or territory and either on a United States military installation or with United States military personnel. The insurance company shall certify to the Commissioner that the applicant has the necessary training to hold himself out as a life insurance agent, and that the insurance company is willing to be bound by the acts of the applicant within the scope of his employment. A restricted license issued under this section shall be renewed annually as provided in G.S. 58-614(m).

**"§ 58-613. Representation.**—(a) Every agent or limited representative who solicits or negotiates an application for insurance of any kind, in any controversy between the insured or his beneficiary and the insurer, is regarded as representing the insurer and not the insured or his beneficiary. This provision does not affect the apparent authority of an agent.

(b) Every broker who solicits an application for insurance of any kind, in any controversy between the insured or his beneficiary and the insurer issuing any policy upon such application, is regarded as representing the insured or his beneficiary and not the insurer; except any insurer that directly or through its agents delivers in this State to

any insurance broker a policy of insurance pursuant to the application or request of such broker, acting for an insured other than himself, is deemed to have authorized such broker to receive on its behalf payment of any premium that is due on such policy of insurance at the time of its issuance or delivery.

**"§ 58-614. General license requirements.**—(a) No person shall act as or hold himself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for or place for others, any policies for any kinds of insurance as to which he is not then qualified and duly licensed.

(c) An agent or broker may be licensed for the following kinds of insurance:

- (1) Life, Accident and Health Insurance
- (2) Accident and Health Insurance
- (3) Fire and Casualty Insurance
- (4) Hospital Service
- (5) Title Insurance
- (6) Dental Service
- (7) Automobile Physical Damage

Any person who holds a valid license on February 1, 1988, which grants authority to act as an agent for the kinds of insurance described in this subsection shall be issued the equivalent agents' license for such kinds of insurance.

(d) A fire and casualty insurance license shall not authorize an agent or broker to sell accident and health insurance. An agent or broker must hold a life, accident and health insurance license or an accident and health insurance license to sell accident and health insurance.

(e) A limited representative may receive qualification for one or more licenses without examination for the following kinds of insurance:

- (1) Variable Contracts
- (2) Ocean Marine
- (3) Credit Life, Accident and Health
- (4) Credit
- (5) Travel Accident and Baggage
- (6) Motor Club

(f) No licensed agent, broker or limited representative shall solicit anywhere in the boundaries of this State, or receive or transmit an application or premium of insurance, for a company not authorized to do business in the State, except as provided in Article 36 of this Chapter.

(g) No agent shall place a policy of insurance with any insurer unless he has a current appointment as agent for the insurer, in accordance with G.S. 58-617.

(h) A partnership or corporation that negotiates or solicits insurance may be licensed as an agent, broker, or limited representative provided that it maintains a place of business in this State. Every member of the partnership and every officer, director, stockholder, and employee of the corporation personally engaged in this State in soliciting or negotiating policies of insurance shall be registered with the Commissioner

and each such member, officer, director, stockholder or employee shall also qualify as an individual licensee. The partnership or corporate licensee shall within 30 days notify the Commissioner of any addition to or deletion from the list of registered individuals.

(i) The Commissioner shall not grant, renew, or continue any license if he finds that the license is being or will be used by the licensee or applicant for the purpose of writing controlled business. Controlled business means:

- (1) Insurance written on the interests of the licensee or of his immediate family or of his employer; or
- (2) Insurance covering himself; members of his immediate family; a corporation or partnership of which he or a member of his immediate family is an officer, director, substantial stockholder, partner, or employee; or the officers, directors, substantial stockholders, partners or employees of such a corporation or partnership; provided, however, that nothing in this subsection applies to insurance written in connection with credit transactions.
- (3) Such a license shall be deemed to have been, or intended to be, used for the purpose of writing controlled business, if the Commissioner finds that during any 12-month period the aggregate commissions earned from such controlled business have exceeded fifty percent (50%) of the aggregate commissions earned on all business written by such applicant or licensee during the same period.

(j) No insurer, agent, broker, or limited representative shall pay, directly or indirectly, any commission, brokerage or other valuable consideration to any person for services as an agent, broker, or limited representative within this State, unless such person at the time such services were performed held a valid license for that kind of insurance and appropriate company appointments as required by this Article for such services.

(k) Only agents who are duly licensed with appropriate company appointments, licensed brokers, or licensed limited representatives may accept, directly or indirectly, any commission, brokerage, or other valuable consideration: Provided, however, any individual duly appointed and licensed under this Article may pay his commissions or assign his commissions, or direct that his commissions be paid, to a partnership of which he is a member, employee, or agent, or to a corporation of which he is an officer, employee, or agent; provided further that this section does not prevent payment or receipt of renewal or other deferred commissions to or by any person entitled thereto under this section.

(l) The license shall state the name and Social Security or other identifying number of the licensee, date of issue, kind or kinds of insurance covered by the license, and such other information as the Commissioner deems to be proper.

(m) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner. An agent's license automatically terminates after a period of one year during which no appointment of such agent was in effect.

