

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 9.1-102, 9.1-143, 16.1-77, 19.2-149, 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 Chapter 1 of Title 9.1 an article numbered 11, consisting of sections numbered 9.1-185 through 9.1-199.4, and by adding sections numbered 38.2-2412.1 and 38.2-2412.2, and to repeal Article 4 (§§ 19.2-152.1 through 19.2-152.1:7) of Chapter 9 of Title 19.2 and Article 6.2 (§§ 38.2-1865.6 through 38.2-1865.13) of Chapter 18 of Title 38.2, relating to regulation of bail bondsmen; penalty.

[H 1057]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102, 9.1-143, 16.1-77, 19.2-149, 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 Chapter 1 of Title 9.1 an article numbered 11, consisting of sections numbered 9.1-185 through 9.1-199.4, and by adding sections numbered 38.2-2412.1 and 38.2-2412.2 as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of (i) this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth or (ii) §§ 18.2-268.6, 18.2-268.9, 19.2-188.1, 19.2-310.5 and for any provisions of the Code as they relate to the responsibilities of the Division of Forensic Science. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation work. Failure to complete the training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

7. Establish compulsory minimum entry level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local

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or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

13. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

14. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

15. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

16. Make recommendations concerning any matter within its purview pursuant to this chapter;

17. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

19. Conduct audits as required by § 9.1-131;

20. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

21. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

22. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

23. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

24. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

25. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

26. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

27. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

28. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

29. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of

comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

30. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

31. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

32. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

33. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

34. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

35. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

36. Provide forensic laboratory services as detailed in Article 2 (§ 9.1-117 et seq.) of this chapter;

37. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse and domestic violence cases;

38. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

39. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

41. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

42. (Effective until July 1, 2005) Assist, as necessary, in the administration of the Live In Our Community Police Housing Program and Fund established pursuant to Chapter 8.1 (§ 36-140.1 et seq.) of Title 36;

43. Establish a Virginia Law-Enforcement Accreditation Center. The Center shall, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

44. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

45. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of these standards and certification requirements; and

46. *License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.) of this chapter; and*

47. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

§ 9.1-143. Private Security Services Advisory Board; membership.

The Private Security Services Advisory Board is established as an advisory board within the meaning of § 2.2-2100, in the executive branch of state government. The Private Security Services Advisory Board shall consist of ~~12~~ 13 members as follows: two members shall be private investigators; two shall be representatives of electronic security businesses; three shall be representatives of private security services businesses providing security officers, armed couriers or guard dog handlers; one shall be a representative of a private security services business providing armored car personnel; one shall be a representative of a private security services business involving personal protection specialists; one shall be a certified private security services instructor; one shall be a special conservator of the peace appointed pursuant to § 19.2-13; *one shall be a licensed bail bondsman* and one shall be a representative of law enforcement. The Private Security Services Advisory Board shall be appointed by the Criminal Justice Services Board and shall advise the Criminal Justice Services Board on all issues relating to regulation of private security services businesses.

Article 11. Bail Bondsmen.

§ 9.1-185. Definitions.

As used in this article, unless the context requires a different meaning:

"Bail bondsman" means any person who is licensed by the Department who engages in the business of bail bonding and is thereby authorized to conduct business in all courts of the Commonwealth.

"Board" means the Criminal Justice Services Board.

"Certificate" means a certificate issued by a judge on or before June 30, 2005, pursuant to former § 19.2-152.1.

"Department" means the Department of Criminal Justice Services.

"Property bail bondsman" means a person licensed pursuant to this article 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 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.

"Surety bail bondsman" means a person licensed pursuant to this article who is also licensed by the State Corporation Commission as a property and casualty insurance agent, and who sells, solicits, or negotiates surety insurance as defined in § 38.2-121 on behalf of insurers licensed in the 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.

§ 9.1-186. Inapplicability of this article.

This article shall not apply to a person who does not receive profit or consideration for his services.

