

# VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

## CHAPTER 979

*An Act to amend and reenact §§ 19.2-152.1, 38.2-1800, 38.2-1824, 38.2-2411, 38.2-2412, and 58.1-3724 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 9 of Title 19.2 sections numbered 19.2-152.1:1 through 19.2-152.1:7 and in Chapter 18 of Title 38.2 an article numbered 6.2, consisting of sections numbered 38.2-1865.6 through 38.2-1865.13, relating to bail bondsmen; sureties; certification and licensing requirements.*

[H 1905]

Approved April 2, 2003

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

**1. That §§ 19.2-152.1, 38.2-1800, 38.2-1824, 38.2-2411, 38.2-2412, and 58.1-3724 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 4 of Chapter 9 of Title 19.2 sections numbered 19.2-152.1:1 through 19.2-152.1:7 and in Chapter 18 of Title 38.2 an article numbered 6.2, consisting of sections numbered 38.2-1865.6 through 38.2-1865.13, as follows:**

§ 19.2-152.1. Certification of property bail bondsmen.

A. As used in this article:

"Certificate" means a certificate issued by the judge of each circuit court of the county or city where an individual desires to carry on the business of a property bail bondsman, which (i) approves the issuance of a license or (ii) if the county or city does not require property bail bondsmen to obtain a license, authorizes a person to carry on the business of a property bail bondsman;

"License" means a revenue license issued by a county or city pursuant to § 58.1-3724;

"Property bail bondsman" means an individual who, for compensation, enters into a bond or bonds for others, whether as a principal or surety, or otherwise pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail; and

"Surety bail bondsman" has the same meaning ascribed thereto in § 38.2-1800.

~~The revenue~~ B. A county or city shall not issue a license authorized in ~~§ 58.1-3724~~ shall not be issued by any county, city or town unless and until the to an applicant shall have first obtained unless such person has been issued a certificate from the judge of the circuit court of the county or city in which he desires to carry on the business of professional bondsman, approving the issuance of the license and certifying a property bail bondsman. A license shall cease to authorize its holder to act as a property bail bondsman upon the termination of the certificate that approved the issuance of the license.

C. In any county, city or town that has not enacted an ordinance requiring property bail bondsmen to obtain a license, no person shall act as a property bail bondsman unless such person has been issued a certificate. A certificate shall cease to authorize its holder to act as a property bail bondsman upon the certificate's termination.

D. Prior to October 1, 2003, a judge shall not issue a certificate unless the judge finds that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory and that he is suitable to be so licensed. Before the issuance of such certificate the judge of the circuit court may review the record of the applicant as furnished by the Federal Bureau of Investigation.

E. Effective October 1, 2003, a judge shall not issue a certificate unless:

1. The judge finds that the applicant is of good moral character, that he has not been convicted of a felony unless the applicant is able to submit proof that his civil rights have been restored by the Governor or other appropriate authority, that his past conduct before the courts of such county or city has not been unsatisfactory, and that he is suitable to be so licensed;

2. The applicant has submitted to fingerprinting and has provided personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant;

3. The applicant has paid the cost of the fingerprinting or criminal records check or both;

4. The judge has reviewed the record of the applicant or notification that no record exists, from the Central Criminal Records Exchange;

5. The judge has reviewed the record of the applicant or notification that no record exists as furnished by the Federal Bureau of Investigation;

6. The applicant provides to the issuing court collateral of \$200,000 on his bonds and \$200,000 on the bonds of each of his agents; and

7. *The applicant provides to the issuing court the statement as required pursuant to § 19.2-152.1:4.*

F. Prior to the issuance of such any certificate, the judge of the circuit court may confer with the judge or judges of those courts in which such bondsman *the applicant seeks to act as a property bail bondsman.*

A license granted to a professional bondsman in any such county or city pursuant to § 58.1-3724 shall authorize such person to enter into such bonds in any other county or city, provided that upon entering into any bond conditioned upon real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as collateral in any other county or city such bondsman makes affidavit that the aggregate of the penalty of such bond together with all other bonds in the Commonwealth on which he has not been released from liability is not in excess of the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

No professional bondsman shall enter into any such bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of the true market value of his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof. Each professional bondsman, if so directed by the judge of the circuit court of the county or of the city in which he is licensed, shall place a deed of trust on the real estate that he is using for the limit of his expected bonded indebtedness to secure the Commonwealth of Virginia and shall name the attorney for the Commonwealth of the affected locality as trustee under the deed of trust or shall place the requisite cash or certificates of deposit issued by a federally insured institution, or any combination thereof with the court. In addition thereto, he shall furnish the clerk of the appropriate court an acceptable appraisal and title certificate of the real estate subject to any such deed of trust. Each professional bondsman licensed hereunder shall file with the clerk of the circuit court of the county or city in which he is licensed not later than the fifth day of each month a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond.

No court shall certify and no revenue license shall be issued as provided in this section to a person who had not obtained a certification and license prior to July 1, 1989, unless such person provides to the issuing court collateral of \$200,000 on his bonds and \$200,000 on the bonds of each of his agents.

