

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 614

Short Title: Insurance Licensing Amendments.

(Public)

Sponsors: Senator Miller.

Referred to: Pensions & Retirement and Insurance.

April 1, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REVISE THE LICENSING LAWS ADMINISTERED BY THE
2 DEPARTMENT OF INSURANCE, INCLUDING THE LAWS RELATING TO THE
3 PAYMENT OF CIVIL MONEY PENALTIES, HEARING PROCEDURES,
4 NOTICES OF ADDRESS CHANGES AND CRIMINAL CONVICTIONS,
5 APPLICATIONS FOR LEARNER'S PERMITS, EXTENSIONS OF TIME FOR
6 CONTINUING EDUCATION REQUIREMENTS, THE BASES UPON WHICH
7 LICENSES MAY BE DENIED, REVOKED, OR SUSPENDED, THE NUMBER OF
8 CONTINUING EDUCATION HOURS REQUIRED FOR BAIL BONDSMEN AND
9 RUNNERS, AND THE BOND REQUIREMENT FOR VIATICAL SETTLEMENT
10 PROVIDERS.
11

12 The General Assembly of North Carolina enacts:

13 **PART I. CIVIL PENALTY LAW CHANGES.**

14 Section 1. G.S. 58-2-70 reads as rewritten:

15 "**§ 58-2-70. Civil penalties or restitution for violations; ~~summary suspension of license~~**
16 **~~or certificate.~~ administrative procedure.**

17 (a) This section applies to any person who is subject to licensure or certification
18 under ~~the provisions of Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this Chapter.~~

19 (b) Whenever the Commissioner has reason to believe that any person has violated
20 any of the provisions of ~~the statutes cited in subsection (a) of this section, this Chapter, and~~

1 the violation subjects the license or certification of that person to suspension or
2 revocation, ~~or whenever the Commissioner has reason to believe that any person has violated~~
3 ~~Article 63 of this Chapter, the Commissioner may issue and serve upon that person a written~~
4 ~~statement of charges and a written notice of hearing, to be held at a time and place fixed in the~~
5 ~~notice. The date for the hearing shall not be less than 10 days after the date of service. It shall be~~
6 ~~sufficient to give such notice either by delivering it to the person charged or by sending the~~
7 ~~notice to the last known address of that person by certified mail, return receipt requested. At the~~
8 ~~time and place fixed for the hearing the person charged shall have an opportunity to answer the~~
9 ~~charges against him and present evidence on his behalf. Upon good cause shown, the~~
10 ~~Commissioner may permit any adversely affected person to intervene, appear, and be heard at~~
11 ~~the hearing by counsel or in person. The Commissioner may consolidate a hearing under this~~
12 ~~section with a hearing allowed under G.S. 58-63-25 where there is common subject matter~~
13 ~~involved and subject to procedural requirements set out in both sections being followed. the~~
14 Commissioner may, after notice and opportunity for a hearing, proceed under the
15 appropriate subsections of this section.

16 (c) ~~In any case where a hearing pursuant to subsection (b) of this section results in~~
17 ~~the findings by the Commissioner of If, under subsection (b) of this section, the~~
18 Commissioner finds a violation of any of the provisions of the statutes cited in subsection
19 (a) of this section, and the violation subjects the license or certification of that person to
20 suspension or revocation, or findings by the Commissioner of a violation of Article 63 of
21 this Chapter, the Commissioner may, in addition to or ~~in lieu~~ instead of suspending or
22 revoking the license or certification, order the payment of a monetary penalty as provided
23 in subsection (d) of this section or apply to the Superior Court of Wake County for an
24 order directing payment of restitution as provided in subsection (e) of this section, or
25 both. Each day during which a violation occurs ~~shall constitute~~ constitutes a separate
26 offense. ~~violation.~~

27 (d) Upon a finding by the Commissioner of a violation as specified in subsection
28 (c) of this section, the Commissioner shall direct the payment of a penalty of not less than
29 one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In
30 determining the amount of the penalty, the Commissioner shall consider the degree and
31 extent of harm caused by the violation, the amount of money that inured to the benefit of
32 the violator as a result of the violation, whether the violation was committed willfully,
33 and the prior record of the violator in complying or failing to comply with laws, rules, or
34 orders applicable to the violator. The penalty shall be payable to the Commissioner, who
35 shall then forward the clear proceeds of which ~~to the State Treasurer for deposit in the~~
36 General Fund of the State. ~~in accordance with Section 7 of Article IX of the North Carolina~~
37 Constitution. Payment of the civil penalty under this section shall be in addition to
38 payment of any other penalty for a violation of the criminal laws of this State.