§ 9.1-187. Powers of the Criminal Justice Services Board relating to bail bondsmen.

The Board shall have full regulatory authority and oversight of property and surety bail bondsmen.

The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail bonding within the Commonwealth. The Board's regulations shall include but not be limited to regulations that (i) establish the qualifications of applicants for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary the preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board;

(vii) provide for investigations and appropriate disciplinary action if warranted; (viii) establish standards for professional conduct, solicitation, collateral received in the course of business, firearms training and usage, uniforms and identification, documentation and recordkeeping requirements, reporting requirements, and methods of capture for the recovery of bailees; and (ix) allow the Board to suspend, revoke or refuse to issue, reissue or renew a license for just cause. The Board shall not adopt compulsory, minimum, firearms training standards in excess of 24 hours per year for bail bondsmen. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

§ 9.1-188. Powers of Department of Criminal Justice Services relating to bail bondsmen.

A. In addition to the powers otherwise conferred upon it by law, the Department may (i) charge each applicant for licensure a nonrefundable fee as established by the Board to cover the costs of processing an application for licensure, enforcement of the regulations, and other costs associated with the maintenance of the program of regulation; (ii) charge nonrefundable fees for training, processing school certifications and enforcement of training standards; (iii) conduct investigations to determine the suitability of applicants for licensure; and (iv) conduct investigations to determine if any disciplinary actions against a licensed bondsman are warranted. For purposes of determining eligibility for licensure, the Department shall require the applicant to provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Central Criminal Records Exchange for the purpose of conducting a Virginia criminal history records search. The Central Criminal Records Exchange shall forward the fingerprints and personal description to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check.

B. The Director or his designee may make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any relevant records, documents and physical or other evidence of any person, partnership, association or corporation licensed or regulated by the Department pursuant to this article. The court may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of evidence. Costs of the investigation and adjudication of violations of this article or Board regulations may be recovered. All costs recovered shall be deposited into the state treasury to the credit of the Bail Bondsman Regulatory Fund. Such proceedings shall be brought in the name of the Commonwealth by the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides. The Director, or agents appointed by him, shall have the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this article, or any regulation promulgated hereunder and to serve process issued by the Department or the Board.

§ 9.1-189. Limitations on licensure.

A. In order to be licensed as a bail bondsman a person shall (i) be 18 years of age or older, (ii) have received a high school diploma or GED, and (iii) have successfully completed the bail bondsman exam required by the Board or successfully completed prior to July 1, 2005, a surety bail bondsman exam required by the State Corporation Commission under former § 38.2-1865.7.

B. The following persons are not eligible for licensure as bail bondsmen and may not be employed nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;

2. Employees of a local or regional jail;

3. Employees of a sheriff's office;

4. Employees of a state or local police department;

5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ 9.1-150.1 et seq.) of this chapter;

6. Employees of an office of an attorney for the Commonwealth;

7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local community corrections agency; and

8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 of this section.

C. The exclusions in subsection B shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

§ 9.1-190. Bail bondsman licensure requirements.

A. An applicant for a bail bondsman license shall apply for such license in a form and manner

prescribed by the Board, and containing any information the Board requires.

B. Prior to the issuance of any bail bondsman license, each bondsman applicant shall:

1. File with the Department an application for such license on the form and in the manner prescribed by the Board.

2. Pass the bail bondsman exam as prescribed by the Board pursuant to this article or have successfully completed a surety bail bondsman exam as required by the State Corporation Commission under former § 38.2-1865.7. Any applicant who improperly uses notes or other reference materials, or otherwise cheats on the exam, shall be ineligible to become a licensed bail bondsman.

3. Submit to fingerprinting by a 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 Director of the Department, or his designee, who shall be a governmental entity, the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation. The Director of the Department, or his designee, who shall 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 bail bondsman license unless the individual submits proof that his civil rights have been restored by the Governor or other appropriate authority.