Any professional bondsman or agent for any professional bondsman, qualified under this section, shall be subject to and governed by any reasonable rules of conduct or procedure set up by the judge of the court in which he is acting as a bondsman. Such rules shall include the requirement that such bondsman give written notice to the clerk of the circuit court of each change in the number of agents in his employ within seven days of such change and provide \$200,000 collateral for each additional agent and may include a requirement that such bondsman or agent place a reasonable amount of cash or negotiable instruments in escrow with the clerk of said court to be held during the time such bondsman or agent is acting as a bondsman in said court, provided that said clerk is acting under a bond of sufficient amount and coverage to insure protection against loss, theft, or misappropriation. Upon his violation of such rules, he may, after hearing upon a charge of such violation, be suspended from entering into further bonds in said court by the judge thereof. If such bondsman or agent fails to have in escrow with the clerk of said court a sum sufficient to cover any forfeiture of bond against him and fails or refuses to pay such forfeiture after notice and demand by the judge of the court he may be suspended by such judge from entering into further bonds in said court until the forfeiture is paid or it is adjudicated that he is not liable thereon.

No person after July 1, 1981, who has previously not been licensed shall be licensed hereunder either as a professional G. *A certificate shall not be issued authorizing any person to act as a property bail bondsman or agent for any professional bondsman, when if such person, his or her such person's spouse, or a member of his or her such person's immediate family holds any office as judge, magistrate, clerk or deputy clerk of any court.*

Nothing in this section shall be construed to apply to guaranty, indemnity, fidelity and security companies doing business in Virginia or their agents and attorneys-in-fact, under the provisions of Chapter 24 (§ 38.2-2400 et seq.) of Title 38.2, except that agents and attorneys-in-fact of guaranty, indemnity, fidelity and security companies entering into bonds for bail, appearances, costs or appeal in criminal cases shall be required to obtain a certificate from the judge of the circuit court in which he desires to carry on the business of professional bondsman, certifying that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory and he is suitable to be a licensed bondsman. Such certificate shall authorize such persons to enter into such bonds in any other county or city. Such agents and attorneys-in-fact shall be subject to any reasonable rules of conduct or procedure and discipline for the violation of same as may be ordered by the judge of the court in which they act for such companies. No person may act as such an agent or attorney-in-fact when such person, his or her spouse, or a member of his or her immediate family holds any office as magistrate, clerk or deputy clerk of any court.

H. *Any certificate issued at any time prior to October 1, 2003 shall terminate effective October 1, 2003, unless the provisions of subsection E have been fulfilled. Any property bail bondsman issued a*

certificate prior to July 1, 1989, who has continuously maintained his certification and who has never provided to a court collateral of \$200,000 or more, may be exempted by the judge from the \$200,000 collateral requirements specified under subdivision E 6. Those property bail bondsmen who are exempted shall satisfy all of the other requirements in this section for property bail bondsmen, and shall provide to the court the collateral amount to which they may bond.

§ 19.2-152.1:1. Authority of licensed property bail bondsmen to enter into bonds in other county or city.

A license granted to a property bail bondsman in any county or city shall authorize such person to enter into bonds in any other county or city, provided that, upon entering into any bond conditioned upon real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof, as collateral in any other county or city, such bondsman makes affidavit that the aggregate of the penalty of such bond, together with all other bonds in the Commonwealth on which he has not been released from liability, is not in excess of the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

§ 19.2-152.1:2. Lists of property bail bondsmen.

The clerk of the circuit court shall maintain current lists of property bail bondsmen who have been granted a certificate and, if required, a license authorizing them to carry on the business of property bail bondsman in the courts of such clerk's city or county, and of property bail bondsmen who have been authorized to carry on the business of a property bail bondsman in the courts of such clerk's city or county pursuant to § 19.2-152.1:1. In addition, the clerk of the circuit court shall maintain a current list of all surety bail bondsmen who have obtained a certificate authorizing them to enter into bonds or otherwise to act for guaranty, indemnity, fidelity and security companies in the courts of a city or county as provided in § 19.2-152.1:7.

§ 19.2-152.1:3. Lists of bonds and penalties.

Each property bail bondsman shall file with the clerk of the circuit court of the originating county or city in which he received his certificate, not later than the fifth day of each month, a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond. Such list shall be on a form prescribed by the Supreme Court of Virginia.

§ 19.2-152.1:4. Periodic statements of value of property bail bondsman's property.

A. Commencing October 1, 2003, every property bail bondsman periodically shall submit statements setting forth the value of all property pledged as security for bonded indebtedness. Such statements shall include the information required pursuant to subsection C. Statements covering the nine-month period commencing October 1, 2003, shall be filed on such date, and statements covering subsequent 12-month periods shall be filed on July 1 of such year. Statements shall be submitted to the clerk of the circuit court for the city or county wherein he proposes to issue a bond.

