

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 871

*An Act to amend and reenact §§ 38.2-1833 and 38.2-1834 of the Code of Virginia, relating to insurance agents; appointment; duration and renewal.*

[S 877]

Approved March 22, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-1833 and 38.2-1834 of the Code of Virginia are amended and reenacted as follows:**

§ 38.2-1833. Appointments of agents.

A. Subject to the requirement of § 38.2-1801, every licensed agent may sell policies and solicit applications for insurance for any one or more of the classes of insurance for which he is licensed on behalf of an insurer (i) also licensed in this Commonwealth for those classes of insurance and (ii) by which the licensed agent has not yet been validly appointed, subject to the following requirements:

1. The insurer shall, within ~~thirty~~ 30 calendar days of the date of execution of the first insurance application or policy submitted by a licensed but not yet appointed agent, either reject such application or policy or file with the Commission a notice of appointment in a form acceptable to the Commission. The Commission shall provide a means whereby an insurer may elect to appoint an agent to represent all or some of the insurers within the insurer's holding company system or group by the submission of a single notice of appointment for each appointment type applicable.

2. The insurer shall provide to the licensed agent, within the same ~~thirty~~ 30-day period, a verification that the notice of appointment has been filed with the Commission.

3. Upon receipt of the notice of appointment, the Commission shall verify that the agent holds a valid license and that the notice has been properly completed and submitted. If the Commission determines that the appointment is invalid, it shall notify the appointing insurer within five business days of its receipt of the appointment notice. If the appointment is valid, the Commission shall issue an acknowledgement of appointment to the agent within five business days of its receipt of the appointment notice, and shall simultaneously notify the appointing insurer of the issuance of such acknowledgement of appointment.

4. If the licensed agent does not receive from the Commission an acknowledgement of his appointment within ~~forty-five~~ 45 calendar days from the date of execution of the first insurance application or policy submitted to the insurer, then the agent shall immediately discontinue any selling or soliciting of insurance on behalf of that insurer until such acknowledgement is received. Any such further selling or solicitation after ~~forty-five~~ 45 calendar days but prior to receipt of such acknowledgement shall constitute a violation of this section and shall be subject to penalties as prescribed in §§ 38.2-218 and 38.2-1831.

5. An agent whose appointment by an insurer has been terminated by the insurer shall be prohibited from selling or soliciting applications or policies on behalf of that insurer unless and until reappointed by the insurer. Any such selling or solicitation on behalf of that insurer subsequent to such appointment termination and prior to such reappointment shall constitute a violation of this section by the agent and shall subject the agent to penalties as prescribed in §§ 38.2-218 and 38.2-1831.

B. Each agent's appointment record shall be public information and shall be available for public inspection during normal business hours of the Commission. The Commission may charge a reasonable fee to cover the costs incurred in providing this information.

C. Each insurer shall pay a nonrefundable appointment processing fee, in an amount prescribed by the Commission, for each appointment notification submitted by the insurer to the Commission.

D. The prescribed appointment fee shall not be less than ~~seven dollars~~ \$7 nor more than ~~twenty-five dollars~~ \$25.

E. Such fees shall be billed to the insurer by the Commission on a quarterly basis and shall be due and payable on August 10 for the quarter ending June 30, on November 10 for the quarter ending September 30, on February 10 for the quarter ending December 31, and on May 10 for the quarter ending March 31. In the event that a due date falls on a weekend or holiday, payment shall be due on the first business day following such due date.

F. Such quarterly billing shall include all appointment notifications submitted by the insurer during the immediately preceding quarter, regardless of the current status of any such appointments.

G. All appointment processing fees collected by the Commission, *as well as penalties collected pursuant to subsection H*, shall be paid directly into the state treasury and placed to the credit of the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

H. Upon the failure of the insurer to pay amounts due under this section by the date due, the Commission:

1. Shall impose a penalty of ~~fifty dollars~~ \$50 per day for each day between the date due and the date full payment is received by the Commission. *The appointment fees described above shall not be considered paid in full unless and until the penalty described herein has been received by the Commission;* and

2. May, in addition to the penalty imposed above, administratively terminate the appointment of each agent ~~for whom~~ *on whose behalf* the appointment processing fee, *including any penalty imposed pursuant to this section*, was not received by the Commission by the date due and after the insurer has been given due notice and an opportunity to submit the overdue payment.

§ 38.2-1834. Duration of appointment; annual renewal of agent's appointment.

A. A valid appointment of an agent shall authorize the agent to act for the insurer during the time for which the appointing insurer is licensed to do business in this Commonwealth, unless such appointment is otherwise terminated, suspended, or revoked. No later than ~~ten~~ 10 calendar days after notice of the termination, suspension or revocation of an appointment has been sent to the agent or agency, the agent or agency shall immediately cease selling or soliciting on behalf of such insurer.

B. Prior to August 10 of each year, or the first business day thereafter if August 10 falls on a weekend or holiday, every insurer shall remit in a manner prescribed by the Commission a renewal appointment fee, for each appointment for which notice of appointment termination was not received by the Commission on or before the preceding June 30, in an amount prescribed by the Commission, which shall be collected by the Commission and, *along with any penalties collected pursuant to subsection C*, paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

C. Upon the failure of the insurer to pay amounts due under this section by the date due, the Commission:

1. Shall impose a penalty of ~~fifty dollars~~ \$50 per day for each calendar day between the date due and the date full payment is received by the Commission. *The renewal appointment fees described above shall not be considered paid in full unless and until the penalty described herein has been received by the Commission;* and

2. May, in addition to the penalty imposed above, administratively terminate the appointment of each agent ~~from whom~~ *on whose behalf* the appointment renewal fee, *including any penalty imposed pursuant to this section*, was not received by the Commission by the date due and after the insurer has been given due notice and an opportunity to submit the overdue payment.

D. Except as provided in § 38.2-1834.1, upon the termination of the appointment of an agent by an insurer, the insurer shall notify the agent of such termination within five calendar days and the Commission, except as provided in subsection B of this section, within ~~thirty~~ 30 calendar days in a manner acceptable to the Commission, whereupon termination of the agent's appointment to represent the insurer shall be recorded by the Commission.

E. Any license in effect on January 1, 1986, shall be deemed to be an appointment for the unexpired term of that license. Certificates of qualifications issued prior to January 1, 1986, shall be deemed to be the license required by this chapter.

F. An appointment of an agent holding a restricted or limited license shall authorize such agent to sell, solicit, or negotiate only those classes of insurance specifically included in such agent's license authority.