

Senate Bill 113

By: Senators Shafer of the 48th, Hudgens of the 47th and Moody of the 56th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated,
2 relating to agents, agencies, subagents, counselors, and adjusters, so as to provide for
3 background checks; to provide definitions; to require appointment of an agent by an
4 authorized insurer before licensing; to provide for forms for license applications; to provide
5 for appointment of limited subagents; to prohibit agents whose licenses are inactive from
6 selling, soliciting, or negotiating insurance; to provide for rules and regulations for certain
7 adjusters; to provide for limited licenses for retail vendors of communications equipment to
8 offer or sell insurance policies covering certain risks for communications equipment; to
9 conform certain terms; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 1 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated, relating to
14 agents, agencies, subagents, counselors, and adjusters, is amended by revising subsection (a)
15 of Code Section 33-23-1, relating to definitions, by adding a new paragraph to read as
16 follows:

17 "(10.1) 'Limited subagent' means an individual licensed on behalf of a licensed agent
18 pursuant to Code Section 33-23-12."

19 style="text-align:center">**SECTION 2.**

20 Said article is further amended by revising subsections (c), (d), and (e) of Code
21 Section 33-23-4, relating to license requirements, as follows:

22 "(c) An insurer may pay a commission or other valuable consideration to a licensed
23 insurance agency in which all employees, stockholders, directors, or officers who sell,
24 solicit, or negotiate insurance contracts are qualified insurance agents, limited subagents,
25 or counselors holding currently valid licenses as required by the laws of this state; and an

1 agent, limited subagent, or counselor may share any commission or other valuable
2 consideration with such a licensed insurance agency.

3 (d) No person other than a duly licensed adjuster, agent, limited subagent, or counselor
4 shall pay or accept any commission or other valuable consideration except as provided in
5 subsections (b) and (c) of this Code section.

6 (e) This Code section shall not prevent the payment or receipt of renewal or deferred
7 commissions by any agency or a person on the grounds that the licensee has ceased to be
8 an agent, limited subagent, or counselor nor prevent the receipt or payment of any
9 commission by an individual who has been issued a temporary license pursuant to this
10 chapter."

11 SECTION 3.

12 Said article is further amended by revising Code Section 33-23-5, relating to qualifications
13 and requirements for license, as follows:

14 "33-23-5.

15 (a) For the protection of the people of this state, the Commissioner shall not issue,
16 continue, or permit to exist any license, except in compliance with this chapter and except
17 as provided in Code Sections 33-23-3, 33-23-4, 33-23-12, 33-23-13, 33-23-14, 33-23-16,
18 33-23-17, 33-23-29, 33-23-29.1, and 33-23-37. The Commissioner shall not issue a license
19 to any individual applicant for a license who does not meet or conform to qualifications or
20 requirements set forth in paragraphs (1) through (8) of this subsection:

21 (1) The individual applicant ~~must~~ shall be a resident of this state who ~~will~~ shall reside
22 and be present within this state for at least six months of every year or an individual
23 whose principal place of business is within this state; provided, however, that in cities,
24 towns, or trade areas, either unincorporated or ~~comprised~~ composed of two or more
25 incorporated cities or towns, located partly within and partly outside ~~the~~ this state,
26 requirements as to residence and principal place of business shall be deemed met if the
27 residence or place of business is located in any part of the city, town, or trade area and
28 if the other state in which the city, town, or trade area is located in part has established
29 like requirements as to residence and place of business. The individual applying for an
30 agent, adjuster, or counselor license ~~must~~ shall be at least 18 years of age;

31 (2) If applying for an agent's license for property and casualty insurance, the applicant
32 ~~must~~ shall not use or intend to use ~~the~~ such license for the purpose of obtaining a rebate
33 or commission upon controlled business; and the applicant ~~must~~ shall not in any calendar
34 year effect controlled business that will aggregate as much as 25 percent of the volume
35 of insurance effected by such applicant during such year, as measured by the comparative
36 amounts of premiums;