B. No person shall engage in the business of a property bail bondsman in the Commonwealth during any portion of such a period that he has not submitted a statement required by this section. The judge of the circuit court that issued a certificate shall revoke or terminate a certificate issued to any holder of a certificate who fails to submit periodic statements as required by this section.

C. The statements required by this section shall provide:

1. The name and business address of the property bail bondsman;
2. The property bail bondsman's social security number;
3. The names, addresses, and social security numbers of each agent of the property bail bondsman;
4. If such property is real estate:

a. A true copy of the current real estate tax assessment thereof, certified by the appropriate assessing officer of the locality wherein such property is located or, at the option of the property bail bondsman, an appraisal of the fair market value of the real estate, which appraisal shall have been prepared by a certified general real estate appraiser, as such term is defined in § 54.1-2009, within one year of its submission. At the discretion of the judge, after the original submission of any property appraisal or tax assessment, further appraisals or tax assessments for that property shall not be required more than once every five years, provided that the property bail bondsman submits the affidavits as required in subdivisions C 4 and C 6;

b. A new appraisal, if, at his discretion, the judge so orders for good cause shown prior to certification; and

c. An affidavit of the property bail bondsman that states, to the best of such person's knowledge, the amount due under any obligation secured by a lien or similar encumbrance against the real estate, including any delinquent taxes, as of the date of its submission.

5. If such property consists of certificates of deposit, an affidavit of the property bail bondsman that states, to the best of such person's knowledge, the amount due under any obligation secured by any pledge of or security interest affecting such property;

6. An affidavit of the property bail bondsman that states, to the best of such person's knowledge, the amount of equity in the real estate or other collateral; and

7. A legible copy of any of the following forms of identification that includes the property bail bondsman's photograph: United States Passport, certificate of United States citizenship, certificate of naturalization, state-issued driver's license, state-issued identification card or United States military card.

D. The clerk of the circuit court shall, upon the filing of such a statement, send a certified copy thereof to the Virginia State Crime Commission. The clerk shall forward annually, by September 30, to the chief judge of the circuit court a list of all certified bondsmen who are not in compliance with this section.

E. Each circuit court shall advise annually, by December 1, the Virginia State Crime Commission of all persons who are not in compliance with this section.

F. Any person who is determined by a court to have intentionally misstated a material fact in an affidavit submitted with a statement provided pursuant to this section, in addition to such criminal penalties as are prescribed by law, shall be ineligible to hold a license or a certificate.

*§ 19.2-152.1:5. Limitation on bonding amounts; encumbrances on property.*

A. No property bail bondsman shall enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

B. Each property bail bondsman, if so directed by the judge of the circuit court of the county or of the city in which he is licensed, shall:

1. Place a first deed of trust on the real estate that he is using for the limit of his expected bonded indebtedness to secure the Commonwealth of Virginia and shall name the attorney for the Commonwealth of the affected locality as trustee under the deed of trust, and furnish the clerk of the appropriate court an acceptable appraisal and title certificate of the real estate subject to any such deed of trust; or

2. Place the requisite cash or certificates of deposit issued by a federally insured institution, or any combination thereof, with the court.

*§ 19.2-152.1:6. Rules for property bail bondsmen; effect of violation.*

A. Each property bail bondsman or agent for a property bail bondsman shall be subject to and governed by reasonable rules of conduct or procedure, which rules shall be established by the chief judge of the circuit, in consultation with the chief judges of the juvenile and domestic relations and general district courts of the district, in which he is acting as a property bail bondsman.

B. Such rules shall require, among such other rules as are deemed appropriate, that each property bail bondsman (i) gives written notice to the clerk of the circuit court of each change in the number of agents in his employ within seven days of such change and (ii) provides \$200,000 collateral for each additional agent.

C. Such rules may also include a requirement that such bondsman or agent place a reasonable amount of cash or negotiable instruments in escrow with the clerk of said court to be held during the time that the property bail bondsman or agent is acting as a bondsman in said court, provided that said clerk is acting under a bond of sufficient amount and coverage to insure protection against loss, theft, or misappropriation.

D. Upon his violation of such rules, a property bail bondsman or agent may, after hearing upon a charge of such violation, be suspended from entering into further bonds in said court by the judge thereof. If the property bail bondsman or agent fails to have in escrow with the clerk of said court a sum sufficient to cover any forfeiture of bond against him and fails or refuses to pay such forfeiture after notice and demand by the judge of the court he may be suspended by such judge from entering into further bonds in said court until the forfeiture is paid or it is adjudicated that he is not liable thereon.

*§ 19.2-152.1:7. Application of article to surety bail bondsmen; certification required.*

A. Nothing in this article shall be construed to apply to guaranty, indemnity, fidelity and security companies doing business in this Commonwealth or their agents and attorneys-in-fact, under the provisions of Chapter 24 (§ 38.2-2400 et seq.) of Title 38.2; however, each surety bail bondsman of a guaranty, indemnity, fidelity and security company who enters into bonds for bail, appearances, costs or appeal in criminal cases shall be required to obtain a certificate from the judge of the circuit court in which he desires to carry on the business of a surety bail bondsman. Such a certificate shall not be issued unless the judge finds that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory, and that he has obtained a license as a surety bail bondsman if required pursuant to § 38.2-1865.6. Such certificate shall authorize such persons to enter into such bonds in any other county or city.

