

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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**SENATE BILL 318\***  
**Insurance and Consumer Protection Committee Substitute Adopted 4/23/01**  
**House Committee Substitute Favorable 5/29/01**

Short Title: Insurance Producer Licensing.

(Public)

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Sponsors:

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Referred to:

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March 5, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO REVISE THE LAWS ON LICENSING OF INSURANCE AGENTS  
3 AND BROKERS TO MAKE THEM CONFORM TO A MODEL UNIFORM  
4 INSURANCE PRODUCER LICENSING ACT OF THE NATIONAL  
5 ASSOCIATION OF INSURANCE COMMISSIONERS AND THEREBY, ALONG  
6 WITH THE OTHER STATES, ACHIEVE NATIONAL UNIFORMITY IN  
7 LICENSING INSURANCE PRODUCERS, AS PROVIDED BY THE FEDERAL  
8 GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 58-33-1 reads as rewritten:

11 "**§ 58-33-1. Scope.**

12 This Article governs the qualifications and procedures for the licensing of agents,  
13 brokers, limited representatives, adjusters, and motor vehicle damage appraisers. This  
14 Article applies to any and all kinds of insurance and insurers under ~~Articles 1 through~~  
15 ~~67 of this Chapter. Except as provided in G.S. 58-33-125, this Article does not apply to~~  
16 ~~the licensing of surplus lines licensees under Article 21 of this Chapter.~~ For purposes of  
17 this Article, all references to insurance include annuities, unless the context otherwise  
18 requires."

19 **SECTION 2.** Article 33 of Chapter 58 of the General Statutes is amended by  
20 adding a new section to read:

21 "**§ 58-33.5. License required.**

22 A person shall not sell, solicit, or negotiate insurance in this State unless the person  
23 is licensed for that kind of insurance in accordance with this Article."

24 **SECTION 3.** G.S. 58-33-10 reads as rewritten:

25 "**§ 58-33-10. Definitions.**

26 As used in this Article, the following definitions apply:

27 (a)(1) 'Agent' means a person licensed to solicit applications for, or to  
28 negotiate a policy of, insurance. A person not duly licensed who

1 solicits or negotiates a policy of insurance on behalf of an insurer is an  
2 agent within the intent of this Article, and thereby becomes liable for  
3 all the duties, requirements, liabilities and penalties to which an agent  
4 of such company is subject, and such company by compensating such  
5 person through any of its officers, agents or employees for soliciting  
6 policies of insurance shall thereby accept and acknowledge such  
7 person as its agent in such transaction.

8 ~~(b)~~(2) 'Adjuster' means any individual who, for salary, fee, commission, or  
9 other compensation of any nature, investigates or reports to his  
10 principal relative to claims arising under insurance contracts other than  
11 life or annuity. An attorney at law who adjusts insurance losses from  
12 time to time incidental to the practice of his profession or an adjuster  
13 of marine losses is not deemed to be an adjuster for purposes of this  
14 Article. An individual may not simultaneously hold an agent's and an  
15 adjuster's license in this State.

16 ~~(e)~~(3) 'Broker' means a person who, being a licensed agent, procures  
17 insurance for a party other than himself through a duly authorized  
18 agent of an insurer that is licensed to do business in this State but for  
19 which the broker is not authorized to act as agent. A person not duly  
20 licensed who procures insurance for a party other than himself is a  
21 broker within the intent of this Article, and thereby becomes liable for  
22 all the duties, requirements, liabilities and penalties to which such  
23 licensed brokers are subject.

24 (4) 'Business entity' means a corporation, association, partnership, limited  
25 liability company, limited liability partnership, or other legal entity.  
26 'Business entity' does not mean a sole proprietorship.

27 (5) 'Home state' means the District of Columbia and any state or territory  
28 of the United States in which an insurance producer maintains his or  
29 her principal place of residence or principal place of business and is  
30 licensed to act as an insurance producer.

31 (6) 'Insurance' means any of the kinds of insurance in G.S. 58-7-15.

32 (7) 'Insurance producer' or 'producer' means a person required to be  
33 licensed under this Article to sell, solicit, or negotiate insurance.  
34 'Insurance producer' or 'producer' includes an agent, broker, and  
35 limited representative.

36 (8) 'License' means a document issued by the Commissioner authorizing a  
37 person to act as an insurance producer for the kinds of insurance  
38 specified in the document. The license itself does not create any  
39 authority, actual, apparent, or inherent, in the holder to represent or  
40 commit an insurance carrier.

41 (9) 'Limited line credit insurance' includes any type of credit insurance  
42 written under Article 57 of this Chapter, mortgage life, mortgage  
43 guaranty, mortgage disability, automobile dealer gap insurance, and

1                   any other form of insurance offered in connection with an extension of  
2                   credit that is limited to partially or wholly extinguishing that credit  
3                   obligation and that the Commissioner determines should be designated  
4                   a form of limited line credit insurance.

5           (10) 'Limited line credit insurance producer' means a person who sells,  
6           solicits, or negotiates one or more forms of limited line credit  
7           insurance coverage to individuals through a master, corporate, group,  
8           or individual policy.

9           (11) 'Limited lines insurance' means motor vehicle physical damage  
10           insurance and title insurance, or any other kind of insurance that the  
11           Commissioner considers necessary to recognize for the purposes of  
12           complying with G.S. 58-33-32(f).

13           (12) 'Limited lines producer' means a person authorized by the  
14           Commissioner to sell, solicit, or negotiate limited lines insurance.

15           ~~(d)~~(13) 'Limited representative' means a person who is authorized by the  
16           Commissioner to solicit or negotiate contracts for the particular kinds  
17           of insurance identified in ~~G.S. 58-33-25(e)~~ G.S. 58-33-26(g) and  
18           which kinds of insurance are restricted in the scope of coverage  
19           afforded.

20           ~~(e)~~(14) 'Motor vehicle damage appraiser' means an individual who, for salary,  
21           fee, commission, or other compensation of any nature, regularly  
22           investigates or advises relative to the nature and amount of damage to  
23           motor vehicles located in this State or the amount of money deemed  
24           necessary to effect repairs thereto and who is not:

25           ~~(1)~~a. An adjuster licensed to adjust insurance claims in this State;

26           ~~(2)~~b. An agent for an insurance company who is not required by law  
27           to be licensed as an adjuster;

28           ~~(3)~~c. An attorney at law who is not required by law to be licensed as  
29           an adjuster; or

30           ~~(4)~~d. An individual who, incident to his regular employment in the  
31           business of repairing defective or damaged motor vehicles,  
32           investigates and advises relative to the nature and amount of  
33           motor vehicle damage or the amount of money deemed  
34           necessary to effect repairs thereto.