1 (3) If applying for an agent's license, the applicant ~~must have been~~ shall be appointed
 2 an agent by an authorized insurer ~~subject~~ prior to issuance of the license;

3 (4) The individual applicant ~~must~~ shall be of good character;

4 (5) The individual applicant ~~must~~ shall pass any written examination required for the
 5 license by this article, provided that:

6 (A) An individual who applies for an insurance agent's license in this state who was
 7 previously licensed for the same lines of authority in another state shall not be required
 8 to complete any prelicensing education or examination. This exemption ~~is~~ shall only
 9 be available if the individual is currently licensed in that state or if the application is
 10 received within 90 days of the cancellation of the applicant's previous license and if the
 11 prior state issues a certification that, at the time of cancellation, the applicant was in
 12 good standing in that state or the state's producer data base records maintained by the
 13 National Association of Insurance Commissioners, its affiliates, or subsidiaries indicate
 14 that the agent is or was licensed in good standing for the line of authority requested; and

15 (B) An individual licensed as an insurance agent in another state who moves to this
 16 state shall make application within 90 days of establishing legal residence to become
 17 a resident licensee pursuant to Code Section 33-23-8. No prelicensing education or
 18 examination shall be required of that individual to obtain a license for any line of
 19 authority previously held in the prior state except where the Commissioner determines
 20 otherwise by rule or regulation;

21 (6) If applying for a license as counselor, the applicant ~~must~~ shall show that he or she
 22 either has had five years' experience as an agent, subagent, or adjuster or in some other
 23 phase of the insurance business or has sufficient teaching or educational qualifications
 24 or experience which, in the opinion of the Commissioner, has qualified the applicant to
 25 act as such counselor; and the applicant shall pass such examination as shall be required
 26 by the Commissioner unless ~~the~~ such applicant is exempted by the Commissioner, based
 27 on the applicant's experience and qualifications and pursuant to a regulation adopted by
 28 the Commissioner;

29 (7) If applying for an agent's license, limited subagent's license, or adjuster's license,
 30 no applicant shall be qualified therefor or be so licensed unless he or she has successfully
 31 completed classroom courses in insurance satisfactory to the Commissioner at a school
 32 which has been approved by the Commissioner; and

33 (8) The Commissioner shall by rule or regulation establish criteria and procedures for the
 34 scope of prelicensing requirements and exemptions, if any, to the prelicensing or
 35 examination requirements.

36 (b) An individual who was licensed as an agent, counselor, limited subagent, surplus line
 37 broker, or adjuster at the time such individual was employed by the Commissioner and who

1 while so employed was employed in responsible insurance duties as a full-time bona fide
 2 employee shall be permitted to reinstate his or her license upon termination of employment
 3 if written request is made within 90 days after the date of termination of employment with
 4 the Commissioner.

5 (c) Active licensees who apply for additional licenses and individuals who apply for the
 6 reinstatement of a license prior to six months from the license expiration date shall not be
 7 required to submit fingerprints pursuant to Code Section 33-23-5.1."

8 SECTION 4.

9 Said article is further amended by adding a new Code section to read as follows:

10 "33-23-5.1.

11 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
 12 verdict of guilty or plea of guilty or nolo contendere with regard to any crime regardless
 13 of whether an appeal of the conviction has been sought.