B. Surety bail bondsmen shall be subject to any reasonable rules of conduct or procedure and discipline for the violation of same as may be ordered by the judge of the court in which they act for such companies. No person shall act as a surety bail bondsman when such person, such person's spouse, or a member of such person's immediate family holds any office as judge, magistrate, clerk or deputy clerk of any court.

*C. Each circuit court clerk shall maintain a copy of each certificate granted under this section.*

§ 38.2-1800. Definitions.

As used in this chapter:

"Agent," "insurance agent," "producer," or "insurance producer," when used without qualification, means an individual or business entity that sells, solicits, or negotiates contracts of insurance or annuity in this Commonwealth.

"Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance producer," when used without qualification, means an individual or business entity licensed in this Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license and who is appointed by a company licensed in this Commonwealth to sell, solicit, or negotiate on its behalf contracts of insurance of the classes authorized within the scope of such license and, if authorized by the company, may collect premiums on those contracts.

"Automobile club authority" means the authority in this Commonwealth to sell, solicit, or negotiate automobile club contracts on behalf of automobile clubs licensed under Chapter 3.1 (§ 13.1-400.1 et seq.) of Title 13.1.

"Business entity" means a partnership, limited partnership, limited liability company, corporation, or other legal entity other than a sole proprietorship.

"Dental services authority" means the authority in this Commonwealth to sell, solicit, or negotiate dental services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500 et seq.) of this title.

"Filed" means received by the Commission.

"Health agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate insurance as defined in §§ 38.2-108 and 38.2-109, and including contracts issued by insurers, health services plans, health maintenance organizations, dental services plans, and optometric services plans licensed in this Commonwealth.

"Home protection insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in this Commonwealth.

"Home state" means the District of Columbia and any state or territory of the United States, except Virginia, or any province of Canada, in which an insurance producer maintains such person's principal place of residence or principal place of business and is licensed by that jurisdiction to act as a resident insurance producer.

"Legal services insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in this Commonwealth.

"Legal services plan authority" means the authority in this Commonwealth to sell, solicit, or negotiate legal services plan contracts on behalf of legal services plans licensed under Chapter 44 (§ 38.2-4400 et seq.) of this title.

"License" means a document issued by the Commission authorizing an individual or business entity to act as an insurance producer for the lines of authority specified in the document. Except as provided in § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent, in the licensee to represent, commit, or bind an insurer.

"Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance producer," when used without qualification, means an individual or business entity licensed in this Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license.

"Life and annuities insurance agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-105.1, 38.2-106, and 38.2-107.1, respectively, on behalf of insurers licensed in this Commonwealth.

"Limited burial insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate burial insurance society membership where the certificates of membership will not exceed \$5,000 on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.) of this title; or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that association for burial association group life insurance certificates in amounts of \$5,000 or less.

"Limited lines credit insurance agent" means an agent licensed in this Commonwealth whose authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in this Commonwealth, one or more of the following coverages to individuals through a master, corporate, group or individual policy: (i) credit life insurance and credit accident and sickness insurance, but only to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.) of this title; (ii) credit involuntary unemployment insurance as defined in § 38.2-122.1; (iii) credit property insurance, as defined in § 38.2-122.2; (iv) mortgage accident and sickness insurance; (v) mortgage redemption insurance; (vi) mortgage guaranty insurance; and (vii) any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commission specifically determines may be sold, solicited, or negotiated by those holding a limited lines

credit insurance agent license. Each insurer that sells, solicits or negotiates any of the coverages set forth in this definition shall provide to each individual whose duties will include selling, soliciting or negotiating such coverages a program of instruction that may, at the discretion of the Commission, be submitted for approval by the Commission or reviewed by the Commission subsequent to its implementation.

"Limited lines life and health agent" means an individual or business entity authorized by the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836: dental services authority; legal services plan authority; limited burial insurance authority; mutual assessment life and health insurance authority; optometric services authority; and travel accident insurance authority. Limited lines life and health insurance shall not include life insurance, health insurance, property insurance, casualty insurance, and title insurance.

"Limited lines property and casualty agent" means an individual or business entity authorized by the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836: automobile club authority; home protection insurance authority; legal services insurance authority; mutual assessment property and casualty insurance authority; ocean marine insurance authority; pet accident, sickness and hospitalization insurance authority; and travel baggage insurance authority. Limited lines property and casualty insurance shall not include life insurance, health insurance, property insurance, casualty insurance, and title insurance.

"Mortgage accident and sickness insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in this Commonwealth.

"Mortgage guaranty insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mortgage guaranty insurance on behalf of insurers licensed in this Commonwealth.