4. Submit the appropriate nonrefundable application processing fee to the Department.

C. Additionally, prior to the issuance of a property bail bondsman license, each property bail bondsman applicant shall provide proof of collateral of \$200,000 on his bonds and proof of collateral of \$200,000 on the bonds of each of his agents. Any collateral that is not in the form of real estate, cash, or certificates of deposit issued by a FDIC-insured financial institution shall be specifically approved by the Department before it may be used as collateral.

1. If the property used as collateral is real estate, such real estate shall be located in the Commonwealth. In addition, the property bail bondsman applicant shall submit to the Department:

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 licensed real estate appraiser, within one year of its submission.

b. A new appraisal, if, at its discretion, the Department so orders for good cause shown prior to certification. At the discretion of the Department, after the original submission of any property appraisal or tax assessment, further appraisals or tax assessments for that property may not be required more than once every five years.

c. An affidavit by the property bail bondsman applicant that states, to the best of such person's knowledge, the amount of equity in the real estate, and the amounts due under any obligations secured by liens or similar encumbrances against the real estate, including any delinquent taxes, as of the date of the submission. At its discretion, the Department may require additional documentation to verify these amounts.

2. If the property used as collateral consists of cash or certificates of deposit, the property bail bondsman applicant shall submit to the Department verification of the amounts, and the names of the financial institution in which they are held.

3. Any property bail bondsman issued a certificate by a judge pursuant to former § 19.2-152.1, 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, shall continue to be exempt from the \$200,000 collateral requirements specified above. Those property bail bondsmen who are exempted from this provision shall satisfy all of the other requirements in this article for bail bondsmen, and shall provide to the Department the collateral amount to which they may bond and provide proof of his prior certification by obtaining a certified copy of: (i) the certificate issued pursuant to former § 19.2-152.1 and (ii) the documents held by the originating court that stated the collateral amount for which they were able to bond.

4. Each property bail bondsman, if so directed by the Department, 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 and shall name the attorney for the Commonwealth of the affected locality as trustee under the deed of trust, and furnish the Department an acceptable appraisal and title certificate of the real estate subject to any such deed of trust.

D. Prior to the issuance of a surety bail bondsman license, each surety bail bondsman applicant shall:

1. Submit proof of current licensing as a property and casualty insurance agent validated by the State Corporation Commission.

2. Submit copies of each qualifying power of attorney that will be used to provide surety. All qualifying powers of attorney filed with the Department shall contain the name and contact information for both the surety agent and the registered agent of the issuing company. In the event an applicant for a surety bail bondsman license is unable to obtain a qualifying power of attorney prior to the issuance of his license, he may be granted his license, on the condition that each qualifying power of attorney obtained after his licensure be filed with the Department within 30 days after its receipt. A surety bail bondsman shall not be permitted to write bail bonds for any insurance company without first filing the company qualifying power of attorney with the Department.

3. All surety bail bondsman licenses in effect with the State Corporation Commission shall become void after June 30, 2005. Applicants for licensure for bail bondsmen may submit an application to the Department on or after May 1, 2005.

4. Any surety bail bondsman license issued 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. Upon notification from the State Corporation Commission of a license suspension, the Department shall immediately suspend a surety bondsman's license, pending the results of an investigation conducted pursuant to this article. In the event a surety bail bondsman is under investigation by the State Corporation Commission for allegations regarding his activities as a licensed property and casualty agent, the Commission shall notify the Department of such investigation and the Department and the Commission may conduct a joint investigation of the individual. All powers granted to the Department and the Commission regarding investigation and disciplinary proceedings shall be permitted to be applied to any such joint investigation, and both the Department and the Commission shall be permitted to utilize their own rules and internal procedures in determining appropriate disciplinary proceedings, if any.

§ 9.1-191. Licenses; renewal.