(n) A license of a broker, limited representative, adjuster, or motor vehicle damage appraiser shall be renewed on April 1st of each year and renewal fees shall be paid. The Commissioner is not required to print licenses for the purpose of renewing licenses. The Commissioner is authorized to establish for such licenses 'staggered' license renewal dates that will apportion renewals throughout each calendar year. If such a system of staggered licensing is adopted, the Commissioner is authorized to extend the licensure period for some licensees. License renewal fees prescribed by G.S. 58-634 shall be prorated to the extent they are commensurate with such extensions.

(o) No license as an agent, broker, or limited representative is required of the following:

- (1) Any regular salaried officer or employee of an insurance company, of a licensed agent, of a broker, or of a limited representative, if such officer's or employee's duties and responsibilities do not include the negotiation or solicitation of insurance.
- (2) Persons who secure and furnish information on behalf of an employer, where no commission is paid for such service, for the purpose of group or wholesale life insurance, annuities, or group, blanket or franchise health insurance; or for enrolling individuals under such plans or issuing certificates thereunder; or otherwise assisting in administering such plans.
- (3) Employers or their officers or employees, or the trustees of any employee trust plan, to the extent that such employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for their own employees or the employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company; provided that such employers, officers, employees, or trustees are not in any manner compensated, directly or indirectly, by the insurance company issuing such insurance.
- (4) Agency office employees acting within the confines of the agent's office, under the direction and supervision of the duly licensed agent and within the scope of such agent's license, in the acceptance of requests for insurance and payment of premiums and the performance of clerical, stenographic, and similar office duties.
- (5) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-72(1) through G.S. 58-72(3) that do business without the involvement of a licensed agent.

**"§ 58-615. License requirements.**—The Commissioner shall not issue or continue any license of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser except as follows:

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

(b) Age. Every individual applicant for license under this Article must be 18 years or more of age.

(c) Character. An applicant for any license under this Article must be deemed by the Commissioner to be competent, trustworthy and financially responsible, and must have not willfully violated the insurance laws of this or any other state.

(d) Education and Training.

(1) Each applicant must have had special education, training, or experience of sufficient duration and extent reasonably to satisfy the Commissioner that the applicant possesses the competence necessary to fulfill the responsibilities of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser.

(2) All individual applicants for licensing as life, accident and health agents or as fire and casualty agents shall furnish evidence satisfactory to the Commissioner of successful completion of at least 40 hours of instruction, which shall in all cases include the general principles of insurance and any other topics that the Commissioner establishes by regulation; and which shall, in the case of life, accident and health insurance applicants, include the principles of life insurance and, in the case of fire and casualty insurance applicants, shall include instruction in fire and casualty insurance. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a fire and casualty or life insurance company admitted to do business in this State or a professional insurance association shall be deemed to have satisfied the educational requirements of this subdivision. The requirement in this subdivision for completion of 40 hours of instruction applies only to applicants for life, accident and health or fire and casualty insurance licenses.

(e) Examination.

(1) After completion and filing of the application with the Commissioner, except as provided in G.S. 58-616, the Commissioner shall require each applicant for license as an agent, adjuster, or motor vehicle damage appraiser to take a written examination as to his competence to be licensed. The applicant must take and pass the examination according to requirements prescribed by the Commissioner.

(2) The Commissioner may require any licensed agent, adjuster, or motor vehicle damage appraiser to take and successfully pass an examination in writing, testing his competence and qualifications as a condition to the continuance or renewal of his license, if the licensee has been found guilty of any violation of any provision of this Chapter or Chapters 57 or 57B of the General Statutes. If an individual fails to pass such an examination, the Commissioner shall revoke all licenses issued in his name and no license shall be issued until such individual has passed an examination as provided in this Article.

(3) Each examination shall be as the Commissioner prescribes and shall be of sufficient scope to test the applicant's knowledge of:

- a. The terms and provisions of the policies or contracts of insurance he proposes to effect; or
  - b. The types of claims or losses he proposes to adjust; and
  - c. The duties and responsibilities of such a license; and
  - d. The current laws of this State applicable to such a license.
- (4) The answers of the applicant to any such examination shall be written by the applicant under the Commissioner's supervision. The Commissioner shall give examinations at such times and places within this State as he deems necessary reasonably to serve the convenience of both the Commissioner and applicants: Provided that the Commissioner is authorized to contract directly with persons for the processing of examination application forms and for the administration and grading of the examinations required by this section; the Commissioner is authorized to charge a reasonable fee not to exceed thirty-five dollars (\$35.00), in addition to the registration fee charged under G.S. 58-634, to offset the cost of the examination contract authorized by this subsection; and such contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes.
- (5) The Commissioner shall collect in advance the examination and registration fees provided in G.S. 58-634 and in subsection (4) of this section. The Commissioner shall make or cause to be made available to all applicants, for a reasonable fee to offset the costs of production, materials that he deems necessary for the applicants' proper preparation for such exams. The Commissioner is empowered to contract directly with publishers and other suppliers for the production of such preparatory materials, and contracts so let by the Commissioner shall not be subject to Article 3 of Chapter 143 of the General Statutes.
- (f) **Brokers.**
- (1) **Bond.** Prior to issuance of a license as a broker, the applicant shall file with the Commissioner and thereafter, for as long as the license remains in effect, shall keep in force a bond in favor of the State of North Carolina for the use of aggrieved parties in the sum of not less than fifteen thousand dollars (\$15,000), executed by an authorized corporate surety approved by the Commissioner. The aggregate liability of the surety for any and all claims on any such bond shall in no event exceed the sum thereof. The bond shall be conditioned on the accounting by the broker (i) to any person requesting the broker to obtain insurance for moneys or premiums collected in connection therewith, (ii) to any licensed insurer or agent who provides coverage for such person with respect to any such moneys or premiums, and (iii) to any association of insurers under any plan or plans for the placement of insurance under the laws of North Carolina which afforded coverage for such person with respect to any such moneys or