"Mortgage redemption insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mortgage redemption insurance on behalf of insurers licensed in this Commonwealth. As used in this chapter, "mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing term life insurance policy written in connection with a mortgage transaction for a period of time coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the indebtedness outstanding at the time the insurance becomes effective, rounded up to the next \$1,000.

"Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a motor vehicle rental company that is in the business of providing primarily private motor vehicles to the public under a rental agreement for a period of less than six months, and receives no direct or indirect commission from the insurer, the renter or the vehicle rental company.

"Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than six months and (ii) whose license in this Commonwealth is restricted to selling, soliciting, or negotiating only the following insurance coverages, and solely in connection with and incidental to the rental contract:

1. Personal accident insurance which provides benefits in the event of accidental death or injury occurring during the rental period;
2. Liability coverage sold to the renter in excess of the rental company's obligations under §§ 38.2-2204, 38.2-2205, or Title 46.2, as applicable;
3. Personal effects insurance which provides coverages for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period;
4. Roadside assistance and emergency sickness protection programs; and
5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.

The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental contract enrollers.

"Mutual assessment life and health insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of insurers licensed under Chapter 39 (§ 38.2-3900 et seq.) of this title, but only to the extent permitted under § 38.2-3919.

"Mutual assessment property and casualty insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mutual assessment property and casualty insurance on behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.) of this title, but only to the extent permitted under § 38.2-2525.

"NAIC" means the National Association of Insurance Commissioners.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or

obtains insurance from insurers for purchasers.

"Ocean marine insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate those classes of insurance classified in § 38.2-126, except those classes specifically classified as inland marine insurance, on behalf of insurers licensed in this Commonwealth.

"Optometric services authority" means the authority in this Commonwealth to sell, solicit, or negotiate optometric services plan contracts on behalf of optometric services plans licensed under Chapter 45 (§ 38.2-4500 et seq.) of this title.

"Personal lines agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124, 38.2-125, 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal, family, or household needs rather than for business or professional needs.

"Pet accident, sickness and hospitalization insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf of insurers licensed in this Commonwealth.

"Property and casualty insurance agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate both personal and commercial lines of insurance as defined in §§ 38.2-110 through 38.2-122.2, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in this Commonwealth.

"Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of Virginia whose principal place of business is in Virginia, who is able to demonstrate to the satisfaction of the Commission that the laws of his home state prevent him from obtaining a resident agent license in that state, and who affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of licensing and continuing education, both in Virginia and in the state in which the individual resides, if applicable; (iii) a partnership duly formed and recorded in Virginia; (iv) a corporation incorporated and existing under the laws of Virginia; (v) a limited liability company organized and existing under the laws of Virginia; or (vi) a foreign business entity that is not licensed as a resident agent in any other jurisdiction, and that demonstrates to the satisfaction of the Commission that its principal place of business is within the Commonwealth of Virginia.

"Restricted nonresident health agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a health agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident life and annuities agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a life and annuities agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident personal lines agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a personal lines agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident property and casualty agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a property and casualty agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

"Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia State Bar pursuant to Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1.

"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular class of insurance from one or more insurers.

*"Surety bail bondsman" means a person licensed pursuant to Article 6.2 (§ 38.2-1865.6 et seq.) of this chapter who sells, solicits, or negotiates surety insurance as defined in § 38.2-121 on behalf of insurers licensed in this Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in § 19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.*

"Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4800 et seq.) of this title.

"Terminate" means the cancellation of the relationship between an insurance producer and the insurer, or the termination of an insurance producer's authority to transact insurance.

"Title insurance agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate

title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.) of this title.

"Travel accident insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate travel accident insurance to individuals on behalf of insurers licensed in this Commonwealth.

"Travel baggage insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate travel baggage insurance to individuals on behalf of insurers licensed in this Commonwealth.

"Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

"Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

"Variable contract agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in this Commonwealth.

"Viatical settlement broker" means a person licensed pursuant to Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 57 (§ 38.2-5700 et seq.) of this title.

#### § 38.2-1824. Kinds of agents' licenses and appointments issued.

A. 1. The Commission shall issue the following kinds of agents' licenses and appointments under this chapter: Life and annuities insurance agent; health agent; property and casualty insurance agent; *surety bail bondsman*; personal lines agent; limited lines credit insurance agent; limited lines life and health insurance agent; limited lines property and casualty insurance agent; motor vehicle rental contract insurance agent; restricted nonresident life and annuities insurance agent; restricted nonresident health agent; restricted nonresident property and casualty insurance agent; restricted nonresident personal lines agent; surplus lines broker; title insurance agent; variable contract agent; and viatical settlement broker. For the purposes of nonresident reciprocal licensing as provided in § 38.2-1836, the Commission may issue a license for any other limited line of insurance that the Commission may deem it necessary to recognize.

2. The Commission shall permit insurers, within each insurer's authority, to make the following kinds of appointments: life and health insurance, property and casualty insurance, and title insurance. The appointed agent's authority is limited to that provided by his license and may not be expanded by his appointment or by his contractual agreement with an insurer.