14 (b) With respect to the requirements of paragraph (4) of subsection (a) of Code
 15 Section 33-23-5, the Commissioner shall be authorized to obtain conviction data with
 16 respect to an applicant as authorized in this Code section. The Commissioner shall submit
 17 to the Georgia Crime Information Center two complete sets of fingerprints of the applicant
 18 for appointment or employment, the required records search fees, and such other
 19 information as may be required. Upon receipt of such material, the Georgia Crime
 20 Information Center shall promptly forward one set of fingerprints to the Federal Bureau of
 21 Investigation for a search of bureau records and the preparation of an appropriate report
 22 concerning such records search and shall retain the other set and promptly conduct a search
 23 of its own records and all records to which the center has access. The Georgia Crime
 24 Information Center shall notify the Commissioner in writing of any derogatory finding,
 25 including, but not limited to, any conviction data regarding the fingerprint records check
 26 or if there is no such finding. All conviction data received by the Commissioner shall not
 27 be a public record, shall be privileged, and shall not be disclosed to any other person or
 28 agency except as provided in this Code section and except to any person or agency that
 29 otherwise has a legal right to inspect the employment file. All such records shall be
 30 maintained by the Commissioner pursuant to the laws regarding such records and the rules
 31 and regulations of the Federal Bureau of Investigation and the Georgia Crime Information
 32 Center, as applicable."

33 SECTION 5.

34 Said article is further amended by revising Code Section 33-23-8, relating to form and
 35 contents of license application, as follows:

1 "33-23-8.

2 (a) An individual applicant for any license required by this chapter shall file with the
3 Commissioner ~~a written~~ an application upon forms prescribed by the Commissioner. ~~The~~
4 ~~application shall be signed and verified by the oath of the applicant.~~

5 (b) If the application is for an agent's or limited subagent's license, the application shall
6 state the kinds of insurance proposed to be transacted. If applying as a limited subagent,
7 ~~and shall be accompanied by written appointment of the applicant~~ shall be appointed as
8 ~~agent or a limited~~ subagent by ~~an authorized insurer or a~~ sponsoring agent subject prior
9 to the issuance of the such license.

10 (c) As to any application for ~~an agent's or a limited~~ subagent's license or certificate of
11 authority, the Commissioner shall require as part of the application a certificate of the
12 ~~insurer or~~ sponsoring agent proposed to be represented. The certificate shall state, relative
13 to the applicant's character, including criminal background, identity, residence, experience,
14 and instruction as to the kinds of insurance to be transacted, that the ~~insurer or~~ sponsoring
15 agent is satisfied that the applicant is trustworthy and qualified to act as its ~~agent or limited~~
16 subagent and to hold himself or herself out in good faith to the general public as ~~an agent~~
17 ~~or a limited~~ subagent; and the fact that the ~~insurer or~~ sponsoring agent desires that the
18 applicant be licensed as ~~an agent or a limited~~ subagent to represent it in this state.

19 (d) Each applicant for an agency license shall file with the Commissioner the information
20 required under Code Section 33-23-3.

21 (e) All such applications shall be accompanied by the appropriate fees in the respective
22 amounts as provided by law."

23 **SECTION 6.**

24 Said article is further amended by revising subsections (a) and (c) of Code Section 33-23-10,
25 relating to examination of applicants, as follows:

26 "(a) Each individual applicant for a license as agent, limited subagent, counselor, adjuster,
27 or surplus line broker shall submit to a personal examination in writing as to his or her
28 competence to act in such capacity. The examination shall be prepared and given by the
29 Commissioner or a designee of the Commissioner and shall be given and graded in a fair
30 and impartial manner and without unfair discrimination as between individuals examined.
31 Any required examination may be supplemented by an oral examination at the discretion
32 of the Commissioner. The Commissioner shall provide by rule or regulation for a
33 reasonable waiting period before giving a reexamination to an applicant who failed to pass
34 a previous similar examination."

35 "(c) An applicant for a license to act as an agent, limited subagent, surplus line broker,
36 counselor, or adjuster who held a valid license to act as such which lapsed while the

1 applicant was a member of any branch of the armed forces of the United States shall be
 2 granted a new license if application is made within a period of five years from the date of
 3 the expiration of the old license and proof satisfactory to the Commissioner is furnished
 4 that:

5 (1) The individual was a member of the armed forces of the United States at the time the
 6 previous license lapsed; and

7 (2) The individual's service in the armed forces of the United States was not terminated
 8 more than one year prior to the date of application for a new license."

