

# VIRGINIA ACTS OF ASSEMBLY -- 2004 RECONVENED SESSION

## CHAPTER 988

*An Act to amend and reenact §§ 59.1-296.2:1 and 59.1-306 of the Code of Virginia, relating to the Virginia Health Spa Act; requirement for bond or letter of credit.*

[H 390]

Approved April 21, 2004

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

**1. That §§ 59.1-296.2:1 and 59.1-306 of the Code of Virginia are amended and reenacted as follows:**

§ 59.1-296.2:1. Prepayment contracts; prohibited practices; relocation; refund.

A. No health spa shall sell a health spa contract on a prepayment basis without disclosing in the contract the date on which the health spa shall open. The opening date shall not be later than 12 months from the signing of the contract.

B. No health spa shall close or relocate without first giving notice to the Commissioner and conspicuously posting a notice both within and outside each entrance to the health spa facility being closed or relocated of the closing or relocation date. Such notice shall be provided at least 30 days prior to the closing or relocation date. If a relocation is to occur, the Commissioner and the health spa facility's members shall be provided with the address of the specific new location at the time of this notice.

C. No health spa shall knowingly and willfully make any false statement in any registration application, statement, report or other disclosure required by this chapter.

D. No health spa shall refuse or fail, after notice from the Commissioner, to produce for the Commissioner's review any of the health spa's books or records required to be maintained by this chapter.

E. Unless it so discloses fully in ten-point bold-faced type or larger on the face of each health spa contract, no health spa shall sell any health spa contract if any owner of the spa, regardless of the extent of his ownership, previously owned in whole or in part a health spa that closed for business and failed to:

1. Refund all moneys due to holders of health spa contracts; or

2. Provide comparable alternate facilities at another health spa that agreed in writing to honor all provisions of the health spa contracts.

F. No health spa that has failed to provide the Commissioner the appropriate surety pursuant to § 59.1-306 shall sell a health spa contract unless that contract contains a statement that reads as follows: "This spa is not permitted, pursuant to the Virginia Health Spa Act, to accept any initiation fee in excess of ~~\$75~~ \$125 or any payment for more than the prorated monthly fee for the month when the contract is initially executed plus one full month in advance."

Such disclosure shall be printed in ten-point bold-faced type or larger on the face of each contract.

§ 59.1-306. Bond or letter of credit required; exception.

A. Every health spa, before it enters into a health spa contract and accepts any moneys in excess of the prorated monthly fee for the month when the contract is initially executed plus one month's fees or accepts any initiation fee in excess of ~~seventy-five dollars~~ \$125, shall file and maintain with the Commissioner, in form and substance satisfactory to him, a bond with corporate surety, from a company authorized to transact business in the Commonwealth or a letter of credit from a bank insured by the Federal Deposit Insurance Corporation in the amounts indicated below:

| Number of<br>applicable contracts | Amount of bond<br>or letter of<br>credit |
|-----------------------------------|--|
| 0 to 250                          | \$10,000                                 |
| 251 to 500                        | \$20,000                                 |
| 501 to 750                        | \$30,000                                 |
| 751 to 1000                       | \$40,000                                 |
| 1001 to 1250                      | \$50,000                                 |
| 1251 to 1500                      | \$60,000                                 |
| 1501 to 1750                      | \$70,000                                 |
| 1751 to 2000                      | \$80,000                                 |
| 2001 or more                      | \$100,000                                |

*For purposes of calculating the number of applicable unexpired health spa contracts when*

*determining the required amount of bond or letter of credit, health spa contracts entered into on or after January 1, 2005, with a term that exceeds 13 months shall be counted as multiple health spa contracts, such that the number of applicable contracts counted with respect thereto shall equal the total of the number of full years and any partial year in its term. However, this paragraph shall not apply (i) to health spa contracts that are payable only on a monthly basis and for which the initiation fee is no more than \$250, or (ii) if the number of the health spa's contracts in effect with a term that exceeds 13 months is less than 10 percent of the total of its health spa contracts.*

The number of applicable unexpired contracts shall be separately calculated for each location where health spa services are offered.

Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate bond or letter of credit with respect thereto, even though the separate locations are owned or operated by the same owner.

However, no owner shall be required to file with the Commissioner bonds or letters of credit in excess of \$300,000. If the \$300,000 limit is applicable, then the bonds or letters of credit filed by such owner shall apply to all health spas owned or operated by the same owner.

B. A health spa which has not filed a bond or letter of credit may nevertheless sell health spa contracts of up to ~~thirty-six~~ 36 months' duration so long as the amount of payment actually charged, due or received each month by the health spa or any holder of its health spa contracts does not exceed the monthly fee calculated pursuant to the definition thereof in § 59.1-296, with the exception that the payment actually charged may include a maximum initiation fee of ~~seventy-five dollars~~ \$125 for health spa contracts of ~~twelve~~ 13 months or more in duration.