B. The licenses of all individuals and business entities who on August 31, 2002, hold limited licenses to write accident and sickness insurance, or automobile insurance, or casualty insurance, or fidelity and surety bonds, or fire insurance, or life insurance and annuities, shall have such licenses automatically converted to the nearest equivalent license type provided in subsection A, and shall henceforth be subject to all prelicensing and continuing education requirements applicable to such new license type.

C. All individuals and business entities who on July 1, 1999, held limited licenses to write bail (appearance) bonds may remain licensed under such limited licenses *until September 1, 2003*, but no such license which has lapsed or been revoked shall be reinstated, and no new or additional licenses of such type shall be issued. *All such limited licenses shall terminate effective September 1, 2003.*

D. All individuals and business entities who on August 31, 2002, hold any of the restricted licenses discontinued effective September 1, 2002, shall have any such licenses converted to the appropriate limited lines license or licenses effective September 1, 2002.

#### Article 6.2.

##### *Licensing of Surety Bail Bondsmen.*

#### § 38.2-1865.6. *Property and casualty insurance agents licensed as surety bail bondsmen.*

A. *The Commission may issue a surety bail bondsman license to any individual or business entity actively licensed as a property and casualty insurance agent in this Commonwealth for the purposes set forth in § 38.2-1800. The license issued to a surety bail bondsman pursuant to this article shall terminate immediately upon the termination of the licensee's property and casualty insurance agent license, and may not be applied for again until the individual has been issued a new property and casualty insurance agent license.*

B. *No person shall act as a surety bail bondsman in this Commonwealth unless such person has obtained a license as a surety bail bondsman pursuant to this article.*

C. *The Commission shall maintain a database from which it may access pertinent information regarding surety bail bondsman licensees.*

#### § 38.2-1865.7. *Applications for surety bail bondsman licenses.*

A. *Every original applicant for a surety bail bondsman license shall apply for such license in a form and manner prescribed by the Commission, and containing any information the Commission requires.*

B. *Prior to issuance of a license, the applicant shall:*

1. *File with the Commission an application for such license on the form and in the manner prescribed by the Commission;*

2. *Pass a written prelicensing examination for the surety bail bondsman license as prescribed in § 38.2-1817;*



3. Submit to fingerprinting by any local or state law-enforcement agency and provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Department of State Police Central Criminal Records Exchange. The Central Criminal Records Exchange shall forward the applicant's fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. The applicant shall pay for the cost of such fingerprinting and criminal records check. The Department of State Police shall forward to the Commissioner of the Bureau of Insurance of the Commission, or his designee, who must be a governmental entity, the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation. The Commissioner of the Bureau of Insurance of the Commission, or his designee, who must be a governmental entity, shall review the record and if the report indicates a prior felony conviction, the individual shall be prohibited from pursuing the application process for issuance of a surety bail bondsman license unless the applicant is able to submit proof that his civil rights have been restored by the Governor or other appropriate authority;

4. Submit copies of each power of attorney that is required to be recorded pursuant to § 38.2-2416; and

5. Submit the appropriate nonrefundable application processing fee to the Commission, as provided in § 38.2-1865.9.

C. A business entity acting as a surety bail bondsman is required to obtain a surety bail bondsman license. In addition to the other requirements in this section, and before approving the application, the Commission shall find that:

1. The business entity has paid the appropriate nonrefundable application processing fee to the Commission, as provided in § 38.2-1865.9;

2. The business entity has filed the appropriate documents, as follows:

a. A domestic corporation shall have filed its articles of incorporation with the clerk of the Commission, and shall have been issued a charter by the Commission;

b. A domestic limited liability company shall have filed its articles of organization with the clerk of the Commission, and shall have been issued a certificate of organization by the Commission;

c. A domestic limited partnership shall have applied for and received a certificate of limited partnership from the clerk of the Commission; and

d. A domestic partnership shall have filed its partnership agreement with the clerk of the appropriate court; and

3. The business entity has designated a licensed Virginia surety bail bondsman to be responsible for the business entity's compliance with the insurance laws, rules and regulations of this Commonwealth.

D. The Commission may require any documents reasonably necessary to verify the information contained in an application.

§ 38.2-1865.8. Term of licenses; renewal.

A. Every license issued pursuant to this article shall be for a term of up to two years, expiring on the second June 30 following the date of its issuance.

B. A surety bail bondsman license may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Commission and payment of the nonrefundable renewal application processing fee prescribed in § 38.2-1865.9. In addition, applicants for renewal of a surety bail bondsman license shall undergo the same requirements of subdivision B 3 of § 38.2-1865.7. The Department of State Police, shall forward to the Commissioner of the Bureau of Insurance of the Commission, or his designee, who must be a governmental entity, the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation.

C. A licensee whose license as a surety bail bondsman is revoked, suspended or otherwise terminated or nonrenewed shall be required to satisfy all pre-licensing requirements set forth in § 38.2-1865.7 before a new surety bail bondsman license may be issued by the Commission.