A. A license granted to a bondsman by the Department shall authorize such person to enter into bonds, as defined in § 19.2-119, in any county or city in the Commonwealth.

B. Every bail bondsman license issued pursuant to this article shall be for a term of two years.

C. A bail bondsman license may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Department and payment of the nonrefundable renewal application processing fee prescribed by the Department. In addition, applicants for renewal of a bail bondsman license shall undergo a criminal history background check as set out in subdivision B 3 of § 9.1-190 and shall provide all other documentation listed in subsections C and D of § 9.1-190 as the Department deems appropriate.

D. On or before the first day of the month prior to the month his license is due to expire, the licensee shall make application for license renewal and shall at that time pay the renewal application fee.

E. Any license not renewed by its expiration date shall terminate on such date.

§ 9.1-192. Licensure of nonresidents.

A. All nonresident transfers and applicants for a bail bondsman license shall satisfy all licensing requirements for residents of the Commonwealth.

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

§ 9.1-193. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.

2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or

423 exonerating bail bond, regardless of the identity of the person who performs the favors.

424 3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence,
425 extortion or untrustworthiness.

426 4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is
427 surety or offers to become surety, to induce that person to commit any crime.

428 5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any
429 employee of a governmental agency involved with the administration of justice, including but not limited
430 to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis
431 gifts, not to exceed \$50 per year per recipient, are acceptable, provided the purpose of the gift is not to
432 directly solicit business, or would otherwise be a violation of Board regulations or the laws of the
433 Commonwealth.

434 6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail
435 bondsmen.

436 7. Fail to cooperate with any investigation by the Department.

437 8. Fail to comply with any subpoena issued by the Department.

438 9. Provide materially incorrect, misleading, incomplete or untrue information in a license
439 application, renewal application, or any other document filed with the Department.

440 10. Provide bail for any person if he is also an attorney representing that person.

441 11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

442 C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs
443 shall contain the name and contact information for both the surety agent and the registered agent of the
444 issuing company.

445 D. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs.
446 Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses,
447 administrative overhead and postage.

448 E. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such
449 bond and all other bonds, on which he has not been released from liability, is in excess of the true
450 market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured
451 institution, or any combination thereof.

452 F. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against
453 him or refuse to pay such forfeiture after notice and final order of the court.

454 G. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which
455 a copy has not been filed with the Department.

456 H. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance
457 agents.

458 § 9.1-194. Solicitation of business; standards; restrictions and requirements.

459 A. Only licensed bail bondsmen shall be authorized to solicit bail bond business in the
460 Commonwealth.

461 B. A licensed bail bondsman shall not:

462 1. Solicit bail bond business by directly initiating contact with any person in any court, jail, lock-up,
463 or surrounding government property.

464 2. Loiter by any jail or magistrate's office unless there on legitimate business.

465 3. Refer a client or a principal for whom he has posted bond to an attorney for financial profit or
466 other consideration.

467 C. The Board shall adopt regulations as to what constitutes impermissible solicitations by bondsmen,
468 their employees and agents.

469 § 9.1-195. Collateral received in the course of business; standards and requirements.

470 A. A licensed bail bondsman shall be permitted to accept collateral security or other indemnity from
471 the principal, which shall be returned upon final termination of liability on the bond, including the
472 conclusion of all appeals or appeal periods. Such collateral security or other indemnity required by the
473 bail bondsman shall be reasonable in relation to the amount of the bond.

474 B. When a bondsman accepts collateral, he shall give a written receipt to the depositor. The receipt
475 shall provide a full description of the collateral received and the terms of redemption or forfeiture. The
476 receipt shall also include the depositor's name and contact information.

477 C. Any bail bondsman who receives collateral in connection with a bail transaction shall receive
478 such collateral in a fiduciary capacity, and prior to any forfeiture of bail shall keep it separate and
479 apart from any other funds or assets of such bail bondsman. In the event a bondsman receives collateral
480 in the nature of a tangible good, it shall be a per se violation of the bail bondsman's fiduciary duty to
481 make personal use of any such collateral unless there is a proper forfeiture of bail.

