

§ 58-33-95. Agents personally liable; representing unlicensed company prohibited; penalty.

(a) Any person or entity who solicits, negotiates, or sells insurance or acts as a third-party administrator in this State for an unauthorized insurer:

- (1) Is the representative of that insurer and shall be strictly liable for any losses or unpaid claims if an unauthorized insurer fails to pay in full or in part any claim or loss within the provisions of any insurance contract sold, directly or indirectly, by or through that person or entity on behalf of the unauthorized insurer. The liability imposed by this subsection shall be joint and several if more than one person violates this section.
- (2) Shall be guilty of a Class 1 misdemeanor if the person or entity does not know that the insurer is an unauthorized insurer. Each solicitation, negotiation, or sale shall constitute a separate offense.
- (3) Shall be guilty of a Class H felony if the person or entity knew or should have known that the insurer is an unauthorized insurer. Each solicitation, negotiation, or sale shall constitute a separate offense.

(b) A civil action may be filed or a license revocation proceeding may be initiated under this section regardless of whether a criminal action is brought or a criminal conviction is obtained for the act alleged in the civil action or revocation proceeding.

(c) For the purposes of this section, the status of an entity or person as an "unauthorized insurer" shall be determined in accordance with Article 28 of this Chapter and, if applicable, Article 49 of this Chapter.

(d) As used in this section, "third-party administrator" means a person who performs administrative functions, including claims administration and payment, marketing, premium accounting, premium billing, coverage verification, underwriting authority, or certificate issuance in regard to any kind of insurance; but does not include the persons specified in G.S. 58-56-2(5)a. through (5)l. (1987, c. 629, s. 1; 1993, c. 539, s. 457; 1994, Ex. Sess., c. 24, s. 14(c); 2004-166, s. 1; 2006-105, s. 2.8; 2007-305, s. 5.)