35           (15) 'Negotiate' means the act of conferring directly with, or offering advice  
36           directly to, a purchaser or prospective purchaser of a particular  
37           contract of insurance concerning any of the substantive benefits, terms,  
38           or conditions of the contract, only if the person engaged in that act  
39           either sells insurance or obtains insurance from insurers for purchasers.  
40           'Negotiate' does not mean a referral to a licensed insurance agent or  
41           broker that does not include a discussion of specific insurance policy  
42           terms and conditions.

- 1           (16) 'Person' means an individual or a business entity, but does not mean a  
2           county, city, or other political subdivision of the State of North  
3           Carolina.
- 4           (17) 'Sell' means to exchange a contract of insurance by any means, for  
5           money or its equivalent, on behalf of an insurance company. 'Sell' does  
6           not mean a referral to a licensed insurance agent or broker that does  
7           not include a discussion of specific insurance policy terms and  
8           conditions.
- 9           (18) 'Solicit' means attempting to sell insurance or asking or urging a  
10          person to apply for a particular kind of insurance from a particular  
11          company. 'Solicit' does not mean a referral to a licensed insurance  
12          agent or broker that does not include a discussion of specific insurance  
13          policy terms and conditions.
- 14          (19) 'Terminate' means the cancellation of the relationship between an  
15          insurance producer and the insurer or the termination of a producer's  
16          authority to transact insurance.
- 17          (20) 'Uniform Business Entity Application' means the current version of the  
18          NAIC Uniform Business Entity Application for resident and  
19          nonresident business entities.
- 20          (21) 'Uniform Application' means the current version of the NAIC Uniform  
21          Application for resident and nonresident producer licensing."

22          **SECTION 4.** G.S. 58-33-17(d) reads as rewritten:

23          "(d) In the event that any provision of this section is violated by a limited licensee,  
24 the Commissioner may:

- 25           (1) Revoke or suspend a limited license issued under this section in  
26           accordance with the provisions of ~~G.S. 58-33-45~~; ~~G.S. 58-33-46~~; or  
27           (2) After notice and hearing, impose such other penalties, including  
28           suspending the transaction of insurance at specific rental locations  
29           where violations of this Article have occurred, as the Commissioner  
30           deems to be necessary or convenient to carry out the purposes of this  
31           section."

32          **SECTION 5.** G.S. 58-33-25 is repealed.

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

35          "**§ 58-33-26. General license requirements.**

36           (a) No person shall act as or hold himself or herself out to be an agent, broker,  
37 limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

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

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

- 42           (1) Life and health insurance, meaning:

- 1           a.     Life-insurance coverage on human lives, including benefits of  
2                     endowment and annuities, and may include benefits in the event  
3                     of death or dismemberment by accident and benefits for  
4                     disability income.
- 5           b.     Variable life and variable annuity products-insurance coverage  
6                     provided under variable life insurance contracts and variable  
7                     annuities.
- 8           c.     Accident and health or sickness-insurance coverage for  
9                     sickness, bodily injury, or accidental death and may include  
10                    benefits for disability income.
- 11       (2)   Property and liability insurance, meaning:
- 12           a.     Coverage for the direct or consequential loss or damage to  
13                     property of every kind.
- 14           b.     Coverage against legal liability, including that for death, injury,  
15                     or disability or damage to real or personal property.
- 16       (3)   Personal lines, meaning property and liability insurance coverage sold  
17                     to individuals and families for primarily noncommercial purposes.
- 18       (4)   Medicare supplement insurance and long-term care insurance, as a  
19                     supplement to a license for the kinds of insurance listed in subdivision  
20                     (1) of this subsection.
- 21       (d)   A property and liability insurance license does not authorize an agent to sell  
22                     accident and health insurance. An agent must hold a life and health insurance license to  
23                     sell accident and health insurance.
- 24       (e)   A life and health insurance license authorizes a resident agent to sell variable  
25                     contracts if the agent satisfies the Commissioner that the agent has met the National  
26                     Association of Securities Dealers requirements of the Secretary of State of North  
27                     Carolina.
- 28       (f)   A life and health insurance license authorizes a resident agent to sell  
29                     Medicare supplement and long-term care insurance policies as defined respectively in  
30                     Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a  
31                     supplemental written examination for the insurance as provided in G.S. 58-33-30(e) and  
32                     pays the supplemental registration fee provided in G.S. 58-33-125(c).
- 33       (g)   A limited representative may receive qualification for one or more licenses  
34                     without examination for the following kinds of insurance:
- 35           (1)   Dental services.
- 36           (2)   Limited line credit insurance.
- 37           (3)   Limited lines insurance.
- 38           (4)   Motor club.
- 39           (5)   Prearrangement insurance, as defined in G.S. 58-60-35(a)(2), when  
40                     offered or sold by a preneed sales licensee licensed under Article 13D  
41                     of Chapter 90 of the General Statutes.
- 42           (6)   Travel accident and baggage.
- 43           (7)   Vehicle service agreements and mechanical breakdown insurance.

1       (h) No licensed agent, broker, or limited representative shall solicit anywhere in  
2 the boundaries of this State, or receive or transmit an application or premium of  
3 insurance, for a company not licensed to do business in this State, except as provided in  
4 G.S. 58-28-5 and Article 21 of this Chapter.

5       (i) No agent shall place a policy of insurance with any insurer unless the agent  
6 has a current appointment as agent for the insurer in accordance with G.S. 58-33-40 or  
7 has a valid temporary license issued in accordance with G.S. 58-33-66.

8       (j) A business entity that sells, negotiates, or solicits insurance shall be licensed  
9 in accordance with G.S. 58-33-31(b). Every member of the partnership and every  
10 officer, director, stockholder, and employee of the business entity personally engaged in  
11 this State in soliciting or negotiating policies of insurance shall qualify as an individual  
12 licensee.

13       (k) The license shall state the name and social security number, or other  
14 identifying number of the licensee, date of issue, kind or kinds of insurance covered by  
15 the license, and any other information as the Commissioner deems to be proper.

16       (l) A license issued to an agent authorizes him to act until his license is  
17 otherwise suspended or revoked. Upon the suspension or revocation of a license, the  
18 licensee or any person having possession of such license shall return it to the  
19 Commissioner.

20       (m) A license of a broker, limited representative, adjuster, or motor vehicle  
21 damage appraiser shall be renewed on April 1 each year, and renewal fees shall be paid.  
22 The Commissioner is not required to print licenses for the purpose of renewing licenses.  
23 The Commissioner may establish for licenses 'staggered' license renewal dates that will  
24 apportion renewals throughout each calendar year. If the system of staggered licensing  
25 is adopted, the Commissioner may extend the licensure period for some licensees.  
26 License renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they  
27 are commensurate with extensions.