9 SECTION 7.

10 Said article is further amended by revising subsections (c) and (d) of Code Section 33-23-12,
 11 relating to limited licenses, as follows:

12 "(c)(1) As used in this subsection, the term:

13 (A) 'Limited licensee' means a person or entity authorized to sell certain coverages
 14 relating to the rental of vehicles pursuant to the provisions of this subsection.

15 (B) 'Rental agreement' means any written agreement setting forth the terms and
 16 conditions governing the use of a vehicle provided by the rental company for rental or
 17 lease.

18 (C) 'Rental company' means any person or entity in the business of providing primarily
 19 private passenger vehicles to the public under a rental agreement for a period not to
 20 exceed 90 days.

21 (D) 'Rental period' means the term of the rental agreement.

22 (E) 'Renter' means any person obtaining the use of a vehicle from a rental company
 23 under the terms of a rental agreement for a period not to exceed 90 days.

24 (F) 'Vehicle' or 'rental vehicle' means a motor vehicle of the private passenger type,
 25 including passenger vans, minivans, and sport utility vehicles, and of the cargo type,
 26 including cargo vans, pick-up trucks, and trucks with a gross vehicle weight of less than
 27 26,000 pounds and which do not require the operator to possess a commercial driver's
 28 license.

29 (2) The Commissioner may issue to a rental company that has complied with the
 30 requirements of this subsection a limited license authorizing the limited licensee to offer
 31 or sell insurance through a licensed insurer in connection with the rental of vehicles.

32 (3) As a prerequisite for issuance of a limited license under this subsection, there shall
 33 be filed with the Commissioner ~~a written~~ an application for a limited license, ~~signed by~~
 34 ~~an officer of the applicant~~, in such form or forms, and supplements thereto, and
 35 containing such information; as the Commissioner may prescribe.

1 (4) In the event that any provision of this subsection is violated by a limited licensee, the
2 Commissioner may:

3 (A) After notice and a hearing, revoke or suspend a limited license issued under this
4 subsection in accordance with the provisions of Code Sections 33-23-21 and 33-23-22;
5 or

6 (B) After notice and a hearing, impose such other penalties, including suspending the
7 transaction of insurance at specific rental locations where violations of this subsection
8 have occurred, as the Commissioner deems to be necessary or convenient to carry out
9 the purposes of this subsection.

10 (5) The rental company licensed pursuant to paragraph (2) of this subsection may only
11 offer or sell insurance through licensed insurers ~~only~~ in connection with and incidental
12 to the rental of vehicles, whether at the rental office or by preselection of coverage in an
13 individual, master, corporate, or group rental agreement, in any of the following general
14 categories:

15 (A) Personal accident insurance covering the risks of travel, including, but not limited
16 to, accident and health insurance that provides coverage, as applicable, to renters and
17 other rental vehicle occupants for accidental death or dismemberment and
18 reimbursement for medical expenses resulting from an accident that occurs during the
19 rental period;

20 (B) Liability insurance, which, at the exclusive option of the rental company, may
21 include uninsured and underinsured motorist coverage, whether offered separately or
22 in combination with other liability insurance, that provides coverage, as applicable, to
23 renters and other authorized drivers of rental vehicles for liability arising from the
24 operation of the rental vehicle;

25 (C) Personal effects insurance that provides coverage, as applicable, to renters and
26 other rental vehicle occupants for the loss of, or damage to, personal effects that occurs
27 during the rental period;

28 (D) Roadside assistance and emergency sickness protection programs; and

29 (E) Any other travel or vehicle related coverage that a rental company offers in
30 connection with and incidental to the rental of vehicles.