39 (e) Upon application of the Commissioner and a finding by the court of a violation
40 as specified in subsection (c) of this section, the court may order the person who
41 committed the violation to make restitution in an amount that would make whole any
42 person harmed by the violation.

1 (f) Restitution to any State agency for extraordinary administrative expenses
2 incurred in the investigation and hearing of the violation may also be ordered by the court
3 in such amount that would reimburse the agency for the expenses.

4 (g) Nothing in this section ~~shall prevent~~ prevents the Commissioner from
5 negotiating a mutually acceptable agreement with any person as to the status of the
6 person's license or certificate or as to any civil penalty or restitution.

7 (h) ~~Notwithstanding subsection (b) of this section, if the Commissioner finds that~~
8 ~~the public health, safety, or welfare requires emergency action and incorporates this~~
9 ~~finding in his order, summary suspension of a license or certificate may be ordered~~
10 ~~effective on the date specified in the order or on service of the certified copy of the order~~
11 ~~at the last known address of the licensee, whichever is later, and effective during the~~
12 ~~proceedings to suspend, revoke, or refuse renewal provided for in subsection (b) of this~~
13 ~~section. The proceedings shall be promptly commenced and determined. Unless~~
14 ~~otherwise specifically provided for, all administrative proceedings under this Chapter are~~
15 ~~governed by Chapter 150B of the General Statutes." Section 2. G.S. 143-143.13(c) reads~~
16 as rewritten:

17 "(c) In addition to the authority to deny, suspend, or revoke a license under this
18 Article, the Board ~~also has the authority to~~ may impose a civil penalty upon any person
19 violating the provisions of this Article. Upon a finding by the Board of a violation of this
20 Article, the Board shall direct the payment of a penalty of not less than one hundred
21 dollars (\$100.00) nor more than five hundred dollars (\$500.00). In determining the
22 amount of the penalty, the Board shall consider the degree and extent of harm caused by
23 the violation, the amount of money that inured to the benefit of the violator as a result of
24 the violation, whether the violation was committed willfully, and the prior record of the
25 violator in complying or failing to comply with laws, rules, or orders applicable to the
26 violator. Each day during which a violation occurs ~~shall constitute~~ constitutes a separate
27 ~~offense.~~ violation. The penalty shall be payable to the Board, which shall then forward
28 the clear proceeds of which ~~to the State Treasurer for deposit in the General Fund of the State.~~
29 in accordance with Section 7 of Article IX of the North Carolina Constitution. Payment
30 of the civil penalty under this section ~~shall be~~ is in addition to payment of any other
31 penalty for a violation of the criminal laws of this State. Nothing in this subsection ~~shall~~
32 ~~prevent~~ prevents the Board from negotiating a mutually acceptable agreement with any
33 person as to the status of the person's license or certificate or as to any civil penalty."

34 **PART II. NOTICES FROM INDIVIDUAL LICENSEES.**

35 Section 3. Article 2 of Chapter 58 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 58-2-69. Notification of criminal convictions and changes of address; service of**
38 **notice.**

39 (a) As used in this section:

40 (1) 'License' includes any license, certificate, registration, or permit issued
41 under this Chapter.

42 (2) 'Licensee' means any person who holds a license.

1 (b) Every applicant for a license shall inform the Commissioner of the applicant's
2 residential address. Every licensee shall give written notification to the Commissioner of
3 any change of the licensee's residential address within 10 business days after the licensee
4 moves into the licensee's new residence. This requirement applies if the change of
5 residential address is by governmental action and there has been no actual change of
6 residence location; in which case the licensee must notify the Commissioner within 10
7 business days after the effective date of the change. A violation of this subsection is not a
8 ground for revocation, suspension, or nonrenewal of the license or for the imposition of
9 any other penalty by the Commissioner.