28       (n) A license as an insurance producer is not required of the following:

29       (1) An officer, director, or employee of an insurer or of an insurance  
30 producer, provided that the officer, director, or employee does not  
31 receive any commission on policies written or sold to insure risks  
32 residing, located, or to be performed in this State, except for indirect  
33 receipt of proceeds of commissions in the form of salary, benefits, or  
34 distributions, and:

35       a. The officer, director, or employee's activities are executive,  
36 administrative, managerial, clerical, or a combination of these,  
37 and are only indirectly related to the sale, solicitation, or  
38 negotiation of insurance; or

39       b. The officer, director, or employee's function relates to  
40 underwriting, loss control, inspection, or the processing,  
41 adjusting, investigating, or settling of a claim on a contract of  
42 insurance; or

- 1           c.     The officer, director, or employee is acting in the capacity of a  
2                 special agent or agency supervisor assisting insurance producers  
3                 where the person's activities are limited to providing technical  
4                 advice and assistance to licensed insurance producers and do  
5                 not include the sale, solicitation, or negotiation of insurance.
- 6       (2)    A person who secures and furnishes information for the purpose of  
7                 group life insurance, group property and casualty insurance, group  
8                 annuities, group or blanket accident and health insurance; or for the  
9                 purpose of enrolling individuals under plans; issuing certificates under  
10                plans or otherwise assisting in administering plans; or performs  
11                administrative services related to mass-marketed property and casualty  
12                insurance; where no commission is paid to the person for the service.
- 13       (3)    An employer or association or its officers, directors, employees, or the  
14                trustees of an employee trust plan, to the extent that the employers,  
15                officers, employees, director, or trustees are engaged in the  
16                administration or operation of a program of employee benefits for the  
17                employer's or association's own employees or the employees of its  
18                subsidiaries or affiliates, which program involves the use of insurance  
19                issued by an insurer, as long as the employers, associations, officers,  
20                directors, employees, or trustees are not in any manner compensated,  
21                directly or indirectly, by the company issuing the contracts.
- 22       (4)    Employees of insurers or organizations employed by insurers who are  
23                engaging in the inspection, rating, or classification of risks, or in the  
24                supervision of the training of insurance producers and who are not  
25                individually engaged in the sale, solicitation, or negotiation of  
26                insurance.
- 27       (5)    A person whose activities in this State are limited to advertising  
28                without the intent to solicit insurance in this State through  
29                communications in printed publications or other forms of electronic  
30                mass media whose distribution is not limited to residents of this State,  
31                provided that the person does not sell, solicit, or negotiate insurance  
32                that would insure risks residing, located, or to be performed in this  
33                State.
- 34       (6)    A person who is not a resident of this State who sells, solicits, or  
35                negotiates a contract of insurance for commercial property and  
36                casualty risks to an insured with risks located in more than one state  
37                insured under that contract, provided that that person is otherwise  
38                licensed as an insurance producer to sell, solicit, or negotiate that  
39                insurance in the state where the insured maintains its principal place of  
40                business and the contract of insurance insures risks located in that  
41                state.
- 42       (7)    A salaried full-time employee who counsels or advises his or her  
43                employer relative to the insurance interests of the employer or of the

1                    subsidiaries or business affiliates of the employer provided that the  
2                    employee does not sell or solicit insurance or receive a commission.

3            (8)        Licensed insurers authorized to write the kinds of insurance described  
4                    in G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without  
5                    the involvement of a licensed agent.

6            (9)        A person indirectly receiving proceeds of commissions as part of the  
7                    transfer of insurance business or in the form of retirement or similar  
8                    benefits.

9            (o)        Nothing in this Article requires an insurer to obtain an insurance producer  
10                    license. In this subsection, 'insurer' does not include an insurer's officers, directors,  
11                    employees, subsidiaries, or affiliates."

12                    **SECTION 7.** G.S. 58-33-30(b) and (c) are repealed.

13                    **SECTION 8.** G.S. 58-33-30(d)(3) reads as rewritten:

14                    "(3) Each resident applicant for a Medicare supplement and long-term care  
15                    insurance license shall furnish evidence satisfactory to the  
16                    Commissioner of successful completion of 10 hours of instruction,  
17                    which shall in all cases include the principles of Medicare supplement  
18                    and long-term care insurance and federal and North Carolina law  
19                    relating to such insurance. ~~An~~ A resident applicant who submits  
20                    satisfactory evidence of having successfully completed an agent  
21                    training course that has been approved by the Commissioner and that  
22                    is offered by or under the auspices of ~~an admitted~~ a licensed life or  
23                    health insurer or a professional insurance association satisfies the  
24                    educational requirements of this subdivision."

25                    **SECTION 9.** G.S. 58-33-30(e) reads as rewritten:

26            "(e) Examination.

27                    (1) After completion and filing of the application with the Commissioner,  
28                    except as provided in G.S. 58-33-35, the Commissioner shall require  
29                    each applicant for license as an agent or an adjuster to take ~~a written~~ an  
30                    examination as to ~~his~~ the applicant's competence to be licensed. The  
31                    applicant must take and pass the examination according to  
32                    requirements prescribed by the Commissioner.

33                    (2) The Commissioner may require any licensed agent, adjuster, or motor  
34                    vehicle damage appraiser to take and successfully pass an examination  
35                    in writing, testing his competence and qualifications as a condition to  
36                    the continuance or renewal of his license, if the licensee has been  
37                    found guilty of any violation of any provision of ~~Articles 1 through 67~~  
38                    ~~of~~ this Chapter. If an individual fails to pass such an examination, the  
39                    Commissioner shall revoke all licenses issued in his name and no  
40                    license shall be issued until such individual has passed an examination  
41                    as provided in this Article.