482 D. Any collateral received shall be returned with all due diligence to the person who deposited it
483 with the bail bondsman or any assignee other than the bail bondsman as soon as the obligation is

discharged and all fees owed to the bail bondsman have been paid. In any event, after a specific request for the return of the collateral by the depositor, the collateral shall be returned within 15 days after all fees owed have been paid.

§ 9.1-196. Firearms, training and usage; standards and requirements.

A. If a bail bondsman chooses to carry a firearm in the course of his duties, he shall be required to:

1. First complete basic firearms training, as defined by the Board; and
2. Receive ongoing in-service firearms training, as defined by the Board.

B. In the event a bail bondsman discharges a firearm during the course of his duties, he shall report it to the Department within 24 business hours.

§ 9.1-197. Uniforms and identification; standards and restrictions.

A. A bail bondsman shall not wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies he is an agent of state, local, or federal government.

B. A bail bondsman shall wear or display only identification issued by, or whose design has been approved by, the Department.

§ 9.1-198. Documentation and recordkeeping standards and requirements.

A. The bail bondsman shall retain, for a minimum of the three calendar years from the date of the termination of the liability:

1. Copies of all written representations made to any court or to any public official for the purpose of avoiding a forfeiture of bail, setting aside a forfeiture, or causing a defendant to be released on his own recognizance.

2. Copies of all affidavits and receipts made in connection with collateral received in the course of business.

3. Evidence of the return of any security or collateral received in the course of business, including a copy of the receipt showing when and to whom the collateral was returned.

B. Upon request of the Department, a bail bondsman shall provide any documents required to be kept pursuant to this section.

§ 9.1-199. Reporting standards and requirements.

A. Each licensed bail bondsman shall report within 30 calendar days to the Department any change in his residence, name, business name or business address, and ensure that the Department has the names and all fictitious names of all companies under which he carries out his bail bonding business.

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

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

D. Each licensed property bail bondsman shall submit to the Department, on a prescribed form, 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.

E. Each licensed property bail bondsman shall report to the Department any change in the number of agents in his employ within seven days of such change and concurrently provide proof of collateral of \$200,000 for each new agent, in accordance with subsection C of § 9.1-190.

F. Each licensed surety bail bondsman shall report to the Department within 30 days any change in his employment or agency status with a licensed insurance company. If the surety bail bondsman receives a new qualifying power of attorney from an insurance company, he shall forward a copy thereof within 30 days to the Department, in accordance with subdivision D 2 of § 9.1-190.

G. Each licensed property bail bondsman shall report to the Department within five business days if any new lien, encumbrance, or deed of trust is placed on any real estate that is being used as collateral on his or his agents' bonds as well as the amount it is securing. The reporting requirement deadline is deemed to begin as soon as the licensed property bail bondsman learns of the new lien, encumbrance, or deed of trust, or should have reasonably known that such a lien, encumbrance, or deed of trust had been recorded.

§ 9.1-199.1. Recovery of bailees; methods of capture; standards and requirements; limitations.

A. During the recovery of a bailee, a bail bondsman shall have a copy of the relevant recognizance for the bailee. In the event a bail bondsman is recovering the bailee of another bondsman, he shall also have written authorization from the bailee's bondsman, obtained prior to effecting the capture. The Department shall develop the written authorization form to be used in such circumstances.

B. A bail bondsmen shall not enter a residential structure without first verbally notifying the occupants who are present at the time of the entry.

