

## § 58-56-2. Definitions.

The following definitions apply in this Article:

- (1) Affiliate. Any person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a specified entity or person.
- (2) Control. Defined in G.S. 58-19-5(2).
- (3) Insurance. Any coverage offered or provided by an insurer.
- (4) Insurer. A person who undertakes to provide life or health insurance or benefits in this State that are subject to this Chapter. The term "insurer" does not include a bona fide employee benefit plan established by an employer, an employee organization, or both, for which the insurance laws of this State are preempted pursuant to the Employee Retirement Income Security Act of 1974.
- (5) Third party administrator. A person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this State, or residents of another state from offices in this State, in connection with life or health insurance or annuities, except any of the following:
  - a. An employer on behalf of its employees or the employees of one or more of its affiliates.
  - b. A union on behalf of its members.
  - c. An insurer that is licensed under Articles 1 through 67 of this Chapter or that is acting as an insurer with respect to a policy lawfully issued and delivered by it and pursuant to the laws of a state in which the insurer is licensed to write insurance.
  - d. An insurance producer who is licensed by the Commissioner to sell life or accident and health or sickness insurance and whose activities are limited exclusively to the sale of insurance.
  - e. A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.
  - f. A trust and its trustees, agents, and employees acting pursuant to the trust established in conformity with 29 U.S.C. § 186.
  - g. A trust exempt from taxation under section 501(a) of the Internal Revenue Code and its trustees and employees acting pursuant to the trust, or a custodian and the custodian's agents or employees acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code.
  - h. A financial institution subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent the financial institution or mortgage lender collects and remits premiums to licensed insurance producers or authorized insurers in connection with loan payments.
  - i. An attorney-at-law who adjusts or settles claims in the normal course of business as an attorney-at-law and who does not collect charges or premiums in connection with life or health insurance or annuities.
  - j. An adjuster licensed by the Commissioner whose activities are limited to adjustment of claims.
  - k. A person who acts solely as a TPA of one or more bona fide employee benefit plans established by an employer, an employee organization, or both, for which the insurance laws of this State are preempted pursuant

to the Employee Income Security Act of 1974. The person shall comply with the requirements of G.S. 58-56-51(f).

- l.* A managing general agent as defined in G.S. 58-34-2(a)(3), whose activities are limited exclusively to the scope of the activities set forth in the managing general agency contract filed by an insurer with the Commissioner in accordance with G.S. 58-34-2(i).
  - m.* A pharmacy benefits manager licensed under Article 56A of this Chapter.
- (6) TPA. A third party administrator.
  - (7) Underwriting. This term includes the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer, the planning and coordination of an insurance program, and the ability to procure bonds and excess insurance. (1991, c. 627, s. 1; 2005-215, s. 16; 2021-161, s. 3; 2022-46, s. 14(uuu).)