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



- 1 a. The terms and provisions of the policies or contracts of  
2 insurance ~~he~~the applicant proposes to effect; or  
3 b. The types of claims or losses ~~he~~the applicant proposes to  
4 adjust; and  
5 c. The duties and responsibilities of ~~such a~~the license; and  
6 d. The current laws of this State applicable to ~~such a~~the license.
- 7 (4) The answers of the applicant to ~~any such~~the examination shall be  
8 ~~written~~provided by the applicant under the Commissioner's  
9 supervision. The Commissioner shall give examinations at such times  
10 and places within this State as ~~he deems~~the Commissioner considers  
11 necessary reasonably to serve the convenience of both the  
12 Commissioner and applicants: Provided that the Commissioner is  
13 ~~authorized to~~may contract directly with persons for the processing of  
14 examination application forms and for the administration and grading  
15 of the examinations required by this section; the Commissioner is  
16 ~~authorized to~~may charge a reasonable fee in addition to the  
17 registration fee charged under G.S. 58-33-125, to offset the cost of the  
18 examination contract authorized by this subsection; and such contracts  
19 shall not be subject to Article 3 of Chapter 143 of the General Statutes.
- 20 (5) The Commissioner shall collect in advance the examination and  
21 registration fees provided in G.S. 58-33-125 and in subsection (4) of  
22 this section. The Commissioner shall make or cause to be made  
23 available to all applicants, for a reasonable fee to offset the costs of  
24 production, materials that he ~~deems~~considers necessary for the  
25 applicants' proper preparation for ~~such exams~~examinations. The  
26 Commissioner is ~~empowered to~~may contract directly with publishers  
27 and other suppliers for the production of ~~such~~the preparatory  
28 materials, and contracts so let by the Commissioner shall not be  
29 subject to Article 3 of Chapter 143 of the General Statutes.
- 30 (6) In addition to the examinations for the kinds of insurance specified in  
31 G.S. 58-33-25(c)(1) and (2), before any ~~person~~resident may sell  
32 Medicare supplement or long-term care insurance policies defined  
33 respectively in Articles 54 and 55 of this Chapter, ~~he~~the resident must  
34 take and pass a supplemental written examination according to  
35 requirements prescribed by the Commissioner.
- 36 (7) An individual who fails to appear for the examination as scheduled or  
37 fails to pass the examination shall reapply for an examination and  
38 remit all required fees and forms before being rescheduled for another  
39 examination."

40 **SECTION 10.** G.S. 58-33-30(g) reads as rewritten:

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

1 grounds therefor. The application may also be denied for any reason for which a license  
2 may be suspended or revoked or not renewed under ~~G.S. 58-33-45(a)~~.G.S. 58-33-46.  
3 Within 30 days after service of the notification, the applicant may make a written  
4 demand upon the Commissioner for a review to determine the reasonableness of the  
5 Commissioner's action. The review shall be completed without undue delay, and the  
6 applicant shall be notified promptly in writing as to the outcome of the review. Within  
7 30 days after service of the notification as to the outcome, the applicant may make a  
8 written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B  
9 of the General Statutes if the applicant disagrees with the outcome."

10 **SECTION 11.** G.S. 58-33-30(i) reads as rewritten:

11 "(i) Retaliatory Provision. – Whenever, by the laws or regulations of any other  
12 state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any  
13 other requirements are imposed upon residents of this State who are nonresident  
14 applicants or licensees of such other state or jurisdiction in addition to, or in excess of,  
15 those imposed on nonresidents under this Article, the same such requirements shall be  
16 imposed upon such residents of such other state or jurisdiction. This subsection does not  
17 apply to fees charged to insurance producers."

18 **SECTION 12.** Article 33 of Chapter 58 of the General Statutes is amended  
19 by adding a new section to read:

20 "**§ 58-33-31. Application for license.**

21 (a) A person applying for a resident insurance producer license shall make  
22 application to the Commissioner on the Uniform Application and declare under penalty  
23 of denial, suspension, or revocation of the license that the statements made in the  
24 application are true, correct, and complete to the best of the individual's knowledge and  
25 belief. Before approving the application, the Commissioner shall find that the  
26 individual:

- 27 (1) Is at least 18 years of age.
- 28 (2) Has not committed any act that is a ground for probation, suspension,  
29 nonrenewal, or revocation set forth in G.S. 58-33-46.
- 30 (3) Has satisfied any applicable requirements of G.S. 58-33-30(d).
- 31 (4) Has paid the applicable fees set forth in G.S. 58-33-125.
- 32 (5) Has successfully passed any examinations required by G.S. 58-33-  
33 30(e).

34 (b) A business entity selling, soliciting, or negotiating insurance shall obtain an  
35 insurance producer license. Application shall be made using the Uniform Business  
36 Entity Application. Before approving the application, the Commissioner shall find that:

- 37 (1) The business entity has paid the applicable fees set forth in G.S. 58-33-  
38 125.
- 39 (2) The business entity has designated a licensed producer, who is a  
40 natural person, responsible for the business entity's compliance with  
41 the insurance laws and administrative rules of this State and orders of  
42 the Commissioner.

1 (c) The Commissioner may require any documents reasonably necessary to  
2 verify the information contained in an application."

3 **SECTION 13.** G.S. 58-33-32 reads as rewritten:

4 **"§ 58-33-32. Interstate reciprocity in producer licensing.**

5 (a) The purpose of this section is to make North Carolina insurance producer  
6 licensing comply with the reciprocity requirements in the federal Gramm-Leach-Bliley  
7 Act, Public Law 106-102.

8 (b) ~~As used in this section:~~

9 (1) ~~"Home state" means the District of Columbia and any state or territory~~  
10 ~~of the United States in which an insurance producer maintains a~~  
11 ~~principal place of residence or principal place of business and is~~  
12 ~~licensed to act as an insurance producer.~~

13 (2) ~~"Insurance producer" or "producer" means a person required to be~~  
14 ~~licensed under this Article to sell, solicit, or negotiate insurance.~~

15 (3) ~~"License" means a document issued by the Commissioner authorizing~~  
16 ~~a person to act as an insurance producer for the kinds of insurance~~  
17 ~~specified in the document. The license itself does not create any~~  
18 ~~authority, actual, apparent, or inherent, in the holder to represent or~~  
19 ~~commit to an insurance carrier.~~

20 (4) ~~"Limited line credit insurance" includes any type of credit insurance~~  
21 ~~written under Article 57 of this Chapter, mortgage life, mortgage~~  
22 ~~guaranty, mortgage disability, automobile dealer gap insurance, and~~  
23 ~~any other form of insurance offered in connection with an extension of~~  
24 ~~credit that is limited to partially or wholly extinguishing that credit~~  
25 ~~obligation and that the Commissioner determines should be designated~~  
26 ~~a form of limited line credit insurance.~~

27 (5) ~~"Limited line credit insurance producer" means a person who sells,~~  
28 ~~solicits, or negotiates one or more forms of limited line credit~~  
29 ~~insurance coverage to individuals through a master, corporate, group,~~  
30 ~~or individual policy.~~

31 (6) ~~"Negotiate" means the act of conferring directly with or offering~~  
32 ~~advice directly to a purchaser or prospective purchaser of a particular~~  
33 ~~contract of insurance concerning any of the substantive benefits, terms,~~  
34 ~~or conditions of the contract, provided that the person engaged in that~~  
35 ~~act either sells insurance or obtains insurance from insurers for~~  
36 ~~purchasers.~~

