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## HOUSE BILL NO. 542

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on February 18, 2008)

(Patron Prior to Substitute—Delegate Nixon)

A BILL to amend and reenact § 38.2-1833 of the Code of Virginia, relating to appointments of insurance agents.

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

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

§ 38.2-1833. Appointments of agents.

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

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

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

3. Upon receipt of the notice of appointment, the Commission shall verify that the agent holds a valid license and that the notice has been properly completed and submitted. ~~If the Commission determines that shall notify the appointing insurer if the appointment of the agent is invalid; it shall notify the appointing insurer within five business days of its receipt of the appointment notice. If the appointment is valid, and the Commission insurer shall issue an acknowledgement of appointment to notify the agent in writing of the invalid appointment within five business days of its receipt of the appointment receiving such notice, and shall simultaneously notify the appointing insurer of the issuance of such acknowledgement of appointment from the Commission. Any agent who sells or solicits insurance on behalf of the insurer after being notified of an invalid appointment shall be in violation of this section and shall be subject to penalties as prescribed in §§ 38.2-218 and 38.2-1831.~~

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

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

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

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

D. The prescribed appointment fee shall not be less than \$7 nor more than \$25.

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

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

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

60 H. Upon the failure of the insurer to pay amounts due under this section by the date due, the  
61 Commission:  
62 1. Shall impose a penalty of \$50 per day for each day between the date due and the date full  
63 payment is received by the Commission. The appointment fees described above shall not be considered  
64 paid in full unless and until the penalty described herein has been received by the Commission; and  
65 2. May, in addition to the penalty imposed above, administratively terminate the appointment of each  
66 agent on whose behalf the appointment processing fee, including any penalty imposed pursuant to this  
67 section, was not received by the Commission by the date due and after the insurer has been given due  
68 notice and an opportunity to submit the overdue payment.