C. Absent exigent circumstances, a bail bondsman shall give prior notification of at least 24 hours to local law enforcement or state police of the intent to apprehend a bailee. In all cases, a bail bondsman

545 *shall inform local law enforcement within 30 minutes of capturing a bailee.*

546 *D. A bail bondsman shall not break any laws of the Commonwealth in the act of apprehending a*
 547 *bailee.*

548 *§ 9.1-199.2. Department submission to the State Corporation Commission.*

549 *A. The Department shall provide to the State Corporation Commission a list of all newly licensed*
 550 *surety bondsmen each month.*

551 *B. When the Department terminates a surety bail bondsman's license, the Department shall*
 552 *immediately notify the State Corporation Commission of the surety bail bondsman's termination and the*
 553 *reason for such termination.*

554 *§ 9.1-199.3. Department submissions to local and regional correctional facilities.*

555 *Once a year, the Department shall provide to each local and regional correctional facility a list of*
 556 *all licensed bail bondsmen in the Commonwealth. The list shall consist of each bondsman's individual*
 557 *name, the name of the bondsman's business and the address where the bondsman's office is physically*
 558 *located. The Department shall update the list monthly and have the list available on its website.*

559 *§ 9.1-199.4. Penalties.*

560 *It shall be a Class 1 misdemeanor to engage in bail bonding for profit or other consideration*
 561 *without a valid license issued by the Department in this Commonwealth. A third conviction shall be a*
 562 *Class 6 felony.*

563 *Any person licensed by the Board pursuant to this article who violates any statute or Board*
 564 *regulation who is not criminally prosecuted shall be subject to the monetary penalty provided in this*
 565 *section. If the Board determines that a respondent has committed the violation complained of, the Board*
 566 *shall determine the amount of the monetary penalty for the violation, which shall not exceed \$2,500 for*
 567 *each violation. The penalty may be sued for and recovered in the name of the Commonwealth.*

568 *§ 16.1-77. Civil jurisdiction of general district courts.*

569 *Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall*
 570 *have, within the limits of the territory it serves, civil jurisdiction as follows:*

571 *(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or*
 572 *other money, or to damages for breach of contract or for injury done to property, real or personal, or for*
 573 *any injury to the person that would be recoverable by action at law or suit in equity, when the amount*
 574 *of such claim does not exceed \$4,500 exclusive of interest and any attorney's fees contracted for in the*
 575 *instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any*
 576 *such claim when the amount thereof exceeds \$4,500 but does not exceed \$15,000, exclusive of interest*
 577 *and any attorney's fees contracted for in the instrument. However, this \$15,000 limit shall not apply with*
 578 *respect to distress warrants under the provisions of § 55-230 ~~nor shall it apply to~~ cases involving*
 579 *liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving*
 580 *forfeiture of a bond pursuant to § 19.2-143.*

581 *(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not*
 582 *exceed \$15,000 exclusive of interest and any attorney's fees contracted for in the instrument.*

583 *(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.)*
 584 *of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum*
 585 *jurisdictional limits prescribed in subdivision (1) shall not apply to any claim for damages sustained or*
 586 *rent proved to be owing where the premises were used by the occupant primarily for business,*
 587 *commercial or agricultural purposes.*

588 *(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil*
 589 *action or proceeding conferred upon any general district court judge or magistrate under or by virtue of*
 590 *any provisions of the Code of Virginia.*

591 *(5) Jurisdiction to try and decide suits in interpleader involving personal property where the amount*
 592 *of money or value of the property is not more than the maximum jurisdictional limits of the general*
 593 *district court. The action shall be brought in accordance with the procedures for interpleader as set forth*
 594 *in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions*
 595 *in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading*
 596 *shall be either by motion for judgment or by warrant in debt. The initial pleading shall briefly set forth*
 597 *the circumstances of the claim and shall name as defendant all parties in interest who are not parties*
 598 *plaintiff.*

599 *(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of*
 600 *Information Act (§ 2.2-3700 et seq.), for writs of mandamus or for injunctions.*

601 *(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate*
 602 *habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title*
 603 *46.2.*

604 *(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.*

605 *§ 19.2-149. How surety on a bond in recognizance may surrender principal and be discharged from*

liability.