37 (7) ~~"Sell" means to exchange a contract of insurance by any means, for~~  
38 ~~money or its equivalent, on behalf of an insurance company.~~

39 (8) ~~"Solicit" means attempting to sell insurance or asking or urging a~~  
40 ~~person to apply for a particular kind of insurance from a particular~~  
41 ~~company.~~

42 (9) ~~"Uniform Application" means the most recent version of the NAIC~~  
43 ~~Uniform Application for resident and nonresident producer licensing.~~

1           (10) ~~"Uniform Business Entity Application" means the most recent version~~  
2           ~~of the NAIC Uniform Business Entity Application for a resident and a~~  
3           ~~nonresident corporation, association, partnership, limited liability~~  
4           ~~company, limited liability partnership, or other legal entity.~~

5           (c) Unless denied licensure under G.S. 58-33-30 or G.S. 58-33-50, a nonresident  
6 person shall receive a nonresident producer license if:

7           (1) The person is currently licensed as a resident and in good standing in  
8 that person's home state;

9           (2) The person has submitted the ~~proper~~ request for licensure in the form  
10 prescribed by the Commissioner and has paid the applicable fees  
11 required by G.S. 58-33-125;

12           (3) The person has submitted or transmitted to the Commissioner a copy  
13 of the application for licensure that the person submitted to that  
14 person's home state, or in lieu of the same, a completed Uniform  
15 Application or Uniform Business Entity Application; and

16           (4) The person's home state awards nonresident producer licenses to  
17 residents of this State on ~~the same~~ a reciprocal basis.

18           The Commissioner may verify the producer's licensing status through the producer  
19 database maintained by the NAIC or affiliates or subsidiaries of the NAIC.

20           (d) ~~Notwithstanding any other provision of this section, a~~ A person licensed as a  
21 surplus lines producer in that person's home state shall receive a nonresident surplus  
22 lines license ~~pursuant to the provisions under subsection (c) of this section.~~ Except for  
23 the licensure provisions of this section, nothing in this section otherwise amends or  
24 supersedes any provision of Article 21 of this Chapter.

25           (e) ~~Notwithstanding any other provision of this section, a~~ A person licensed or  
26 registered as a viatical settlement broker, viatical settlement provider, or viatical  
27 settlement representative, as defined in G.S. 58-58-42(a), in that person's home state  
28 shall receive a nonresident viatical settlement broker, viatical settlement provider, or  
29 viatical settlement representative license ~~pursuant to~~ under subsection (c) of this section.  
30 Except for the licensure provisions of this section, nothing in this section otherwise  
31 amends or supersedes any provision of G.S. 58-58-42.

32           (f) ~~Notwithstanding any other provision of this section, a~~ A person licensed as a  
33 limited line credit insurance producer or other type of ~~insurance~~ limited lines producer  
34 in that person's home state ~~shall~~ may, under subsection (c) of this section, receive a  
35 nonresident limited lines producer license ~~pursuant to the provisions of this~~  
36 ~~section,~~ granting the same scope of authority as granted under the license issued by the  
37 producer's home state. For the purposes of this subsection, limited lines insurance is any  
38 authority granted by the home state that restricts the authority of the license to less than  
39 the total authority prescribed in the associated major lines under G.S. 58-33-26(c)(1),  
40 58-33-26(c)(2), 58-33-26(c)(3), and 58-33-26(c)(4).

41           (g) An individual who applies for an insurance producer license in this State who  
42 was previously licensed for the same kinds of insurance in that individual's home state

1 shall not be required to complete any prelicensing education or examination. This  
2 exemption is available only if:

- 3 (1) The applicant is currently licensed in the applicant's home state; or
- 4 (2) The application is received within 90 days after the cancellation of the  
5 applicant's previous license and the applicant's home state issues a  
6 certification that, at the time of cancellation, the applicant was in good  
7 standing in that state; or
- 8 (3) The home state's producer database records, maintained by the NAIC  
9 or affiliates or subsidiaries of the NAIC, indicate that the producer is  
10 or was licensed in good standing for the kind of insurance requested.

11 A person licensed as an insurance producer in another state who moves to this State and  
12 who wants to be licensed as a resident under G.S. 58-33-31 shall apply within 90 days  
13 after establishing legal residence.

14 (h) The Commissioner shall not assess a greater fee for an insurance license or  
15 related service to a nonresident producer based solely on the fact that the producer does  
16 not reside in this State.

17 (i) The Commissioner shall waive any license application requirements for a  
18 nonresident license applicant with a valid license from the applicant's home state, except  
19 the requirements imposed by subsection (c) of this section, if the applicant's home state  
20 awards nonresident licenses to residents of this State on the same basis.

21 (j) A nonresident producer's satisfaction of the nonresident producer's home  
22 state's continuing education requirements for licensed insurance producers shall  
23 constitute satisfaction of this State's continuing education requirements if the  
24 nonresident producer's home state recognizes the satisfaction of its continuing education  
25 requirements imposed upon producers from this State on the same basis.

26 (k) A producer shall report to the Commissioner any administrative action taken  
27 against the producer in another state or by another governmental agency in this State  
28 within 30 days after the final disposition of the matter. This report shall include a copy  
29 of the order or consent order and other ~~relevant legal documents information or~~  
30 documents filed in the proceeding necessary to describe the action.

31 (l) Within 30 days after the initial pretrial hearing ~~date, date or similar~~  
32 proceeding, a producer shall report to the Commissioner any criminal prosecution of the  
33 ~~producer taken in any state. producer.~~ The report shall include a copy of the initial  
34 complaint filed, the order resulting from the ~~hearing, hearing or similar proceeding~~, and  
35 any other ~~relevant legal documents information or documents filed in the proceeding~~  
36 necessary to describe the prosecution."

37 **SECTION 14.** G.S. 58-33-40(e) reads as rewritten:

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

1           **SECTION 15.** G.S. 58-33-45 is repealed.

2           **SECTION 16.** Article 33 of Chapter 58 of the General Statutes is amended  
3 by adding a new section to read:

4   "§ 58-33-46. Suspension, probation, revocation, or nonrenewal of licenses.