premiums. No such bond shall be terminated unless at least 30 days' prior written notice thereof is given by the surety to the licensee and the Commissioner. Upon termination of the license for which the bond was in effect, the Commissioner shall notify the surety within 10 business days.

- (2) Other Requirements. An applicant must hold a valid agent's license at the time of application for the broker's license and throughout the duration of the broker's license. A broker's license shall be issued to cover only those kinds of insurance authorized by his agent's license. Suspension or revocation of the agent's license shall cause immediate revocation of the broker's license.

(g) Denial of License. If the Commissioner finds that the applicant has not fully met the requirements for licensing, he shall refuse to issue the license and notify in writing the applicant and the appointing insurer, if any, of such denial, stating the grounds therefor.

(h) Resident-Nonresident Licenses. The Commissioner shall issue a resident or nonresident license to an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser as follows:

- (1) Resident.

An individual may qualify for a license as a resident if he resides in this State. Any license issued pursuant to an application claiming residency in this State shall be void if the licensee, while holding a resident license in this State, also holds or makes application for a resident license in, or thereafter claims to be a resident of, any other state, or ceases to be a resident of this State; provided, however, if the applicant is a resident of a county in another state, the border of which county is contiguous with the state line of this State, the applicant may qualify as a resident for licensing purposes in this State.

- (2) Nonresident.

a. An individual may qualify for a license under this Article as a nonresident if he holds a like license in another state or territory of the United States. An individual may qualify for a license as a nonresident motor vehicle damage appraiser or a nonresident adjuster if the applicant's state of residency does not offer such licenses and such applicant meets all other requirements for licensure of a resident. A license issued to a nonresident of this State shall grant the same rights and privileges afforded a resident licensee, except as provided in subsection (i) of this section.

b. A nonresident of this State may be licensed without taking an otherwise required written examination if the Commissioner of the state of the applicant's residence certifies, by facsimile signature and seal, 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.

- c. Notwithstanding other provisions of this Article, no new bond shall be required for a nonresident broker if the Commissioner is satisfied that an existing bond covers his insurance business in this State.
- d. Process Against Nonresident Licensees.
  - 1. Each licensed nonresident agent, broker, adjuster, limited representative, or motor vehicle damage appraiser shall by the act of acquiring such license be deemed to appoint the Commissioner as his attorney to receive service of legal process issued against the agent, broker, adjuster, limited representative, or motor vehicle damage appraiser in this State upon causes of action arising within this State.
  - 2. The appointment shall be irrevocable for as long as there could be any cause of action against the nonresident arising out of his insurance transactions in this State.
  - 3. Duplicate copies of such legal process against such nonresident licensee shall be served upon the Commissioner either by a person competent to serve a summons, or through registered mail. At the time of such service the plaintiff shall pay to the Commissioner a fee of five dollars (\$5.00), taxable as costs in the action to defray the expense of such service.
  - 4. Upon receiving such service, the Commissioner or his duly appointed deputy shall within three business days send one of the copies of the process, by registered or certified mail, to the defendant nonresident licensee at his last address of record as filed with the Commissioner.
  - 5. The Commissioner shall keep a record of the day and hour of service upon him of all such legal process. No proceedings shall be had against the defendant nonresident licensee, and such defendant shall not be required to appear, plead or answer until the expiration of 40 days after the date of service upon the Commissioner.
- e. If the Commissioner revokes or suspends any nonresident's license through a formal proceeding under this Article, he shall promptly notify the appropriate Commissioner of the licensee's residence of such action and of the particulars thereof.

(i) Retaliatory Provision. Whenever, by the laws or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this State who are nonresident

applicants or licensees of such other state or jurisdiction in addition to, or in excess of, those imposed on nonresidents under this Article, the same such requirements shall be imposed upon such residents of such other state or jurisdiction.

(j) **Reciprocity Provision.** To the extent that other states that provide for the licensing and regulation of and payment of commissions to agents, limited representatives, or brokers, waive restrictions on the basis of reciprocity with respect to North Carolina licensees holding nonresident licenses in such states, all such restrictions on licensees from such states holding North Carolina nonresident licenses shall be waived.