31 (6) No insurance ~~may~~ shall be offered by a limited licensee pursuant to this subsection
32 unless:

33 (A) The rental period of the rental agreement does not exceed 90 consecutive days;

34 (B) At every rental location where rental agreements are executed, brochures or other
35 written materials are readily available to the prospective renter that:

36 (i) Summarize clearly and correctly the material terms of coverage offered to renters,
37 including the identity of the insurer;

1 (ii) Disclose that such policies offered by the rental company may provide a
 2 duplication of coverage already provided by a renter's personal automobile insurance
 3 policy, homeowner's insurance policy, personal liability insurance policy, or other
 4 source of coverage;

5 (iii) State that the purchase by the renter of the kinds of coverage specified in this
 6 subsection is not required in order to rent a vehicle; and

7 (iv) Describe the process for filing a claim in the event the renter elects to purchase
 8 coverage and in the event of a claim;

9 (C) Evidence of coverage on the face of the rental agreement is disclosed to every
 10 renter who elects to purchase such coverage.

11 (7) Any limited license issued under this subsection shall also authorize any employee
 12 of the limited licensee to act individually on behalf; and under the supervision; of the
 13 limited licensee with respect to the kinds of coverage specified in this subsection.

14 (8) Each rental company licensed pursuant to this subsection shall provide a training
 15 program in which employees being trained by a licensed instructor receive basic
 16 insurance instruction about the kinds of coverage specified in this subsection and offered
 17 for purchase by prospective renters of rental vehicles. Additionally, each rental company
 18 shall provide for such employees two hours of continuing education courses annually to
 19 be taught by a licensed instructor. A rental company shall certify that, prior to offering
 20 such coverages, each employee has received such instruction.

21 (9) Notwithstanding any other provision of this subsection or any rule adopted by the
 22 Commissioner, a limited licensee pursuant to this subsection shall not be required to treat
 23 moneys collected from renters purchasing such insurance when renting vehicles as funds
 24 received in a fiduciary capacity, provided that the charges for coverage shall be itemized
 25 and be ancillary to a rental transaction. The sale of insurance not in conjunction with a
 26 rental transaction shall not be permitted.

27 (10) No limited licensee under this subsection shall advertise, represent, or otherwise
 28 hold itself or any of its employees out as licensed insurers, insurance agents, or insurance
 29 brokers.

30 (d)(1) As used in this subsection, the term 'communications equipment' ~~shall mean~~ means
 31 handsets, pagers, personal digital assistants, portable computers, automatic answering
 32 devices, cellular telephones, batteries, and other devices or their accessories used to
 33 originate or receive communications signals or service for individual customer use only
 34 and includes services related to the use of such devices, including, but not limited to,
 35 individual customer access to a wireless network.

36 (2) The Commissioner ~~shall~~ may issue ~~limited licenses to each business location of~~ to
 37 a retail vendor of communications equipment ~~which covers employees and authorized~~

1 ~~representatives of such retail vendors for the sale and offer for sale of that has complied~~
 2 ~~with the requirements of this subsection a limited license authorizing the limited licensee~~
 3 ~~to offer or sell~~ insurance policies covering only the loss, theft, mechanical failure, or
 4 malfunction of or damage to communications equipment.

5 (3) The sale of such insurance policies shall be limited to sales in connection with the
 6 sale of or provision of service for communications equipment by the retail vendor.

7 (4) As a prerequisite for issuance of a limited license under this subsection, there shall
 8 be filed with the Commissioner ~~a written~~ an application for such limited license, ~~signed~~
 9 ~~by the applicant or an officer of the applicant, on such form or forms, and supplements~~
 10 ~~thereto, and containing such information as the Commissioner may prescribe~~ or licenses
 11 in a form and manner prescribed by the Commissioner.

12 (5) Each retail vendor licensed pursuant to this subsection shall provide a training
 13 program in which employees and authorized representatives of ~~the~~ such retail vendor ~~are~~
 14 shall be trained by a licensed instructor and receive basic insurance instruction about the
 15 kind of coverage authorized in this subsection and offered for purchase by prospective
 16 purchasers of communications equipment or service.

17 (6) No prelicensing examination shall be required for issuance of such license."