5       (a) The Commissioner may place on probation, suspend, revoke, or refuse to  
6 renew any license issued under this Article, in accordance with the provisions of Article  
7 3A of Chapter 150B of the General Statutes, for any one or more of the following  
8 causes:

- 9           (1) Providing materially incorrect, misleading, incomplete, or materially  
10 untrue information in the license application.
- 11           (2) Violating any insurance laws, or violating any administrative rule,  
12 subpoena, or order of the Commissioner or of another state's insurance  
13 regulator.
- 14           (3) Obtaining or attempting to obtain a license through misrepresentation  
15 or fraud.
- 16           (4) Improperly withholding, misappropriating, or converting any monies  
17 or properties received in the course of doing insurance business.
- 18           (5) Intentionally misrepresenting the terms of an actual or proposed  
19 insurance contract or application for insurance.
- 20           (6) Having been convicted of a felony or of a misdemeanor involving  
21 dishonesty or a breach of trust.
- 22           (7) Having admitted or been found to have committed any insurance  
23 unfair trade practice or fraud.
- 24           (8) Using fraudulent, coercive, or dishonest practices, or demonstrating  
25 incompetence, untrustworthiness, or financial irresponsibility in the  
26 conduct of business in this State or elsewhere.
- 27           (9) Having an insurance producer license, or its equivalent, denied,  
28 suspended, or revoked in any other jurisdiction for reasons  
29 substantially similar to those listed in this subsection.
- 30           (10) Forging another's name to an application for insurance or to any  
31 document related to an insurance transaction.
- 32           (11) Willfully failing to provide the notification required by subsection (c)  
33 of this section.
- 34           (12) Knowingly accepting brokered insurance business from an individual  
35 who is not licensed to broker that kind of insurance.
- 36           (13) Failing to comply with an administrative or court order imposing a  
37 child support obligation, after entry of a final judgment or order  
38 finding the violation to have been willful.
- 39           (14) Failing to pay State income tax or comply with any administrative or  
40 court order directing payment of State income tax, after entry of a final  
41 judgment or order finding the violation to have been willful.
- 42           (15) Cheating on an examination for an insurance license or for a  
43 prelicensing or continuing education course, including improperly

1           using notes or any other reference material to complete an examination  
2           for an insurance license or for a prelicensing or continuing education  
3           course.

4           (16) Willfully overinsuring property.

5           (17) Any cause for which issuance of the license could have been refused  
6           had it then existed and been known to the Commissioner at the time of  
7           issuance.

8           (b) G.S. 58-2-50 applies to any investigation under this section. G.S. 58-2-70  
9           applies to any person subject to licensure under this Article.

10          (c) Any person licensed under this Article shall notify the Commissioner of the  
11          commencement of any bankruptcy, insolvency, or receivership proceeding affecting the  
12          person licensed, or upon making an assignment for the benefit of creditors of the person  
13          licensed. Each owner, manager, or officer of a business entity that is a licensed person  
14          shall be responsible for providing this notification. Any person responsible for notifying  
15          the Commissioner shall provide the notice within three business days after the  
16          commencement of the proceeding or the making of the assignment.

17          (d) If the Commissioner refuses to grant a license, or suspends or revokes a  
18          license, any appointment of the applicant or licensee shall likewise be revoked. No  
19          individual whose license is revoked shall be issued another license without first  
20          complying with all requirements of this Article.

21          (e) No person shall be issued a license or appointment to enter the employment  
22          of any other person, which other person is at that time found by the Commissioner to be  
23          in violation of any of the insurance laws of this State, or which other person has been in  
24          any manner disqualified under any state or federal law to engage in the insurance  
25          business.

26          (f) The Commissioner shall retain the authority to enforce the provisions of, and  
27          impose any penalty or remedy authorized by, this Chapter against any person who is  
28          under investigation for or charged with a violation of this Chapter even if the person's  
29          license or registration has been surrendered or has lapsed by operation of law."

30           **SECTION 17.** G.S. 58-33-55 is repealed.

31           **SECTION 18.** Article 33 of Chapter 58 of the General Statutes is amended  
32 by adding a new section to read:

33 **"§ 58-33-56. Notification to Commissioner of termination.**

34          (a) An insurer or authorized representative of the insurer that terminates the  
35          appointment, employment, contract, or other insurance business relationship with a  
36          producer shall notify the Commissioner within 30 days after the effective date of the  
37          termination, using a form prescribed by the Commissioner, if the reason for termination  
38          is for or related to one of the causes listed in G.S. 58-33-46(a) or the insurer has  
39          knowledge the producer was found by a court, government body, or self-regulatory  
40          organization authorized by law to have engaged in any of the activities in G.S. 58-33-  
41          46(a). Upon the written request of the Commissioner, the insurer shall provide  
42          additional information, documents, records, or other data pertaining to the termination  
43          or activity of the producer.

1       (b) An insurer or authorized representative of the insurer that terminates the  
2 appointment, employment, or contract with a producer for any reason that is not for or  
3 related to one of the causes listed in G.S. 58-33-46(a) shall notify the Commissioner  
4 within 30 days after the effective date of the termination, using a form prescribed by the  
5 Commissioner. Upon written request of the Commissioner, the insurer shall provide  
6 additional information, documents, records, or other data pertaining to the termination.

7       (c) The insurer or the authorized representative of the insurer shall promptly  
8 notify the Commissioner in a form acceptable to the Commissioner if, upon further  
9 review or investigation, the insurer discovers additional information that would have  
10 been reportable to the Commissioner in accordance with subsection (a) of this section  
11 had the insurer then known of its existence.

12       (d) Within 15 days after making the notification required by subsections (a), (b),  
13 and (c) of this section, the insurer shall mail a copy of the notification to the producer at  
14 the producer's last known address. If the producer is terminated for cause for any of the  
15 reasons listed in G.S. 58-33-46(a), the insurer shall provide a copy of the notification to  
16 the producer at the producer's last known address by certified mail, return receipt  
17 requested, postage prepaid, or by overnight delivery using a nationally recognized  
18 carrier.

19       (e) Within 30 days after the producer has received the original or additional  
20 notification, the producer may file written comments concerning the substance of the  
21 notification with the Commissioner. The producer shall, by the same means,  
22 simultaneously send a copy of the comments to the reporting insurer, and the comments  
23 shall become a part of the Commissioner's file and accompany every copy of a report  
24 distributed or disclosed for any reason about the producer as permitted under subsection  
25 (h) of this section.

26       (f) In the absence of actual malice, neither an insurer, the authorized  
27 representative of the insurer, a producer, the Commissioner, an organization of which  
28 the Commissioner is a member, nor the respective employees and agents of such  
29 persons acting on behalf of such persons shall be subject to civil liability as a result of  
30 any statement or information provided pursuant to this section.

31       (g) In any action brought against a person that may have immunity under  
32 subsection (f) of this section for making any statement required by this section or for  
33 providing any information relating to any statement that may be requested by the  
34 Commissioner, the party bringing the action shall plead specifically in any allegation  
35 that subsection (f) of this section does not apply because the person making the  
36 statement or providing the information did so with actual malice. Subsections (f) and (g)  
37 of this section do not abrogate or modify any existing statutory or common law  
38 privileges or immunities.