§ 38.2-1865.9. Fees for surety bail bondsman license.

A. The nonrefundable application processing fee and the biennial nonrefundable renewal processing fee for each surety bondsman license shall be \$50, which shall be paid in a manner prescribed by the Commission.

B. On or before June 1 of each renewal year, the licensee shall make application for license renewal and shall at that time pay a nonrefundable renewal application processing fee determined as provided in subsection A.

C. All renewals shall take effect on July 1. Any license not renewed by June 30 of the renewal year shall terminate effective July 1 of that year.

D. All fees shall be collected by the Commission and paid into the state treasury to the credit of the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

§ 38.2-1865.10. Requirement to report to Commission.

A. Each licensed surety bail bondsman shall report within 30 calendar days to the Commission any change in his residence or name.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity

licensed as a surety bail bondsman in this Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for a surety bail bondsman license is filed or within 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the surety bail bondsman intends to operate in Virginia. The Commission shall also be notified within 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed surety bail bondsman convicted of a felony shall report within 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

D. Each licensed surety bail bondsman shall report to the Commission within 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in this Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. The license authority of any business entity licensed as a surety bail bondsman shall terminate immediately if the sole licensed responsible producer designated pursuant to subdivision C 3 of § 38.2-1865.7 for the business entity's compliance with the insurance laws, rules and regulations of this Commonwealth is removed for any reason, and a new responsible producer has not been appointed and the Commission notified within 30 calendar days of such removal and of the newly designated responsible producer.

§ 38.2-1865.11. Grounds for placing on probation, refusal to issue or renew, revocation, or suspension of license.

A. The Commission shall, in addition to or in lieu of a penalty imposed under § 38.2-218, revoke or refuse to issue, reissue or renew any surety bail bondsman's license for any one or more of the following causes:

1. Providing materially incorrect, misleading, incomplete or untrue information in the license application or any other document filed with the Commission;

2. Violating any subpoena of the Commission;

3. Obtaining or attempting to obtain a license through misrepresentation or fraud;

4. Engaging in the practice of rebating;

5. Engaging in twisting or any form thereof, where "twisting" means inducing an insured to terminate an existing policy and purchase a new policy through misrepresentation;

6. Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing business;

7. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

8. Having admitted or been found to have committed any insurance unfair trade practice or fraud;

9. Having been convicted of a felony;

10. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, or untrustworthiness in the conduct of business in this Commonwealth or elsewhere, or demonstrating financial irresponsibility in the handling of applicant, policyholder, agency, or insurance company funds;

11. Forging another's name to an application for insurance or to any document related to an insurance transaction;

12. Improperly using notes or any other reference material to complete an examination for an insurance license; or

13. Knowingly accepting insurance business from an individual who is not licensed.

B. The Commission may, in addition to or in lieu of a penalty imposed under § 38.2-218, place on probation, suspend, revoke or refuse to issue, reissue or renew any individual's surety bail bondsman license for any one or more of the following causes:

1. Having an insurance producer, surplus lines broker, or consultant license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

2. Failing to comply with an administrative or court order imposing a child support obligation;

3. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax; or

4. Violating any insurance laws, or violating any regulation or order of the Commission or of another state's insurance regulatory authority.

§ 38.2-1865.12. Refusal to issue and revocation of license; hearing; new application.

A. Any refusal by the Commission to issue a surety bail bondsman's license to an applicant pursuant to this article shall be subject to the right of the applicant to demand a hearing on the application. If the Commission refuses to issue a new license, it shall give the applicant or licensee at least 10 calendar days' notice in writing of the time and place of the hearing, if a hearing is requested. The notice shall contain a statement of the objections to the issuance of the license as the case may be. Notice of the hearing may be given to the applicant by registered or certified mail, sent to the last known address of record pursuant to subsection A of § 38.2-1865.10, or the last known business address if the address of record is incorrect, or in any other lawful manner the Commission prescribes. The

*Commission may summon witnesses to testify with respect to the applicant, and the applicant may introduce evidence in his or its behalf. No applicant to whom a license is refused after a hearing shall again apply for a license until the expiration of a period of five years from the date of the Commission's order, or such other period of time as the Commission prescribes in its order.*

*B. The Commission shall not revoke or suspend an existing license until the licensee is given an opportunity to be heard before the Commission. The Commission shall give the applicant or licensee at least 10 calendar days' notice in writing of the time and place of the hearing on a revocation or suspension, if a hearing is requested. The notice shall contain a statement of the reason for its proposed revocation or suspension as the case may be. Notice of the hearing may be given to the licensee by registered or certified mail, sent to the last known address of record pursuant to subsection A of § 38.2-1865.10, or the last known business address if the address of record is incorrect, or in any other lawful manner the Commission prescribes. The Commission may summon witnesses to testify with respect to the licensee, and the licensee may introduce evidence in his or its behalf. No licensee whose license is revoked shall again apply for a license until the expiration of a period of five years from the date of the Commission's order, or such other period of time as the Commission prescribes in its order.*