18 SECTION 8.

19 Said article is further amended by revising subsections (a) and (d) of Code Section 33-23-13,
 20 relating to temporary licenses, and by adding a new subsection (e) to read as follows:

21 "(a) In the event of the death of an agent or limited subagent, including a temporary agent
 22 or limited subagent, or the inability to act as an agent or limited subagent by reason of
 23 service in the armed services of the United States, illness or other disability, or
 24 termination of appointment by the insurer, if there is no other individual connected with
 25 the agency who is licensed as an agent or limited subagent in regard to insurance of the
 26 classification transacted by the agent or limited subagent deceased or unable to act, the
 27 Commissioner may issue a temporary license as agent or limited subagent in regard to
 28 insurance of such classification to an employee of the agency, to a member of the family
 29 of said former agent or limited subagent, or to some associate or to a guardian, receiver,
 30 executor, or administrator for the purpose of continuing or winding up the business affairs
 31 of the agent, limited subagent, or agency. A temporary license shall be issued only to an
 32 applicant who has filed a sworn application upon forms prescribed by the Commissioner.
 33 The applicant shall not be required to meet the requirements as to examination, residence,
 34 and education required for licensing of agents or limited subagents other than temporary
 35 agents. If the Commissioner deems the applicant to be qualified for a temporary license,
 36 the Commissioner shall issue the license."

1 "(d) A temporary license issued pursuant to subsection (a) of this Code section shall
 2 authorize the negotiation of renewal policies, the receipt and collection of premiums, and
 3 such other acts as are necessary to the continuance of the particular insurance business of
 4 the agent or limited subagent. The license shall not authorize the holder thereof to sell,
 5 solicit, or negotiate new insurance accounts.

6 (e) As to any application for a temporary agent's license pursuant to subsection (b) of this
 7 Code section, the Commissioner shall require as part of the application a certificate of the
 8 insurer proposed to be represented. The certificate shall state, relative to the applicant's
 9 character, including criminal background, identity, residence, experience, and instruction
 10 as to the kinds of insurance to be transacted, that the insurer is satisfied that such applicant
 11 is trustworthy and qualified to act as its temporary agent and to hold himself or herself out
 12 in good faith to the general public as a temporary agent and the fact that the insurer desires
 13 that the applicant be licensed as a temporary agent to represent it in this state."

14 SECTION 9.

15 Said article is further amended by revising subsections (a) and (b) of Code Section 33-23-18,
 16 relating to issuance of license on continuous basis, as follows:

17 "(a) All resident agent, limited subagent, adjuster, and counselor licenses, with the
 18 exception of temporary or probationary licenses, shall be issued on a continuous basis.

19 (b) Such resident agent, limited subagent, adjuster, and counselor licenses may be
 20 continued upon receipt by the Commissioner of evidence of such continuing education as
 21 the Commissioner may establish by rule or regulation and payment of such fees as are
 22 provided by law."

23 SECTION 10.

24 Said article is further amended by revising subsection (b) of Code Section 33-23-19, relating
 25 to placing of license on inactive status, as follows:

26 "(b) When a license is placed on inactive status under this Code section, the agent shall be
 27 prohibited from selling, soliciting, or negotiating insurance ~~has been in such status for two~~
 28 ~~consecutive years without a certificate of authority having been filed with and accepted by~~
 29 ~~the Commissioner, such license may be revoked without further notice or hearing."~~

30 SECTION 11.

31 Said article is further amended by revising subsections (a) and (c) of Code Section 33-23-20,
 32 relating to effect of license suspension or placement of license on inactive status, as follows:

33 "(a) The suspension of the license of an agent or limited subagent or the placing of such
 34 license on inactive status shall not deprive such individual or the executors or

1 administrators of such individual's estate of any right that may have been acquired by a
 2 contract made before such suspension or placement on inactive status to receive all or a
 3 portion of commissions upon contracts of insurance written before such suspension or
 4 placement on inactive status with reference to the periods of time during which such
 5 contracts are in effect, including renewal option periods provided in the contracts."

