



State of North Dakota
Office of the Commissioner of Insurance

J. O. Wigen, Commissioner

State Capitol Building
Bismarck, North Dakota 58505
Phone: (701) 224-2440

BULLETIN 82-3

TO : ALL INSURANCE COMPANIES LICENSED TO DO BUSINESS
IN THE STATE OF NORTH DAKOTA

FROM: J. O. WIGEN, COMMISSIONER OF INSURANCE *JOW*

RE : BULLETIN 82-2

DATE: August 17, 1982

This bulletin is being issued in clarification of Bulletin 82-2.

Section 26-17.1-06 prohibits any person from acting or holding himself out as an insurance agent or broker who is not duly licensed. The definition of an agent is "an individual, partnership or corporation appointed by an insurer to solicit applications for a policy of insurance or to negotiate a policy of insurance on its behalf," and a broker is defined as "any individual, partnership, or corporation who, for compensation, not being a licensed agent for the company in which a policy of insurance is placed, acts or aids in any manner in negotiating contracts for insurance or placing risks or effecting insurance for a party other than himself or itself."

The language in those two sections would appear to be quite clear.

However, Section 26-17.1-11, N.D.C.C., does create an ambiguity with regard to certain cases. Essentially that section states that a commission cannot be paid to an agent or broker who is not licensed for that line of insurance. That language implies that a commission is payable if the person is licensed for the appropriate line. Consequently, in situations where an agent refers an insured's case to another agent or to a broker, the referring agent may share in the commission providing he is licensed for that line of insurance. This, of course, does not extend to brokering a business to a company, but rather covers the agent to agent or agent to broker situation.

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