

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 203

An Act to amend and reenact § 38.2-1800 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 18 of Title 38.2 an article numbered 8.1, consisting of sections numbered 38.2-1881 through 38.2-1886, relating to self storage insurance.

[H 1731]

Approved March 12, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-1800 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 18 of Title 38.2 an article numbered 8.1, consisting of sections numbered 38.2-1881 through 38.2-1886, as follows:

§ 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 the Commonwealth.

"Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance producer," when used without qualification, means an individual or business entity licensed in the 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 the 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 the 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 plan organization authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental benefit contracts on behalf of dental plan organizations licensed under Chapter 61 (§ 38.2-6100 et seq.).

"Dental services authority" means the authority in the 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.).

"Filed" means received by the Commission.

"Health agent" means an agent licensed in the 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, optometric services plans, and dental plan organizations licensed in the Commonwealth.

"Home protection insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in the 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 the Commonwealth to sell, solicit, or negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in the Commonwealth.

"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 the 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 the 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 the Commonwealth.

"Limited burial insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate burial insurance society membership where the certificates of membership are used solely to fund preneed funeral contracts on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.); or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that association for association group life insurance certificates where the funds are used solely to fund preneed funeral contracts.

"Limited lines credit insurance agent" means an agent licensed in the Commonwealth whose authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in the 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.); (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; limited burial insurance authority; mutual assessment life and health insurance authority; optometric services authority; travel accident insurance authority; and dental plan organization 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; portable electronics insurance authority; *self storage 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 the Commonwealth to sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in the Commonwealth.

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

"Mortgage redemption insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage redemption insurance on behalf of insurers licensed in the 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 the 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 that 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 that 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 the 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.), but only to the extent permitted under § 38.2-3919.

"Mutual assessment property and casualty insurance authority" means the authority in the 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.), 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 the 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 the Commonwealth.

"Optometric services authority" means the authority in the 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.).

"Personal lines agent" means an agent licensed in the 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 the Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf of insurers licensed in the Commonwealth.

"Property and casualty insurance agent" means an agent licensed in the 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 the 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 27.3 (§ 55-525.16 et seq.) of Title 55.

"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 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.).

"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 the 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.).

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

"Travel baggage insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate travel baggage insurance to individuals on behalf of insurers licensed in the 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 the Commonwealth to sell, solicit, or negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in the Commonwealth.

"Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.), 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.).

Article 8.1.

Self Storage Insurance.

§ 38.2-1881. Definitions.

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

"Covered customer" means a customer who elects coverage under a self storage insurance policy issued to a lessor of self storage units.

"Customer" means a person who leases a self storage unit.

"Lessor" means a person in the business of engaging in self storage unit transactions directly or indirectly.

"Self storage insurance" means insurance providing coverage against loss of or damage to items of personal property stored in a self storage unit in accordance with the terms of the self storage unit rental agreement. Self storage insurance may cover the items of personal property against any one or more of the following causes of loss: fire, hurricane, tornado, wind, earthquake, vandalism, lightning, smoke, hail, building collapse, explosion, leaking water, and burglary. "Self storage insurance" does not include a homeowners, renter's, private passenger automobile, commercial multi-peril, or similar policy.

"Self storage unit" means a unit in a building, part of a building, or place used only for storage of personal property by the customer leasing the unit.

"Self storage unit transaction" means the lease of a self storage unit by a lessor to a customer.

§ 38.2-1882. Licensure of lessors.

A. A lessor is required to hold a limited lines property and casualty insurance agent license to sell or offer coverage under a policy of self storage insurance.

B. A license issued under this article shall authorize any employee or authorized representative of a licensed lessor to sell or offer self storage insurance coverage under a policy of self storage insurance to a customer at each location at which the lessor engages in self storage unit transactions.

C. The acts of a licensed lessor's employee or authorized representative offering to sell coverage under a policy of self storage insurance shall be deemed to be the acts of the lessor and the insurer for purposes of this article.

D. Every licensed lessor shall maintain a list of all locations in the Commonwealth where the lessor offers coverage under a policy of self storage insurance and shall make the list available to the Commissioner for inspection upon request.

E. Notwithstanding any other provision of law, a license issued pursuant to this article shall authorize the licensed lessor's employees and authorized representatives to engage only in those activities that are expressly permitted in this article.

§ 38.2-1883. Requirements for sale of self storage insurance.