10 (c) If a licensee is convicted in any court of competent jurisdiction for any crime
11 or offense other than a motor vehicle infraction, the licensee shall notify the
12 Commissioner within 10 days after the date of the conviction. As used in this subsection,
13 'conviction' includes an adjudication of guilt, a plea of guilty, or a plea of nolo
14 contendere.

15 (d) Notwithstanding any other provision of law, whenever the Commissioner is
16 authorized or required to give any notice under this Chapter to a licensee, the notice may
17 be given personally or by sending the notice by first-class mail to the licensee at the
18 address that the licensee has provided to the Commissioner under subsection (b) of this
19 section.

20 (e) The giving of notice by mail under subsection (d) of this section is complete
21 upon the expiration of four days after the deposit of the notice. Proof of the giving of
22 notice by mail may be made by the certificate of any employee of the Department."

23 **PART III. INSURANCE AGENTS, BROKERS, AND ADJUSTERS.**

24 Section 4. G.S. 58-33-70 reads as rewritten:

25 **"§ 58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

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

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

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

1 more than one ~~learner~~ learner's permit shall ever be issued to one individual. The
2 employer's certificate required by this subsection shall certify that:

3 (1) The applicant is an individual of good character.

4 (2) The applicant is employed by the signer of the certificate.

5 (3) The applicant will operate as a student or learner under the instruction
6 and general supervision of a licensed adjuster.

7 (4) The employer will be responsible for the adjustment acts of the
8 applicant during the learning period.

9 (d) ~~No license shall be required of an adjuster licensed as such in another state for~~
10 ~~the adjustment in this State of a single loss, or of losses arising out of a catastrophe~~
11 ~~common to all such losses; provided that such adjuster notifies the Commissioner in~~
12 ~~writing prior to the adjusting of such loss or losses.~~

13 (e) The Commissioner may permit an experienced adjuster, who regularly adjusts
14 in another state and who is licensed in ~~such~~ the other state ~~(if such state requires a license),~~
15 state, to act as an adjuster in this State without a North Carolina license, for emergency
16 insurance adjustment work, for a period of not exceeding 30 days, done for an employer
17 who is an adjuster licensed by this State or who is a regular employer of one or more
18 adjusters licensed by this State; provided that the employer shall furnish to the
19 Commissioner a notice in writing immediately upon the beginning of any such
20 emergency insurance adjustment work. As used in this subsection, 'emergency insurance
21 adjustment work' includes adjusting of a single loss or losses arising out of a catastrophe
22 common to all of those losses in any area declared to be a state of disaster by the
23 Governor under G.S. 166A-6 or by the President of the United States under applicable
24 federal law.

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

31 (1) An insurance adjuster licensed by this State;

32 (2) A motor vehicle damage appraiser licensed by this State;

33 (3) A regular employer of one or more insurance adjusters licensed by this
34 State; or

35 (4) A regular employer of one or more motor vehicle damage appraisers
36 licensed by this State."

37 Section 5. G.S. 58-33-45 reads as rewritten:

38 "**§ 58-33-45. Suspension, revocation, or nonrenewal of licenses.**

39 (a) The Commissioner may suspend, revoke, or refuse to renew any license issued
40 under this Article if, in accordance with the provisions of Article 3A of Chapter 150B, ~~he~~
41 the Commissioner finds as to the licensee any one or more of the following conditions:

42 (1) Any untrue material statement in the license application;