**"§ 58-616. Exemption from examination.**—The following are exempt from the requirement for a written examination:

- (1) Any applicant for a license covering the same kind or kinds of insurance for which the applicant was licensed under a like license in this State, other than a temporary license, within the 24 months next preceding the date of application, unless such previous license was revoked, suspended, or not continued by the Commissioner.
- (2) An applicant who has been licensed under a like license in another state within 24 months prior to his application for a license in this State, and who files with the Commissioner the certificate of the public official having supervision of insurance in such other state as to the applicant's license and good standing in such state.
- (3) An applicant who has attained the designation of Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Life Underwriter Training Council Fellow (LUTCF) or Fellow of Life Management Institute (FLMI), shall be exempt from the examination for licenses in G.S. 58-614(c)(1) and (2).
- (4) An applicant who has attained the designation of Chartered Property and Casualty Underwriter (CPCU) shall be exempt from the examination for licenses in G.S. 58-614(c)(3) and (7).
- (5) Applicants for license as limited representatives.
- (6) Applicants for license as agents for companies or associations specified in G.S. 58-124.28.

**"§ 58-617. Appointment of agents.**—(a) No individual who holds a valid insurance agent's license issued by the Commissioner shall, either directly or for an insurance agency, solicit, negotiate, or otherwise act as an agent for an insurer by which the individual has not been appointed.

(b) Any insurer authorized to transact business in this State may appoint as its agent any individual who holds a valid agent's license issued by the Commissioner. Upon the appointment, the individual shall be authorized to act as an agent for the appointing insurer for all kinds of insurance for which the insurer is authorized in this State and for which the appointed agent is licensed in this State, unless specifically limited.

(c) Within 30 days the insurer shall file in a form prescribed by the Commissioner the names, addresses, and other information required by the Commissioner for its newly-appointed agents.

(d) Every insurer shall remit in a manner prescribed by the Commissioner the appointment fee specified in G.S. 58-634 for each appointed agent.

(e) An appointment shall continue in effect as long as the appointed agent is properly licensed and the appointing insurer is authorized to transact business in this State, unless the appointment is cancelled. Upon the cancellation of an appointment the insurer shall, within 30 days, file written notice of cancellation with the Commissioner in a form prescribed by him indicating the date of cancellation. A copy shall be provided to the agent by the insurer.

(f) Prior to April 1 of each year, every insurer shall remit in a manner prescribed by the Commissioner the renewal appointment fee specified in G.S. 58-634.

(g) Any agent license in effect on February 1, 1988, shall be deemed to be an appointment for the unexpired term of that license.

(h) No insurer shall accept an insurance application from an individual who is not currently appointed by the insurer.

**"§ 58-618. Denial, suspension, revocation, or nonrenewal of licenses and appointments.**—(a) The Commissioner may suspend, revoke, or refuse to issue or renew any license issued under this Article if, after notice to the licensee or applicant and hearing in accordance with the provisions of Article 3A of Chapter 150B, he finds as to the licensee any one or more of the following conditions:

- (1) Any untrue material statement in the license application;
- (2) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance;
- (3) Violation of, or noncompliance with, any insurance laws, or of any lawful rule, or order of the Commissioner or of a Commissioner of another state;
- (4) Obtaining or attempting to obtain any such license through misrepresentation or fraud;
- (5) Improperly withholding, misappropriating, or converting to his own use any moneys belonging to policyholders, insurers, beneficiaries or others received in the course of his insurance business;
- (6) Misrepresentation of the terms of any actual or proposed insurance contract;
- (7) Willfully overinsuring property;
- (8) Conviction of a misdemeanor involving moral turpitude, or conviction of a felony;
- (9) The person has been found guilty of any unfair trade practice or fraud;
- (10) In the conduct of his affairs under the license, the licensee has used fraudulent, coercive or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible;

- (11) His license has been suspended or revoked in any other state, province, district, or territory;
- (12) The person has forged another's name to an application for insurance; or
- (13) The person has cheated on an examination for an insurance license.

(b) Notwithstanding the notice and hearing requirements of subsection (a) of this section, if the Commissioner finds that the public health, safety, or welfare requires emergency action and incorporates this finding in his order, summary suspension of a license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings to suspend, revoke, or refuse renewal provided for in subsection (a) of this section. The proceedings shall be promptly commenced and determined.

(c) In the event that the action by the Commissioner is to deny or not renew an application for a license, he shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reasons for the denial or nonrenewal of the license. Within 30 days of receipt of notification the applicant or licensee may make written demand upon the Commissioner for a hearing to determine the reasonableness of the Commissioner's action. Such hearing shall be scheduled within 30 days from the date of receipt of the written demand by the applicant and shall be held pursuant to the provisions of Article 3A of Chapter 150B.