6 "(c) Nothing in this article shall be construed to permit an agent or limited subagent whose
 7 license has been suspended or placed in inactive status to sell, solicit, or negotiate
 8 insurance other than as expressly permitted in subsections (a) and (b) of this Code section."

9 **SECTION 12.**

10 Said article is further amended by revising subsection (a) of Code Section 33-23-23, relating
 11 to limitation on application after refusal or revocation of license, as follows:

12 "(a) No licensee or applicant whose license or application has been refused or revoked as
 13 provided by Code Sections 33-23-21 and 33-23-22 shall be entitled to file another
 14 application for a license as an agent, agency, limited subagent, surplus lines broker,
 15 counselor, or adjuster within five years from the effective date of the refusal, revocation,
 16 or, if judicial review of such refusal or revocation is sought, within five years from the date
 17 of the final court order or decree affirming such refusal or revocation."

18 **SECTION 13.**

19 Said article is further amended by revising Code Section 33-23-25, relating to place of
 20 business, as follows:

21 "33-23-25.

22 Every licensed agent, limited subagent, counselor, and adjuster shall have and maintain in
 23 this state or, if a nonresident licensee, in the state of domicile, a place of business
 24 accessible to the public. The place of business shall be that wherein the licensee
 25 principally conducts transactions pursuant to the license. The address of the place of
 26 business shall be maintained by the Commissioner. All resident and nonresident licensees
 27 shall promptly notify the Commissioner in writing within 30 days of any change in the
 28 business address."

29 **SECTION 14.**

30 Said article is further amended by revising Code Section 33-23-26, relating to agent's
 31 certificate of authority, by adding a new subsection to read as follows:

32 "(i) As to any application for an agent's certificate of authority, the Commissioner shall
 33 require as part of the application a certificate of the insurer proposed to be represented.
 34 The certificate shall state, relative to the applicant's character, including criminal

1 background, identity, residence, experience, and instruction as to the kinds of insurance to
 2 be transacted, that the insurer or sponsoring agent is satisfied that such applicant is
 3 trustworthy and qualified to act as its agent in this state."

4 SECTION 15.

5 Said article is further amended by revising Code Section 33-23-28, relating to scope of
 6 subagent's authority, as follows:

7 "33-23-28.

8 (a) A subagent's certificate of authority shall not cover any kind of insurance for which
 9 the sponsoring agent and subagent are not licensed.

10 (b) A subagent or limited subagent shall not have power to bind an insurer.

11 (c) All business transacted by a subagent under such subagent's license or limited subagent
 12 shall be in the name of the agent by whom the subagent or limited subagent is employed;
 13 and the agent shall be responsible for all the acts or omissions of the subagent or limited
 14 subagent within the scope of his or her employment.

15 (d) A record of each transaction shall be maintained by both the agent and the subagent
 16 or limited subagent."

17 SECTION 16.

18 Said article is further amended by revising subsection (b) of Code Section 33-23-29, relating
 19 to authority of agent to act as adjuster, as follows:

20 "(b) No license by this state shall be required:

21 (1) Of a nonresident independent adjuster for the adjustment in this state of a single loss
 22 or of losses arising out of a catastrophe common to all such losses; or

23 (2) Of a nonresident adjuster who regularly adjusts in another state and who is licensed
 24 in such other state, if such state requires a license, to act as adjuster in this state for
 25 emergency insurance adjustment work for a period not exceeding 60 days and performed
 26 for an employer who is an insurance adjuster licensed by this state or who is a regular
 27 employer of one or more insurance adjusters licensed by this state, provided that the
 28 employer shall furnish to the Commissioner a notice in writing immediately upon the
 29 beginning of the emergency insurance adjustment work. The Commissioner may by rule
 30 or regulation establish criteria and procedures for adjusters operating under this Code
 31 section."