- 1 (2) Any cause for which issuance of the license could have been refused
- 2 had it then existed and been known to the Commissioner at the time of
- 3 issuance;
- 4 (3) Violation of, or noncompliance with, any insurance laws, or of any
- 5 lawful rule, or order of the Commissioner or of a Commissioner of
- 6 another state;
- 7 (4) Obtaining or attempting to obtain any such license through
- 8 misrepresentation or fraud;
- 9 (5) Improperly withholding, misappropriating, or converting to his own use
- 10 any moneys belonging to policyholders, insurers, beneficiaries or others
- 11 received in the course of his insurance business;
- 12 (6) Misrepresentation of the terms of any actual or proposed insurance
- 13 contract;
- 14 (7) Willfully overinsuring property;
- 15 (8) Conviction of a misdemeanor involving moral turpitude, or conviction
- 16 of a felony;
- 17 (9) The person has been found guilty of any unfair trade practice or fraud;
- 18 (10) In the conduct of his affairs under the license, the licensee has used
- 19 fraudulent, coercive or dishonest practices, or has shown himself to be
- 20 incompetent, untrustworthy, or financially irresponsible;
- 21 (11) His license has been suspended or revoked in any other state, province,
- 22 district, or territory;
- 23 (12) The person has forged another's name to an application for insurance; or
- 24 (13) The person has cheated on an examination for an insurance license.

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

33 (c) Repealed by Session Laws 1993, c. 504, s. 28.

34 (d) For the purposes of investigation under this section, the Commissioner shall
35 have all the power conferred upon him by G.S. 58-3-125.

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

42 (f) Upon the filing for protection under the United States Bankruptcy Code by any
43 person licensed under this Article, or by any insurance agency in which such licensed

1 person holds a position of employment, management or ownership, such person shall
2 notify the Commissioner of the filing for protection within three business days after the
3 filing. Upon the appointment of a receiver by a court of this State for any person licensed
4 under this Article, or for any insurance agency in which such licensed person holds a
5 position of employment, management or ownership, such person shall notify the
6 Commissioner of the appointment within three business days thereafter. The willful
7 failure to notify the Commissioner within three business days after the filing for
8 protection or the appointment of a receiver shall, after hearing, cause the license of any
9 person failing to make such notification to be suspended for a period of not less than 60
10 days nor more than three years, in the discretion of the Commissioner.

11 (g) If the Commissioner refuses to grant a license, or suspends, or revokes a
12 license, any appointment of such applicant or licensee shall likewise be revoked. No
13 individual whose license is revoked shall be issued another license without first
14 complying with all requirements of this Article.

15 ~~(h) The provisions of G.S. 58-2-70 apply to any person subject to licensure under
16 this Article.~~

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

21 Section 6. G.S. 58-33-130(c) reads as rewritten:

22 "~~(c) On and after January 1, 1992, any individual agent or broker desiring to renew
23 an appointment or license shall offer evidence satisfactory to the Commissioner that he
24 has complied with the continuing professional education requirements approved by the
25 Commissioner. The license of any person who fails to comply with the continuing
26 education requirements under this section shall lapse. The Commissioner may, for good
27 cause shown, grant extensions of time to licensees to comply with these requirements.~~"

28 Section 7. G.S. 58-33-130(h) reads as rewritten:

29 "~~(h) Any licensee who who, after obtaining an extension under subsection (c) of this
30 section, offers evidence satisfactory to the Commissioner on forms prescribed by the
31 Commissioner that he that the licensee has satisfactorily completed the required continuing
32 professional education courses shall be deemed to have complied is in compliance with this
33 section.~~"

34 **PART IV. BAIL BONDSMEN AND RUNNERS.**

35 Section 8. G.S. 58-71-50 reads as rewritten:

36 "**§ 58-71-50. Qualification for bail bondsmen and runners.**

37 (a) An applicant for a license as a bail bondsman or ~~runner, must~~ runner shall
38 furnish the Commissioner with a complete set of the applicant's fingerprints and a recent
39 passport size full-face photograph of the applicant. The applicant's fingerprints shall be
40 certified by an authorized law-enforcement officer. The fingerprints of every applicant
41 shall be forwarded to the State Bureau of Investigation for a search of the applicant's
42 criminal history record file, if any. If warranted, the State Bureau of Investigation shall
43 forward a set of the fingerprints to the Federal Bureau of Investigation for a national

1 criminal history record check. An applicant shall pay the cost of the State and any
2 national criminal history record check of the applicant.

3 (b) Every applicant for a license under this Article as a bail bondsman or runner
4 must meet all of the following qualifications:

5 (1) Be 18 years of age or over.