(d) For the purposes of investigation under this section, the Commissioner shall have all the power conferred upon him by G.S. 58-44.4.

(e) The license of a partnership or corporation may be suspended, revoked, not continued, or refused if the Commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation and such violation was not reported to the Commissioner nor corrective action taken in relation thereto.

(f) Upon the filing for protection under the United States Bankruptcy Code by any person licensed under this Article, or by any insurance agency in which such licensed person holds a position of employment, management or ownership, such person shall notify the Commissioner of the filing for protection within three business days after the filing. Upon the appointment of a receiver by a court of this State for any person licensed under this Article, or for any insurance agency in which such licensed person holds a position of employment, management or ownership, such person shall notify the Commissioner of the appointment within three business days thereafter. The willful failure to notify the Commissioner within three business days after the filing for protection or the appointment of a receiver shall, after hearing, cause the license of any person failing to make such notification to be suspended for a period of not less than 60 days nor more than three years, in the discretion of the Commissioner.

(g) If the Commissioner refuses to grant a license, or suspends, or revokes a license, any appointment of such applicant or licensee shall likewise be revoked. No

individual whose license is revoked shall be issued another license without first complying with all requirements of this Article.

(h) The provisions of G.S. 58-9.7 apply to any person subject to licensure under this Article.

(i) No person shall be issued a license or appointment to enter the employment of any agency or person, which agency or person is at that time found by the Commissioner to be in violation of any of the insurance laws of this State, or which has been in any manner disqualified under the laws of this State to engage in the insurance business.

**"§ 58-619. Surrender, loss or destruction of license.**—(a) The Commissioner shall notify all appointing insurers, where applicable, and the licensee regarding any suspension, revocation, or nonrenewal of license by the Commissioner.

(b) Upon suspension, revocation or reinstatement of any license, the Commissioner shall notify the Central Office of the NAIC.

(c) Any licensee who ceases to maintain his residency in this State as defined in G.S. 58-615 shall deliver his insurance license or licenses to the Commissioner by personal delivery or by mail within 30 days after terminating said residency.

(d) The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this Article upon a written request from the licensee and payment of appropriate fees.

**"§ 58-620. Cancellation reports.**—(a) If a licensee's appointment or license is cancelled by the insurer or other employer, such insurer or employer shall give written notice of the cancellation and the effective date thereof to the Commissioner within 30 days, and to the licensee where reasonably possible. The Commissioner may require the insurer to demonstrate that the insurer has made a reasonable effort to give such notice to the licensee. Nothing in this subsection affects any cancellation provisions in any contract between a licensee and an insurer or other employer.

(b) All such notices of cancellation shall be filed within 30 days in such form prescribed by the Commissioner stating the date of such cancellation.

(c) In the event the cancellation is for any of the causes listed under G.S. 58-618, the insurer shall so notify the Commissioner. The contents of such notification shall be deemed to be privileged in any civil action between the reporting insurer and the terminated licensee.

**"§ 58-621. Countersignature and related laws.**—Subject to the retaliatory provisions of G.S. 58-615(i), there shall be no requirement that a licensed resident agent or broker must countersign, solicit, transact, take, accept, deliver, record, or process in any manner an application, policy, contract, or any other form of insurance on behalf of a nonresident agent or broker or an authorized insurer; or share in the payment of commissions, if any, related to such business.

**"§ 58-622. Temporary licensing.**—(a) The Commissioner may issue a temporary license as an agent, broker, or limited representative for a period without requiring an examination if the Commissioner deems that such temporary license is necessary for the servicing of insurance business in the following cases:

- (1) To the surviving spouse or next of kin, or to the administrator or executor or employee thereof, of such deceased licensee or to the spouse, next of kin, employee, or legal guardian of such licensee who becomes disabled;
- (2) To a member or employee of a licensed partnership or officer or employee of a licensed corporation, upon the death or disability of an individual designated in or registered as to the license;
- (3) To the designee of a licensee entering active service in the armed forces of the United States of America; or
- (4) To an applicant for licensing who is appointed as an agent of a life insurer that writes debit or industrial life or health insurance.

(b) To be eligible for any such temporary license, an individual must be qualified as for a permanent license except as to experience, training or the taking of the examination.

(c) No temporary license shall be effective for more than 90 days in any 12-month period and shall automatically terminate upon such temporary licensee's failing the examination required in G.S. 58-615.

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

(e) The fee paid to the Commissioner for issuance of a temporary license shall be credited toward the fee required for a permanent license that is issued to replace the temporary license.

**"§ 58-623. Special provisions for adjusters and motor vehicle damage appraisers.—**

(a) It shall be unlawful and cause for revocation of license for a licensed adjuster to engage in the practice of law.

(b) On behalf and on request of an insurer by which he is appointed or for which he is licensed, any agent or limited representative may from time to time act as an adjuster and investigate and report upon claims without being required to be licensed as an adjuster, provided: In no event may any agent or limited representative adjust any losses in any amount where his remuneration for the sale of insurance is in any way dependent upon the adjustment of such losses.