A. At every location where self storage insurance is offered to customers, the lessor shall make available to a prospective customer brochures or other written materials that:

1. Disclose that self storage insurance may provide a duplication of coverage already provided by a customer's homeowners insurance policy, renter's insurance policy, or other source of coverage;

2. State that the purchase of coverage by a customer of self storage insurance is not required in order to lease a self storage unit;

3. Summarize the material terms of the insurance coverage, including (i) the identity of the insurer; (ii) the amount of any applicable deductible and how it is to be paid; (iii) benefits of the coverage; and (iv) key terms and conditions of coverage; and

4. Summarize the process for filing a claim, including proof of loss requirements.

B. Self storage insurance may be offered on a month-to-month or other periodic basis as an individual policy or a group or master policy issued to a lessor under which the individual customer may elect to purchase coverage.

§ 38.2-1884. Authority of lessors of self storage units.

A. The employees and authorized representatives of lessors may sell or offer self storage insurance to customers and shall not be subject to licensure as an insurance producer under this chapter provided that:

1. The lessor obtains a limited lines property and casualty insurance agent license;

2. The lessor selling the self storage insurance provides a training program for all employees and authorized representatives of the lessor. The training program shall consist of instruction about the self storage insurance offered to customers, the disclosures required by this article, and the conduct prohibited by § 38.2-512. The training required by this subdivision may be delivered in person or in an electronic form. The licensed producer designated by the lessor as being responsible for its compliance with the insurance laws, rules, and regulations of the Commonwealth, as required by § 38.2-1820, shall hold a property and casualty insurance agent license and shall supervise the administration of the training program required by this subdivision;

3. No employee or authorized representative of a lessor of self storage units is compensated based primarily on the number of customers who purchase self storage insurance coverage; however, such an employee or authorized representative may receive compensation for activities under the limited lines license that is incidental to their overall compensation. Such incidental compensation shall not exceed \$10 per customer who purchases self storage unit insurance coverage; and

4. The employee or authorized representative of the lessor of self storage insurance does not represent or otherwise hold himself out as a licensed insurance producer.

B. No employee or authorized representative of a lessor of a self storage unit may:

1. Evaluate or interpret the technical terms, benefits, and conditions of the offered self storage unit insurance;

2. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

3. Hold himself out as a licensed insurer, licensed agent, or insurance expert.

C. The license authority of any lessor licensed as a limited lines property and casualty producer selling self storage insurance shall terminate immediately if the sole licensed responsible producer designated for the lessor's compliance with the insurance laws, rules, and regulations of the Commonwealth is removed for any reason, and a new responsible producer has not been appointed. The Commission shall be notified within 30 calendar days of such removal and of the newly designated responsible producer.

D. A lessor shall report any violation of this article to the Commissioner within 30 days of discovery of the violation by the lessor.

E. Any charge to the customer for self storage insurance that is not included in the cost associated with the lease of a self storage unit shall be separately itemized on the customer's rental agreement. If the charge for self storage insurance is included in the cost associated with the lease of the self storage unit, the lessor shall clearly and conspicuously disclose to the customer that the charge for the self storage unit covers the cost of the insurance.

F. The charges for self storage insurance coverage may be billed and collected by the lessor. Lessors billing and collecting premiums for self storage insurance shall be required to comply with the provisions of § 38.2-1813. Lessors may receive compensation for billing and collection services.

G. Notwithstanding any other provision of law, applicants for licensure pursuant to this article whose home state does not issue a producer license with a similar line of authority as the license authorized by this article shall be issued a limited lines property and casualty license for self storage insurance. Any licensee whose home state does not have property and casualty limited lines for self storage insurance or similar line of authority in its home state after July 1, 2017, or such later date as may be determined by the Commission, shall obtain a full property and casualty license or its license shall terminate in Virginia. For purposes of this subsection, "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 applicant maintains such person's principal place of residence or principal place of business.

§ 38.2-1885. Suspension or revocation of license.

If a lessor or its employee or authorized representative violates any provision of this article, the Commission may do any of the following:

1. After notice and hearing, impose fines and penalties in accordance with § 38.2-218; and
2. After notice and hearing, impose any such other penalties that the Commission deems necessary and reasonable to carry out the purpose of this article, including (i) suspending the privilege of transacting self storage insurance pursuant to this article at specific business locations where violations have occurred; (ii) suspending or revoking the ability of individual employees or authorized representatives to act under the license; and (iii) imposing a penalty in accordance with § 38.2-218 on the licensed producer designated by the lessor pursuant to § 38.2-1820.

§ 38.2-1886. What laws applicable; rulemaking authority.

A. Except as otherwise provided in this article and except where the context otherwise requires, all of the provisions of this title apply to this article.

B. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as may be necessary or appropriate for the administration and enforcement of this article.