6 (2) Be a resident of this State.

7 ~~(3) Be a person of good moral character and not have been convicted of a~~
8 ~~felony or any crime involving moral turpitude.~~

9 (4) Have knowledge, training, or experience of sufficient duration and
10 extent to provide the competence necessary to fulfill the responsibilities
11 of a licensee.

12 (5) Have no outstanding bail bond obligations.

13 (6) Have no current or prior violations of any provision of this Article or of
14 Article 26 of Chapter 15A of the General Statutes or of any similar
15 provision of law of any other state.

16 (7) Not have been in any manner disqualified under the laws of this State or
17 any other state to engage in the bail bond business."

18 Section 9. G.S. 58-71-80 reads as rewritten:

19 "**§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew licenses.**

20 (a) The Commissioner may deny, suspend, ~~or revoke~~ revoke, or refuse to renew
21 any license ~~issued~~ under this Article for any of the following causes:

22 (1) For any cause sufficient to deny, suspend, or revoke the license under
23 any other provision of this Article.

24 (2) Violation of any laws of this State relating to bail in the course of
25 dealings under the license issued by the Commissioner.

26 (3) Material misstatement, misrepresentation or fraud in obtaining the
27 license.

28 (4) Misappropriation, conversion or unlawful withholding of moneys
29 belonging to insurers or others and received in the conduct of business
30 under the license.

31 (5) Fraudulent or dishonest practices in the conduct of business under the
32 license.

33 (6) Conviction of a ~~felony regardless of the time the conviction occurred~~
34 ~~and regardless of whether the conviction resulted from conduct in or~~
35 ~~related to the bail bond business.~~ crime involving moral turpitude.

36 (7) Failure to comply with or violation of the provisions of this Article or of
37 any order, rule or regulation of the Commissioner.

38 (8) When in the judgment of the Commissioner, the licensee has in the
39 conduct of the licensee's affairs under the license, demonstrated
40 incompetency, financial irresponsibility, or untrustworthiness; or that
41 the licensee is no longer in good faith carrying on the bail bond
42 business; or that the licensee is guilty of rebating, or offering to rebate,
43 or offering to divide the premiums received for the bond.

- 1 (9) For failing to pay any judgment or decree rendered on any forfeited
2 undertaking in any court of competent jurisdiction.
- 3 (10) For charging or receiving, as premium or compensation for the making
4 of any deposit or bail bond, any sum in excess of that permitted by this
5 Article.
- 6 (11) For requiring, as a condition of executing a bail bond, that the principal
7 agree to engage the services of a specified attorney.
- 8 (12) For cheating on an examination for a license under this Article.
- 9 (13) For entering into any business association or agreement with any person
10 who is at that time found by the Commissioner to be in violation of any
11 of the bail bond laws of this State, or who has been in any manner
12 disqualified under the bail bond laws of this State or any other state,
13 whereby the person has any direct or indirect financial interest in the
14 bail bond business of the licensee or applicant.
- 15 (14) For knowingly aiding or abetting others to evade or violate the
16 provisions of this Article.
- 17 (15) Any cause for which issuance of the license could have been refused
18 had it then existed and been known to the Commissioner at the time of
19 issuance.

20 ~~(b) The Commissioner, in lieu of revoking or suspending a license in accordance~~
21 ~~with the provisions of this Article, may, in any one proceeding, by order, require the~~
22 ~~licensee to pay to the school fund in the licensee's county of residence a civil penalty of~~
23 ~~two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's failure to pay~~
24 ~~the penalty within 20 days after the order is mailed, postage prepaid, registered and~~
25 ~~addressed to the licensee's last known place of business, unless the order is stayed by an~~
26 ~~order of the court of competent jurisdiction or unless the Commissioner has already~~
27 ~~suspended or revoked the license of the licensee, the Commissioner may revoke the~~
28 ~~license or may suspend the license for any period.~~

29 (c) The Commissioner shall deny, revoke, or refuse to renew any license under
30 this Article if the applicant or licensee is or has ever been convicted of a felony."