(c) Upon the filing of the application for the license as adjuster and the advance payment of the examination fee and upon the filing with the Commissioner of a certificate signed by the employer of the applicant certifying that the applicant is an individual of good character and is employed by the signer of the certificate and will operate as a student or learner under the instruction and general supervision of a licensed adjuster, and that the employer will be responsible for the adjustment acts of the learner during the learning period, the Commissioner may issue to the applicant a learner's permit authorizing the applicant to act as an adjuster for a learning period of 90 days without a requirement of any other or additional license; provided that not more than one learner permit shall ever be issued to one individual.

(d) No license shall be required of an adjuster licensed as such in another state for the adjustment in this State of a single loss, or of losses arising out of a catastrophe

common to all such losses; provided that such adjuster notifies the Commissioner in writing prior to the adjusting of such loss or losses.

(e) The Commissioner may permit an experienced adjuster, who regularly adjusts in another state and who is licensed in such other state (if such state requires a license), to act as an adjuster in this State without a North Carolina license, for emergency insurance adjustment work, for a period of not exceeding 30 days, done for an employer who is an adjuster licensed by this State or who is a regular employer of one or more adjusters licensed by this State; provided that the employer shall furnish to the Commissioner a notice in writing immediately upon the beginning of any such emergency insurance adjustment work.

(f) The Commissioner may permit an experienced motor vehicle damage appraiser who is regularly appraising in another state and who is licensed in such other state (if such state requires a license) to act as a motor vehicle damage appraiser in this State without a North Carolina license for emergency motor vehicle damage appraisal work for a period not exceeding 30 days done for an employer who notifies the Commissioner, in writing, at the beginning of the period of emergency appraisal work and who is:

- (1) An insurance adjuster licensed by this State;
- (2) A motor vehicle damage appraiser licensed by this State;
- (3) A regular employer of one or more insurance adjusters licensed by this State; or
- (4) A regular employer of one or more motor vehicle damage appraisers licensed by this State.

**"§ 58-624. 'Twisting' with respect to insurance policies defined; penalties.**—Any licensee who shall engage in 'twisting', as defined in this section, shall be subject to the provisions of G.S. 58-618 and G.S. 58-9.7. As used in this section 'twisting' means the willful, material misrepresentation of an insurance contract, whereby an insured is deceived and induced to cancel or terminate insurance in force to such insured's detriment.

**"§ 58-625. Discrimination forbidden.**—No agent or representative of any company doing the business of insurance as defined in G.S. 58-72 shall make any discrimination in favor of any person.

**"§ 58-626. Rebates and charges in excess of premium prohibited.**—(a) No agent, broker or limited representative shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the applicable filing approved by the Commissioner of Insurance. No agent, broker or limited representative shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or

inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers and limited representatives, nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits. As used in this section the word 'insurance' includes suretyship and the word 'policy' includes bond.

(b) No agent, broker, or limited representative shall knowingly charge to or demand or receive from an applicant for insurance any money or other consideration in return for the processing of applications or other forms or for the rendering of services associated with the issuance or renewal of a contract of insurance, which money or other consideration is in addition to the filed and approved premium for such contract, unless the applicant consents in writing before any services are rendered.

**"§ 58-627. Rebate of premiums on credit life and credit accident and health insurance; retention of funds by agent.**—It shall be unlawful for any insurance carrier, or officer, agent or representative of an insurance company writing credit life and credit accident and health insurance, as defined in G.S. 58-195.2 and G.S. 58-254.8, or combination credit life, accident and health, hospitalization and disability insurance in connection with loans, to permit any agent or representative of such company to retain any portion of funds received for the payment of losses incurred, or to be incurred, under such policies of insurance issued by such company, or to pay, allow, permit, give or offer to pay, allow, permit or give, directly, or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium, to any loan agency, insurance agency or broker, or to any creditor of the debtor on whose account the insurance was issued, or to any person, firm or corporation which received a commission or fee in connection with the issuance of such insurance: Provided, that this section shall not prohibit the payment of commissions to a licensed insurance agent or agency or limited representative on the sale of a policy of credit life and credit accident and health insurance, or combination credit life, accident and health, hospitalization and disability insurance in connection with loans.

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

**"§ 58-628. Agents personally liable; representing unlicensed company prohibited; penalty.**—Any person representing an insurer is personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for any company not authorized to do business in the State. A person or citizen of the State who fills up or signs any open policy, certificate, blank or coupon of, or furnished by, an unlicensed company, agent, broker or limited representative, the effect of which is to bind any insurance in an unlicensed company on property in this State, is the representative of such company, and personally liable for all licenses and taxes due on account of such transaction. If any person shall unlawfully solicit, negotiate for, collect or transmit a



premium for a contract of insurance or act in any way in the negotiation or transaction of any unlawful insurance with an insurance company not licensed to do an insurance business in North Carolina, he shall be guilty of a misdemeanor and upon conviction shall pay a fine of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) or be imprisoned for not less than one nor more than two years, or both, at the discretion of the court.