*C. However, upon receipt of documentation from a court or state or federal agency that a licensee has been convicted of a felony, the Commission, without a hearing or prior notice to the licensee, may immediately suspend such person's license, in which event the Commission shall immediately give notice to such person of the suspension and of the time and place of a hearing on the suspension. Such suspension shall remain in force until the hearing is held. The hearing shall be held within 10 days following the suspension of the license. The notice shall include a copy of the documentation from such court or agency, certified by the Commission as the documentation received from such court or agency.*

*D. The license of a business entity may be suspended, revoked or refused if the Commission finds, after notice and an opportunity to be heard, that a violation by an individual licensee acting at the direction of, on behalf of, or with the permission of the business entity was known to be a violation by one or more of the partners, officers or managers acting on behalf of the business entity, and the violation was neither reported to the Commission nor corrective action taken.*

*E. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after notice and an opportunity to be heard, be subject to a penalty pursuant to § 38.2-218.*

*F. The Commission shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this title against any person who is under investigation for or charged with a violation of this title, even if the person's license or registration has been surrendered, terminated, suspended, revoked, or has lapsed by operation of law.*

#### *§ 38.2-1865.13. Licensing nonresidents.*

*A. All nonresident transfers and applicants must satisfy all pre-licensing requirements for Virginia residents.*

*B. For the purposes of this chapter, any individual whose place of residence and place of business are in a city or town located partly within the Commonwealth and partly within another state may be considered as meeting the requirements as a resident of this Commonwealth, provided the other state has established by law or regulation similar requirements as to residence of such individuals.*

*C. The Commission may enter into a reciprocal agreement with an appropriate official of any other state or province of Canada if such an agreement is required in order for a Virginia resident to be similarly licensed as a nonresident in that state or province.*

*D. A nonresident surety bail bondsman who moves from one state or province to another state or province shall file a change of address and provide a certification from the new home state or province within 30 calendar days of the change of legal residence. No fee or license application is required.*

*E. Any licenses issued to nonresidents pursuant to this section shall be terminated at any time that the nonresident's equivalent authority in his home state is terminated, suspended, or revoked.*

*F. Nonresident applicants that are corporations, limited liability companies, or limited partnerships must obtain from the clerk of the Commission the appropriate certificate of authority, certificate of registration, or certificate of limited partnership, respectively, as a prerequisite to applying for a license as a surety bail bondsman.*

#### *§ 38.2-2411. Furnishing court clerks with information as to licensed insurers.*

*In April of each year the Commission shall furnish the Clerk of the Supreme Court of Virginia and the clerk of every circuit court in this Commonwealth a list of the names of all fidelity and surety insurers in this Commonwealth, together with a statement of the assets and liabilities of each of the insurers, and of all surety bail bondsmen licensed pursuant to Article 6.2 (§ 38.2-1865.6 et seq.) of Chapter 18 of this title who are appointed agents of such insurers. Each clerk shall file the list in his office.*

#### *§ 38.2-2412. Notice to clerks of revocation of licenses.*

*Whenever the Commission revokes, suspends or otherwise terminates the license of any fidelity and surety insurer or any surety bail bondsman licensed pursuant to Article 6.2 (§ 38.2-1865.6 et seq.) of Chapter 18 of this title, it shall immediately give notice of the revocation, suspension or termination to the Clerk of the Supreme Court of Virginia and each circuit court in this Commonwealth.*

§ 58.1-3724. Bondsmen.

A. *As used in this section, "professional bondsman" means a person who is a property bail bondsman, as such term is defined in § 19.2-152.1.*

B. The governing body of any county or city may by ordinance require that every person who shall, for compensation, enter into any bond or bonds for others, whether as a principal or surety, shall obtain a revenue license, the amount of which shall be prescribed in such ordinance; ~~and no such.~~ No professional bondsman or his agent shall enter into any such bond or bonds in any such county or city until he shall have obtained such license.

C. With the exception of any bondsman or his agent who has heretofore obtained a certificate and license under this section and whose certificate, license and right to act as a bondsman continues to remain in full force and effect, no such license shall be issued by the authorities of any such county or city unless and until the applicant shall have first obtained a certificate from the judge of the circuit court of the county or city, in which he desires to carry on the business of professional bondsman as provided in Article 4 (§ 19.2-152.1) of Chapter 9 of Title 19.2. A license granted to a professional bondsman in any such county or city shall authorize such person to enter into such bonds in any other county or city.

D. Any ordinance enacted pursuant to the provisions of this section may provide for revocation of licenses for failure to comply with the terms of such ordinance and may in addition prescribe penalties for violations thereof.

**2. That the provisions of this act that amend the Code of Virginia by adding in Chapter 18 of Title 38.2 an article numbered 6.2, consisting of sections numbered 38.2-1865.6 through 38.2-1865.12, shall become effective on September 1, 2003.**