31 Section 10. G.S. 58-71-71(a) reads as rewritten:

32 "(a) In order to be eligible to take the examination required to be licensed as a
33 runner or bail bondsman under G.S. 58-71-70, each person shall complete at least ~~20~~16
34 hours of education in subjects pertinent to the duties and responsibilities of a runner or
35 bail bondsman, including all laws and regulations related to being a runner or bail
36 bondsman."

37 Section 11. G.S. 58-71-71(b) reads as rewritten:

38 "(b) Each year every licensee shall complete at least ~~10~~eight hours of continuing
39 education in subjects related to the duties and responsibilities of a runner or bail
40 bondsman before renewal of the license. This continuing education shall not include a
41 written or oral examination. A person who receives his first license on or after January 1
42 of any year does not have to comply with this subsection until the period between his first
43 and second license renewals."

1 Section 12. G.S. 58-71-165 reads as rewritten:

2 **"§ 58-71-165. Monthly report required.**

3 Each professional bail bondsman and surety bondsman shall file with the
4 Commissioner of Insurance a written report in form prescribed by the Commissioner
5 regarding all bail bonds on which the bondsman is liable as of the first day of each month
6 showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal
7 sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for
8 the bonding service in each instance. The report shall be filed on or before the fifteenth
9 day of each month. ~~Within the same time, a copy of this written report must also be filed with~~
10 ~~the clerk of superior court in any county in which the bondsman is obligated on bail bonds.~~ Any
11 person who knowingly and willfully falsifies a report required by this section is guilty of
12 a Class I felony."

13 Section 13. G.S. 58-71-71(e) reads as rewritten:

14 "(e) ~~Any person who falsely represents to the Commissioner that the requirements~~
15 ~~of this section have been met is subject, after notice and opportunity for hearing, to G.S.~~
16 ~~58-2-70. The license of any person who fails to comply with the continuing education~~
17 ~~requirements under this section shall lapse. The Commissioner may, for good cause~~
18 ~~shown, grant extensions of time to licensees to comply with these requirements. Any~~
19 ~~licensee who, after obtaining an extension under this subsection, offers evidence~~
20 ~~satisfactory to the Commissioner that the licensee has satisfactorily completed the~~
21 ~~required continuing professional education courses is in compliance with this section."~~

22 Section 14. G.S. 58-71-85(a) reads as rewritten:

23 "(a) The suspension or revocation of, or refusal to renew, any license under G.S.
24 58-71-80 shall be in accordance with the provisions of ~~Article 3A~~ of Chapter 150B of the
25 General Statutes."

26 **PART V. VIATICAL SETTLEMENT PROVIDERS.**

27 Section 15. G.S. 58-58-42(j) reads as rewritten:

28 "(j) Authority to Adopt Standards. – The Commissioner may:

- 29 (1) Adopt rules to implement this section.
30 (2) Establish standards for evaluating reasonableness of payments under
31 contracts. This authority includes regulation of discount rates used to
32 determine the amount paid in exchange for assignment, transfer, sale,
33 devise, or bequest of a benefit under a policy.
34 (3) Establish appropriate registration and other regulatory requirements for
35 brokers.
36 (4) ~~Require a bond."~~

37 **PART VI. HOME INSPECTORS.**

38 Section 16. G.S. 143-151.45 reads as rewritten:

39 **"§ 143-151.45. Definitions.**

40 The following definitions apply in this Article:

- 41 (1) Associate home inspector. – An individual who is affiliated with or
42 employed by a licensed home inspector to conduct a home inspection of
43 a residential building on behalf of the licensed home inspector.

- 1 (2) Board. – The North Carolina Home Inspector Licensure Board.
2 (3) Compensation. – A fee or anything else of value.
3 (4) Home inspection. – A written evaluation of ~~one~~two or more of the
4 following components of a residential building: heating system, cooling
5 system, plumbing system, electrical system, structural components,
6 foundation, roof, masonry structure, exterior and interior components,
7 or any other related residential housing component.
8 (5) Home inspector. – An individual who engages in the business of
9 performing home inspections for compensation.
10 (6) Residential building. – A structure intended to be, or that is in fact, used
11 as a residence by one or more individuals."