39       (h) Notwithstanding any other provision of this Chapter, any documents,  
40 materials, or other information in the control or possession of the Commissioner or any  
41 organization of which the Commissioner is a member that is (i) furnished by an insurer,  
42 producer, or an employee or agent thereof acting on behalf of the insurer or producer  
43 under this section, or (ii) obtained by the Commissioner in an investigation under this



1 section shall be confidential by law and privileged, shall not be subject to or public  
2 records under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject  
3 to subpoena, and shall not be subject to discovery in any civil action other than a  
4 proceeding brought by the Commissioner against a person to whom such documents,  
5 materials, or other information relate. However, the Commissioner is authorized to use  
6 the documents, materials, or other information in the furtherance of any regulatory or  
7 legal action brought as a part of the Commissioner's duties. Neither the Commissioner  
8 nor any person who received documents, materials, or other information while acting  
9 under the authority of the Commissioner shall be permitted or required to testify in any  
10 civil action other than a proceeding brought by the Commissioner against a person to  
11 whom such documents, materials, or other information relate concerning any such  
12 documents, materials, or information.

13 (i) In order to assist in the performance of the Commissioner's duties under this  
14 Article, the Commissioner may:

15 (1) Share documents, materials, or other information, including the  
16 confidential documents, materials, or information described in this  
17 section, with other state, federal, and international regulatory agencies,  
18 with the NAIC, its affiliates or subsidiaries, and with state, federal, and  
19 international law enforcement authorities. The Commissioner may  
20 condition such sharing on an agreement by the recipient to maintain  
21 the confidentiality and privileged status of the document, material, or  
22 other information;

23 (2) Receive documents, materials, or information, including otherwise  
24 confidential and privileged documents, materials, or information from  
25 other state, federal, and international regulatory agencies, from the  
26 NAIC, its affiliates or subsidiaries, and from state, federal, and  
27 international law enforcement authorities, and may agree to maintain  
28 the confidential and privileged status of the document, material, or  
29 other information received under the laws of the jurisdiction that is the  
30 source of the document, material, or information; and

31 (3) Enter into agreements governing sharing and use of information  
32 consistent with this subsection.

33 (j) No waiver of any applicable privilege or claim of confidentiality in the  
34 documents, materials, or information shall occur as a result of disclosure to the  
35 Commissioner under this section or as a result of sharing as authorized in subsection (i)  
36 of this section.

37 (k) Nothing in this Article prohibits the Commissioner from releasing final,  
38 adjudicated actions including for cause terminations that are open to public inspection  
39 under G.S. 58-2-100, to a database or other clearinghouse service maintained by the  
40 NAIC, its affiliates, or subsidiaries of the NAIC.

41 (l) An insurer, the authorized representative of the insurer, or producer that fails  
42 to report as required under this section or that is found to have reported with actual

1 malice by a court of competent jurisdiction may, after notice and hearing, have its  
2 license suspended or revoked and may be fined in accordance with G.S. 58-2-70."

3 **SECTION 19.** G.S. 58-33-65 is repealed.

4 **SECTION 20.** Article 33 of Chapter 58 of the General Statutes is amended  
5 by adding a new section to read:

6 "**§ 58-33-66. Temporary licensing.**

7 (a) The Commissioner may issue a temporary insurance producer license for a  
8 period not to exceed 180 days or longer, for good cause, without requiring an  
9 examination if the Commissioner deems that the temporary license is necessary for the  
10 servicing of an insurance business in any of the following cases:

11 (1) To the spouse or surviving spouse or court-appointed personal  
12 representative or guardian of a licensed insurance producer who dies  
13 or becomes mentally or physically disabled to allow adequate time for  
14 the transfer of the insurance business owned by the producer, for the  
15 recovery or return of the producer to the business, or for the training  
16 and licensing of new personnel to operate the producer's business.

17 (2) To a member or employee of a business entity licensed as an insurance  
18 producer, upon the death or disability of an individual designated in  
19 the business entity application or the license.

20 (3) To the designee of a licensed insurance producer entering active  
21 service in the armed forces of the United States of America.

22 (4) In any other circumstance where the Commissioner deems that the  
23 public interest will be served best by the issuance of this license.

24 (b) The Commissioner may by order limit the authority of any temporary  
25 licensee in any way deemed necessary to protect insureds and the public. The  
26 Commissioner may require the temporary licensee to have a suitable sponsor who is a  
27 licensed producer or insurer and who assumes responsibility for all acts of the  
28 temporary licensee and may impose other similar requirements designed to protect  
29 insureds and the public. The Commissioner may by order revoke a temporary license if  
30 the interest of insureds or the public are endangered. A temporary license terminates  
31 upon the transfer of the business.

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

35 **SECTION 21.** G.S. 58-33-75 reads as rewritten:

36 "**§ 58-33-75. Twisting with respect to insurance policies; penalties.**

37 No licensee shall make or issue, or cause to be issued, any written or oral statement  
38 that willfully misrepresents or willfully makes an incomplete comparison as to the  
39 terms, conditions, or benefits contained in any policy of insurance for the purpose of  
40 inducing or attempting to induce a policyholder in any way to terminate or surrender,  
41 exchange, or convert any insurance policy. Any person who violates this section is  
42 subject to the provisions of G.S. 58-2-70 and ~~58-33-45~~G.S. 58-33-46."

43 **SECTION 22.** G.S. 58-33-76(c) reads as rewritten:

1       "(c) Any person who violates this section is subject to the provisions of G.S.  
2 58-2-70 and ~~G.S. 58-33-45~~.G.S. 58-33-46."

3               **SECTION 23.** Article 33 of Chapter 58 of the General Statutes is amended  
4 by adding a new section to read:

5 **"§ 58-33-82. Commissions.**

6       (a) An insurance company or insurance producer shall not pay a commission,  
7 service fee, or other valuable consideration to a person for selling, soliciting, or  
8 negotiating insurance in this State if that person is required to be licensed under this  
9 Article and is not so licensed.

10       (b) A person shall not accept a commission, service fee, brokerage, or other  
11 valuable consideration for selling, soliciting, or negotiating insurance in this State if that  
12 person is required to be licensed under this Article and is not so licensed.

13       (c) Renewal or other deferred commissions may be paid to a person for selling,  
14 soliciting, or negotiating insurance in this State if the person was required to be licensed  
15 under this Article at the time of the sale, solicitation, or negotiation and was so licensed  
16 at that time.