A ~~surety~~ *bail bondsman or his licensed bail enforcement agent* on a bond in a recognizance may at any time arrest his principal and surrender him to the court before which the recognizance was taken or before which such principal's appearance is required, or to the sheriff, sergeant or jailer of the county or city wherein the court before which such principal's appearance is required is located; in addition to the above authority, upon the application of the surety, the court, or the clerk thereof, before which the recognizance was taken, or before which such principal's appearance is required, shall issue a capias for the arrest of such principal, and such capias may be executed by such ~~surety, or his authorized bail bondsman or his licensed bail enforcement agent~~, or by any sheriff, sergeant or police officer, and the person executing such capias shall deliver such principal and such capias to the sheriff or jailer of the county or the sheriff, sergeant or jailer of the city in which the appearance of such principal is required, and thereupon the ~~said surety or the property bail bondsman~~ shall be discharged from liability for any act of the principal subsequent thereto. Such sheriff, sergeant or jailer shall thereafter deliver such capias to the clerk of such court, with his endorsement thereon acknowledging delivery of such principal to his custody.

§ 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 \$7,500 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 \$7,500 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 *as a surety bail bondsman* 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 Article 11 (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

"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 Chapter 60 (§ 38.2-6000 et seq.) of this title, in accordance with 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 60 (§ 38.2-6000 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.

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

In ~~April~~ July of each year the Commission shall furnish the Clerk of the Supreme Court of Virginia and the clerk of every circuit court in ~~this the~~ the Commonwealth a list of the names of all fidelity and surety insurers in ~~this the~~ the 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 the~~ the Commonwealth.

§ 38.2-2412.1. Notice to Department of Criminal Justice Services of revocation of property and casualty insurance license.

Whenever the Commission revokes, suspends or otherwise terminates the license of any property and casualty agent who is also a licensed surety bail bondsman, it shall immediately give notice of the revocation, suspension or termination to the Department of Criminal Justice Services.

§ 38.2-2412.2. Surety bail bondsman; notice to Department of Criminal Justice Services of violations.

A. The Commission shall notify the Department of Criminal Justice Services of any action taken or investigation concerning any violation by a property and casualty agent who is also licensed as a surety bail bondsman of the prohibitions listed in this section within 30 days from the receipt of the initial report of a violation. The Commission and the Department of Criminal Justice Services may conduct a joint investigation of any alleged violation.

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 the 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;

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

14. 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;

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

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

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

§ 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 9.1-185.

911 B. The governing body of any county or city may by ordinance require that every person who shall,
912 for compensation, enter into any bond or bonds for others, whether as a principal or surety, shall obtain
913 a revenue license, the amount of which shall be prescribed in such ordinance. No professional bondsman
914 or his agent shall enter into any such bond or bonds in any such county or city until he shall have
915 obtained such license, *unless he has obtained such required license in another city or county, in which*
916 *he engages in the business of bail bonding.*

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

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

928 **2. That the State Corporation Commission shall forward all surety bail bondsman licensing**
929 **records in its custody to the Department of Criminal Justice Services by June 30, 2005.**

930 **3. That the Department of Criminal Justice Services shall promulgate regulations to implement the**
931 **provisions of this act to be effective within 280 days of its enactment.**

932 **4. That Article 4 (§§ 19.2-152.1 through 19.2-152.1:7) of Chapter 9 of Title 19.2 and Article 6.2**
933 **(§§ 38.2-1865.6 through 38.2-1865.13) of Chapter 18 of Title 38.2 of the Code of Virginia are**
934 **repealed.**

935 **5. That the provisions of this act, except for § 16.1-77, shall become effective on July 1, 2005.**

936 **6. That the provisions of this act may result in a net increase in periods of imprisonment or**
937 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
938 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
939 **periods of commitment to the custody of the Department of Juvenile Justice.**