12 Section 17. G.S. 143-151.52 reads as rewritten:

13 **"§ 143-151.52. Requirements to be licensed as an associate home inspector.**

14 To be licensed as an associate home inspector, a person must do all of the following:

- 15 (1) Submit a completed application to the Board upon a form provided by
16 the Board.
17 (2) Pass a licensing examination prescribed by the Board.
18 (3) Pay the applicable fees.
19 (4) Have a high school diploma or its equivalent.
20 (5) Be employed by or affiliated with or intend to be employed by or
21 affiliated with a licensed home inspector and submit a sworn statement
22 by ~~the~~that licensed home inspector ~~with whom the applicant is or intends~~
23 ~~to be affiliated~~ certifying that the licensed home inspector will actively
24 supervise and train the applicant."

25 Section 18. G.S. 143-151.53 reads as rewritten:

26 **"§ 143-151.53. Notification ~~of~~ to applicant following evaluation of application.**

27 ~~The Board must review each application for a license submitted to it and must notify~~
28 ~~each applicant that the application is either accepted or rejected. The Board must send the~~
29 ~~notification of acceptance or rejection within 30 days of receiving the application. If the~~
30 ~~Board rejects an application, the notice sent to the applicant must state the reasons for the~~
31 ~~rejection. If the Board finds that the applicant has not met fully the requirements for~~
32 licensing, the Board shall refuse to issue the license and shall notify in writing the
33 applicant of the denial, stating the grounds of the denial. The application may also be
34 denied for any reason for which a license may be suspended or revoked or not renewed
35 under G.S. 143-151.56. Within 30 days after service of the notification, the applicant
36 may make a written demand upon the Board for a review to determine the reasonableness
37 of the Board's action. The review shall be completed without undue delay, and the
38 applicant shall be notified promptly in writing as to the outcome of the review. Within
39 30 days after service of the notification as to the outcome, the applicant may make a
40 written demand upon the Board for a hearing under Article 3A of Chapter 150B of the
41 General Statutes if the applicant disagrees with the outcome."

42 Section 19. G.S. 143-151.56 reads as rewritten:

43 **"§ 143-151.56. Suspension, revocation, and refusal to renew license.**

1 (a) The Board may deny or refuse to issue or renew a license, may suspend or
2 revoke a license, or may impose probationary conditions on a license if the license holder
3 or applicant for licensure has engaged in any of the following conduct:

- 4 (1) Employed fraud, deceit, or misrepresentation in obtaining or attempting
5 to obtain or renew a license.
- 6 (2) Committed an act of malpractice, gross negligence, or incompetence in
7 the practice of home inspections.
- 8 (3) Without having a current license, either performed home inspections for
9 compensation or claimed to be licensed.
- 10 (4) Engaged in conduct that could result in harm or injury to the public.
- 11 (5) Been convicted of or pled guilty or nolo contendere to any ~~crime~~
12 misdemeanor involving moral turpitude or to any felony.
- 13 (6) Been adjudicated ~~insane or incompetent and has not presented proof of~~
14 recovery from the condition incompetent.
- 15 (7) Engaged in any act or practice that violates any of the provisions of this
16 Article or any rule issued by the Board, or aided, abetted, or assisted any
17 person in a ~~violation~~ violation of any of the provisions of this Article.

18 (b) A denial of licensure, refusal to renew, suspension, revocation, or imposition
19 of probationary conditions upon a license holder may be ordered by the Board after a
20 hearing held in accordance with Article 3A of Chapter 150B of the General Statutes and
21 rules adopted by the Board. An application may be made to the Board for reinstatement
22 of a revoked license if the revocation has been in effect for at least one year."

23 **PART VII. EFFECTIVE DATE.**

24 Section 20. Section 3 of this act becomes effective January 1, 1998. Sections
25 6, 7, 9, 13, 18, and 19 of this act become effective October 1, 1997, and Section 19
26 applies to applications for licensure or renewal submitted on or after that date. Section 4
27 of this act becomes effective September 1, 1997. The remainder of this act is effective
28 when it becomes law.