**"§ 58-629. Payment of premium to agent valid; obtaining by fraud a crime.**—Any agent, broker or limited representative who acts for a person other than himself negotiating a contract of insurance is, for the purpose of receiving the premium therefor, the company's agent, whatever conditions or stipulations may be contained in the policy or contract. Such agent, broker or limited representative knowingly procuring by fraudulent representations payment, or the obligation for the payment, of a premium of insurance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or by imprisonment for not more than one year, or both, in the discretion of the court.

**"§ 58-630. False statements in applications for insurance.**—If any agent, examining physician, applicant, or other person shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance, or shall make any such statement for the purpose of obtaining any fee, commission, money or benefit from any company engaged in the business of insurance in this State, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or by imprisonment for not less than 30 days nor more than one year, or both, in the discretion of the court. This section shall also apply to contracts and certificates issued under General Statutes Chapters 57 and 57B.

**"§ 58-631. Agents signing certain blank policies.**—Any agent or limited representative who signs any blank contract or policy of insurance is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000); provided, however, that transportation ticket policies of accident insurance and baggage insurance policies may be countersigned in blank for issuance only through coin-operated machines, subject to regulations prescribed by the Commissioner.

**"§ 58-632. Adjuster acting for unauthorized company.**—If any person shall act as adjuster on a contract made otherwise than as authorized by the laws of this State, or by any insurance company or other person not regularly licensed to do business in this State, or shall adjust or aid in the adjustment, either directly or indirectly, of a claim arising under a contract of insurance not authorized by the laws of the State, he shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or imprisoned not less than six months nor more than two years, or both, in the discretion of the court.

**"§ 58-633. Agent, adjuster, etc., acting without a license or violating insurance law.**—If any person shall assume to act either as principal, agent, broker, limited representative, adjuster or motor vehicle damage appraiser without license as is required

by law or pretending to be a principal, agent, broker, adjuster or licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to the nature and amount of damages to motor vehicles or the amount necessary to effect repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall do any other act in the soliciting, making or executing any contract of insurance of any kind otherwise than the law permits, or as principal or agent shall violate any provision of law contained in this Chapter, the punishment for which is not elsewhere provided for, he shall be deemed guilty of a misdemeanor, and on conviction shall pay a fine or not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or be imprisoned for not less than one nor more than two years, or both, at the discretion of the court.

"§ 58-634. **Fees.**—(a) The following table indicates the annual fees that are required for the respective licenses issued under this Article and Article 36 of this Chapter:

Adjuster.....	\$50.00
Adjuster, crop hail only .....	10.00
Agent appointment cancellation (paid by insurer) .....	5.00
Agent appointment, individual .....	10.00
Agent appointment, nonindividual .....	25.00
Agent, overseas military .....	10.00
Broker, nonresident.....	50.00
Broker, resident.....	25.00
Limited representative .....	10.00
Limited representative cancellation (paid by insurer).....	5.00
Motor vehicle damage appraiser.....	50.00
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 to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner.

(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 issuance of the permanent license.

(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 ten dollars (\$10.00). In the event additional licensing for other kinds of insurance is requested, a fee of ten dollars (\$10.00) shall be paid to the Commissioner upon application for registration for each additional kind of insurance.

(d) The requirement for an examination or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations specified in G.S. 105-228.4.

(e) In the event a license issued under this Article is lost, stolen, or destroyed, the Commissioner may issue a duplicate license upon a written request from the licensee and payment of a fee of one dollar (\$1.00)."

Sec. 2. G.S. 57-12 is rewritten to read:

"Every agent of any hospital service corporation authorized to do business in this State under the provisions of this Chapter shall be subject to the licensing provisions of Article 45 of Chapter 58."

Sec. 3. G.S. 57B-13 is rewritten to read:

"The licensing provisions of Article 45 of Chapter 58 shall apply to the licensing of Chapter 57B agents."

Sec. 4. G.S. 58-42.1 is rewritten to read:

"Any insurer who shall engage in 'twisting', as defined in this section, shall be subject to the provisions of G.S. 58-37 and G.S. 58-38 or G.S. 58-44.4 and G.S. 58-9.7. As used in this section 'twisting' means the willful, material misrepresentation of an insurance contract, whereby an insured is deceived and induced to cancel or terminate insurance in force to such insured's detriment."

Sec. 5. G.S. 58-44.3 is rewritten to read:

"No company doing the business of insurance as defined in G.S. 58-72 shall make any discrimination in favor of any person."

Sec. 6. G.S. 58-44.4 is rewritten to read:

"When the Commissioner has information of a violation by an insurance company of any of the provisions of G.S. 58-42.1, 58-44.3 or 58-614(h), he shall immediately investigate or cause to be investigated such violation, and if any such insurance company has violated any of said provisions he may immediately revoke its license for not less than three nor more than six months for a first offense, and for each offense thereafter for not less than one year. For the purpose of enforcing the provisions of said sections the Commissioner is authorized and empowered to examine persons, administer oaths, and require production of papers and records. A failure or refusal on the part of any such insurance company, licensed to do business in this State, or representative thereof, to appear before the Commissioner when requested to do so, or to produce records and papers, or answer under oath, subjects such company, or representative, to the penalties of this section."