17       (d) Except as provided in subsection (e) of this section, only agents who are duly  
18 licensed with appropriate company appointments, licensed brokers, licensed limited  
19 lines producers, or licensed limited representatives may accept, directly or indirectly,  
20 any commission, fee, or other valuable consideration for the sale, solicitation, or  
21 negotiation of insurance.

22       (e) Commissions, fees, or other valuable consideration for the sale, solicitation,  
23 or negotiation of insurance may be assigned or directed to be paid in the following  
24 circumstances:

25               (1) To a business entity by a person who is an owner, shareholder,  
26 member, partner, director, employee, or agent of that business entity.

27               (2) To a producer in connection with renewals of insurance business  
28 originally sold by or through the licensed person or for other deferred  
29 commissions.

30               (3) In connection with the indirect receipt of commissions in  
31 circumstances in which a license is not required under G.S. 58-33-  
32 26(m)."

33               **SECTION 24.** Article 33 of Chapter 58 of the General Statutes is amended  
34 by adding a new section to read:

35 **"§ 58-33-83. Assumed names.**

36       An insurance producer doing business under any name other than the producer's  
37 legal name shall notify the Commission before using the assumed name."

38               **SECTION 25.** G.S. 58-33-85(b) reads as rewritten:

39       (b) No insurer, agent, broker, or limited representative shall knowingly charge to  
40 or demand or receive from an applicant for insurance any money or other consideration  
41 in return for the processing of applications or other forms or for the rendering of  
42 services associated with a contract of insurance, which money or other consideration is  
43 in addition to the premium for such contract, unless the applicant consents in writing

1 before any services are rendered. This subsection does not apply to the charging or  
2 collection of any fees otherwise provided for by law."

3 **SECTION 26.** G.S. 58-3-180(c) reads as rewritten:

4 "(c) Any person who violates this section is subject to the applicable provisions of  
5 G.S. 58-2-70 and ~~G.S. 58-33-45~~, G.S. 58-33-46, provided that the maximum civil  
6 penalty that can be assessed under G.S. 58-2-70(d) for a violation of this section is two  
7 thousand dollars (\$2,000)."

8 **SECTION 27.** G.S. 58-9-2(5) reads as rewritten:

9 "(5) "Intermediary" means any person who acts as a broker, as defined in  
10 ~~G.S. 58-33-10(e)~~, G.S. 58-33-10(3), in soliciting, negotiating, or  
11 procuring the making of any reinsurance contract or binder on behalf  
12 of a ceding insurer; or acts as a broker, as defined in ~~G.S. 58-33-~~  
13 ~~10(e)~~, G.S. 58-33-10(3), in accepting any reinsurance contract on  
14 behalf of an assuming insurer. "Intermediary" includes a broker or a  
15 manager, as those terms are defined in this section."

16 **SECTION 28.** G.S. 58-21-40 reads as rewritten:

17 **"§ 58-21-40. Surplus lines ~~advisory organizations~~, regulatory support organization.**

18 (a) A surplus lines ~~advisory~~ regulatory support organization of surplus lines  
19 licensees ~~may~~ shall be formed to:

- 20 (1) Facilitate and encourage compliance by ~~its members~~ resident and  
21 nonresident surplus lines licensees with the laws of this State and the  
22 rules and regulations of the Commissioner relative to surplus lines  
23 insurance;
- 24 (2) Communicate with organizations of admitted insurers with respect to  
25 the proper use of the surplus lines market; ~~and~~
- 26 (3) Receive and disseminate to ~~its members~~ surplus lines licensees  
27 information ~~relative to~~ about surplus lines ~~coverages~~ insurance,  
28 including, without limitation, new electronic filing procedures  
29 approved by the Commissioner, changes in the list of eligible surplus  
30 lines insurers, and modifications in coverages, procedures, and  
31 requirements as may be requested by the Commissioner; and
- 32 (4) Certify satisfactory evidence of current nonresident surplus lines  
33 licensure in this State by countersigning nonresident produced surplus  
34 lines coverages by means satisfactory to the Commissioner; and charge  
35 the nonresident surplus lines licensee a fee for the certification and  
36 countersignature as approved by the Commissioner.

37 (b) ~~Every such advisory~~ The regulatory support organization shall file with the  
38 Commissioner:

- 39 (1) A copy of its constitution, articles of agreement or association, or  
40 certificate of incorporation;
- 41 (2) A copy of its bylaws and rules governing its activities;
- 42 (3) ~~A current~~ An annually updated list of ~~its members~~; resident and  
43 nonresident licensees;

1 (4) The name and address of a resident of this State upon whom notices or  
2 orders of the Commissioner or processes issued at his direction may be  
3 served; and

4 (5) An agreement that the Commissioner may examine the advisory  
5 regulatory support organization in accordance with ~~the provisions of~~  
6 subsection (c) of this section.

7 (c) The Commissioner may, at times deemed appropriate, make or cause to be  
8 made an examination of each advisory-regulatory support organization; in which case  
9 the provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155,  
10 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner  
11 finds the advisory-regulatory support organization or any member thereof surplus lines  
12 licensee, whether resident or nonresident, to be in violation of this Article, the  
13 Commissioner may issue an order requiring the discontinuance of the violation.

14 (d) Each resident surplus lines licensee shall maintain active membership in an  
15 advisory-a regulatory support organization as a condition of continued licensure under  
16 this Article."

17 **SECTION 29.** G.S. 58-33-30(a) reads as rewritten:

18 "(a) Application. - ~~Application shall be made to the Commissioner by the~~  
19 ~~applicant on a form prescribed by the Commissioner.~~ The applicable license application  
20 requirements of G.S. 58-33-31 shall be satisfied."

21 **SECTION 30.** G.S. 58-39-15(3) reads as rewritten:

22 "(3) 'Agent' ~~shall have~~ has the meaning as set forth in ~~Article 33 of this~~  
23 ~~Chapter~~ G.S. 58-33-10, and ~~shall include~~ includes limited  
24 representatives, limited line credit insurance producers, limited lines  
25 producers, insurance producers, and surplus lines licensees, salesmen,  
26 ~~or representatives of a medical, surgical, hospital, dental, or optometric~~  
27 ~~service plan, and salesmen or representatives of a health maintenance~~  
28 ~~organization licensees.~~

29 **SECTION 31.** If any section or provision of this act is declared  
30 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the  
31 validity of the act as a whole or any part other than the part so declared to be  
32 unconstitutional, preempted, or otherwise invalid.

33 **SECTION 32.** Section 28 of this act becomes effective October 1, 2001.  
34 Sections 25, 30, and this section are effective when they become law. The remaining  
35 sections of this act become effective July 1, 2002.