32 SECTION 17.

33 Said article is further amended by revising subsections (a) and (c) of Code Section 33-23-34,
 34 relating to records of transactions, as follows:

1 "(a) Every agent, limited subagent, counselor, and adjuster under this chapter shall keep
 2 at the address as shown on his or her license or at the insurer's regional or home office
 3 situated in this state a record of all transactions consummated under such license. The
 4 record shall be in organized form and shall include:

5 (1) In the case of an agent or limited subagent, a record of each insurance contract
 6 procured or issued together with the names of the insurers and insureds, the amount of
 7 premium paid or to be paid, and a statement of the subject of the insurance; and the
 8 names of any other licensees from whom business is accepted and of persons to whom
 9 commissions or allowances of any kind are promised or paid;

10 (2) In the case of an adjuster, a record of each investigation or adjustment undertaken or
 11 consummated and a statement of any fee, commission, or other compensation received
 12 or to be received by the adjuster on account of the investigation or adjustment; and

13 (3) Such other and additional information as may be customary or as may be reasonably
 14 required by the Commissioner."

15 "(c) In the case of agents or limited subagents, the maintaining of the records required by
 16 this Code section at the insurance agency licensed under this chapter for which agency the
 17 transaction was undertaken shall be deemed to comply with the requirements of
 18 subsection (a) of this Code section."

19 **SECTION 18.**

20 Said article is further amended by revising subsection (a) of Code Section 33-23-35, relating
 21 to reporting and disposition of premiums, as follows:

22 "(a) An agent, limited subagent, or any other representative of an insurer or of any other
 23 person in the effectuation of an insurance contract shall report to the insurer or its agent the
 24 premium for the contract and the amount shall be shown in the contract. Each willful
 25 violation of this subsection shall constitute a misdemeanor."

26 **SECTION 19.**

27 Said article is further amended by revising subsection (a) of Code Section 33-23-38, relating
 28 to placing insurance beyond scope of license or with nonlicensed insurers prohibited, as
 29 follows:

30 "(a) No agent or limited subagent shall place any insurance or receive any remuneration
 31 in regard to any insurance of a classification outside the scope of such agent's or limited
 32 subagent's license, nor shall the agent or limited subagent share a commission except with
 33 an agent licensed pursuant to this article; with an agency that has as its proprietor or as a
 34 partner in the agency or as an officer or employee of the agency one or more agents
 35 licensed in regard to insurance that is within the scope of his or her agency; or with an

1 agent or agency having a residence or situs in another state and a license from such other
2 state for the transaction of insurance in that state."

3 **SECTION 20.**

4 Said article is further amended by revising Code Section 33-23-41, relating to liability and
5 penalties for unauthorized acts, as follows:

6 "33-23-41.

7 Any person who in this state acts, purports to act, or holds himself or herself out as an
8 agent, limited subagent, counselor, or adjuster or as an employee of an agent, limited
9 subagent, counselor, or adjuster of or for an insurer that has not obtained from the
10 Commissioner a certificate of authority then in effect to do business in this state as required
11 by this title or who has not obtained a certificate of authority as required by this article and
12 any person who in this state collects or forwards any premium or portion of the premium
13 for or to the insurer shall pay a sum equal to the state, county, and municipal taxes and
14 license fees required to be paid by the insurance companies legally doing business in this
15 state. It is the Commissioner's duty to report violators of this Code section to the district
16 attorney for the county in which the violations occurred. Violators of this Code section
17 shall also be personally liable to the same extent as the insurer upon every contract of
18 insurance made by the insurer with reference to a risk having a situs in this state, if the
19 violator participated in the solicitation, negotiation, or making of the contract or in any
20 endorsement to the contract, in any modification of the contract, or in the collection or
21 forwarding of any premium or portion of the premium relating to such contract. This Code
22 section shall have no application to a contract of insurance entered into in accordance with
23 Chapter 5 of this title."

24 **SECTION 21.**

25 All laws and parts of laws in conflict with this Act are repealed.