Sec. 7. G.S. 58-44.5 is rewritten to read:

"No insurer or employee thereof shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the applicable filing approved by the Commissioner of Insurance. No insurer or employee thereof shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effective, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or

inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers and limited representatives, nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits. As used in this section the word 'insurance' includes suretyship and the word 'policy' includes bond."

Sec. 8. G.S. 58-44.7 is rewritten to read:

"It shall be unlawful for any insurance carrier, or officer, agent or representative of an insurance company writing credit life and credit accident and health insurance, as defined in G.S. 58-195.2 and G.S. 58-254.8, or combination credit life, accident and health, hospitalization and disability insurance in connection with loans, to permit any agent or representative of such company to retain any portion of funds received for the payment of losses incurred, or to be incurred, under such policies of insurance issued by such company, or to pay, allow, permit, give or offer to pay, allow, permit or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium, to any loan agency, insurance agency or broker, or to any creditor of the debtor on whose account the insurance was issued, or to any person, firm or corporation which received a commission or fee in connection with the issuance of such insurance: Provided, that this section shall not prohibit the payment of commissions to a licensed insurance agent or agency or limited representative on the sale of a policy of credit life and credit accident and health insurance, or combination credit life, accident and health, hospitalization and disability insurance in connection with loans."

Sec. 9. G.S. 58-52 is rewritten to read:

"If any person shall assume to act either as principal, agent, broker, limited representative, adjuster or motor vehicle damage appraiser without license as is required by law or, pretending to be a principal, agent, broker, limited representative, adjuster or licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to the nature and amount of damages to motor vehicles or the amount necessary to effect repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall do any other act in the soliciting, making or executing any contract of insurance of any kind otherwise than the law permits, or as principal or agent shall violate any provision of law contained in this Chapter, the punishment for which is not elsewhere provided for, he shall be deemed guilty of a misdemeanor, and on conviction shall pay a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or be imprisoned for not less than one nor more than two years, or both, at the discretion of the court."

Sec. 10. G.S. 58-54.2(2) is rewritten to read:

"'Person' shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, limited representatives, and adjusters."

Sec. 11. G.S. 58-173.8(d) is rewritten to read:

"An agent who is licensed under Article 45 of this Chapter as an agent of a company which is a member of the Association established under this Article shall not be deemed an agent of the Association."

Sec. 12. G.S. 58-173.19(b) is rewritten to read:

"An agent who is licensed under Article 45 of this Chapter as an agent of a company which is a member of the Association established under this Article shall not be deemed an agent of the Association."

Sec. 13. G.S. 58-383(3) is rewritten to read:

"'Agent' shall have the meaning as set forth in Article 45 of this Chapter and shall include limited representatives, surplus lines licensees, salesmen, or representatives of a medical, surgical, hospital, dental, or optometric service plan, and salesmen or representatives of a health maintenance organization."

Sec. 14. G.S. 58-26(a) is amended by deleting "are defined by G.S. 58-39.4 and" from the text of this subsection.

Sec. 15. G.S. 58-26(b) is amended by deleting "as defined by G.S. 58-39.4(a)" from the text of this subsection.

Sec. 16. G.S. 58-66 is amended by deleting from the last paragraph of the section "as listed in G.S. 105-228.7, which licenses shall run from April 1 of each year".

Sec. 17. G.S. 58-149 is amended by deleting ", by constituted agents resident herein," from the text of this section.

Sec. 18. G.S. 58-433(b) is amended by deleting the word "general" from the first paragraph of this subsection.

Sec. 19. G.S. 58-422(6), 58-509(a), and 58-509(b) are amended by substituting Article 45 for Article 3 in the text of those subsections.

Sec. 20. General Statute Chapter 58 is amended by repealing the following sections: G.S. 58-39.4, 58-40, 58-40.1, 58-40.2, 58-40.3, 58-40.4, 58-40.5, 58-40.6, 58-41, 58-41.1, 58-41.2, 58-41.2A, 58-41.3, 58-41.4, 58-41.5, 58-43, 58-43.1, 58-44, 58-44.1, 58-44.2, 58-44.4A, 58-44.8, 58-45, 58-46, 58-47, 58-48, 58-49, 58-50, 58-51, 58-51.1, 58-51.2, 58-51.3, 58-51.4, 58-52.1, 58-53, 58-67, 58-150(4), 58-168, and 58-169.

Sec. 21. G.S. 105-228.7 is repealed.

Sec. 22. Subsection (d) of G.S. 58-614 in Section 1 of this act shall become effective October 1, 1987. The remainder of this act shall become effective February 1, 1988.

In the General Assembly read three times and ratified this the 17th day of July, 1987.