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## SENATE BILL NO. 1446

Offered January 13, 2017

A *BILL to amend and reenact §§ 38.2-1800 and 38.2-1822 of the Code of Virginia, relating to insurance agent licensing; motor vehicle rental contract enrollers; motor vehicle rental contract insurance agents.*

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Patron—Chafin

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Referred to Committee on Commerce and Labor

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

1. **That §§ 38.2-1800 and 38.2-1822 of the Code of Virginia are amended and reenacted 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.

"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

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59 fund preneed funeral contracts on any individual, on behalf of insurers licensed under Chapter 40  
60 (§ 38.2-4000 et seq.); or to represent an association referred to in § 38.2-3318.1, limited to soliciting  
61 members of that association for association group life insurance certificates where the funds are used  
62 solely to fund preneed funeral contracts.

63 "Limited lines credit insurance agent" means an agent licensed in the Commonwealth whose  
64 authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in the  
65 Commonwealth, one or more of the following coverages to individuals through a master, corporate,  
66 group or individual policy: (i) credit life insurance and credit accident and sickness insurance, but only  
67 to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.); (ii) credit involuntary unemployment  
68 insurance as defined in § 38.2-122.1; (iii) credit property insurance, as defined in § 38.2-122.2; (iv)  
69 mortgage accident and sickness insurance; (v) mortgage redemption insurance; (vi) mortgage guaranty  
70 insurance; and (vii) any other form of insurance offered in connection with an extension of credit that is  
71 limited to partially or wholly extinguishing that credit obligation and that the Commission specifically  
72 determines may be sold, solicited, or negotiated by those holding a limited lines credit insurance agent  
73 license. Each insurer that sells, solicits or negotiates any of the coverages set forth in this definition  
74 shall provide to each individual whose duties will include selling, soliciting or negotiating such  
75 coverages a program of instruction that may, at the discretion of the Commission, be submitted for  
76 approval by the Commission or reviewed by the Commission subsequent to its implementation.

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

84 "Limited lines property and casualty agent" means an individual or business entity authorized by the  
85 Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other  
86 type of authority that the Commission may deem it necessary to recognize for the purposes of  
87 complying with § 38.2-1836: home protection insurance authority; legal services insurance authority;  
88 mutual assessment property and casualty insurance authority; ocean marine insurance authority; pet  
89 accident, sickness and hospitalization insurance authority; portable electronics insurance authority; self  
90 storage insurance authority; and travel insurance. Unless otherwise defined, "limited lines property and  
91 casualty insurance" shall not include life insurance, health insurance, property insurance, casualty  
92 insurance, and title insurance.

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

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

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

104 "Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee, *or*  
105 *authorized representative*, of a motor vehicle rental company that is in the business of providing  
106 primarily private motor vehicles to the public under a rental agreement for a period of less than six  
107 months, and receives no direct or indirect commission *based solely on the sale of insurance coverages*  
108 *permitted to be offered by a motor vehicle rental contract insurance agent* from the insurer, the renter,  
109 or the vehicle rental company.

110 "Motor vehicle rental contract insurance agent" means a ~~person who (i) is a selling agent the~~  
111 ~~designee of a motor vehicle rental company licensed under § 38.2-1820 that is in the business of~~  
112 ~~providing primarily private passenger motor vehicles to the public under a rental agreement for a period~~  
113 ~~of less than six months and (ii) whose license who is licensed in the Commonwealth is restricted to~~  
114 ~~selling, soliciting, or negotiating only as an agent to solicit, negotiate, procure, or effect the following~~  
115 ~~insurance coverages, and solely in connection with and incidental to the rental contract:~~

116 1. Personal accident insurance that provides benefits in the event of accidental death or injury  
117 occurring during the rental period;

118 2. Liability coverage sold to the renter in excess of the rental company's obligations under  
119 § 38.2-2204, 38.2-2205, or Title 46.2, as applicable;

120 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

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

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

188 "Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia  
189 State Bar pursuant to Chapter 27.3 (§ 55-525.16 et seq.) of Title 55.

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

192 "Surety bail bondsman" means a person licensed as a surety bail bondsman pursuant to Article 11  
193 (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

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

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

199 "Title insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate  
200 title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance  
201 companies licensed under Chapter 46 (§ 38.2-4600 et seq.).

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

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

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

209 "Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.), in  
210 accordance with Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby authorized to  
211 engage in the activities set forth in Chapter 60 (§ 38.2-6000 et seq.).

212 **§ 38.2-1822. License required of individual and business entity agents; individual acting for**  
213 **business entity licensee.**

214 A. No person shall act, and no insurer or licensed agent shall knowingly permit a person to act, in  
215 this Commonwealth as an agent of an insurer licensed to transact the business of insurance in this  
216 Commonwealth without first obtaining a license in a manner and in a form prescribed by the  
217 Commission. As used in this section, "act as an agent" means selling, soliciting, or negotiating contracts  
218 of insurance or annuity on behalf of an insurer licensed in this Commonwealth or receiving or sharing,  
219 directly or indirectly, any commission or other valuable consideration arising from the sale, solicitation,  
220 or negotiation of any such contract, or both. No person shall submit business to any joint underwriting  
221 association or any plan established under this title for the equitable distribution of risks among insurers  
222 unless the person holds a valid license to transact the class of insurance involved.

223 B. No individual shall act as an agent on behalf of a business entity in the transaction of insurance  
224 unless he is licensed as an agent and appointed, if appointment is required by statute. No individual  
225 whose license has been revoked by the Commission, or voluntarily surrendered in lieu of a hearing  
226 before the Commission, shall directly or indirectly own and operate, control, or be employed in any  
227 manner by an insurance agent or agency during the time period in which the individual is unlicensed  
228 unless otherwise authorized by the Commission.

229 C. No business entity may act as an agent in this Commonwealth unless licensed and appointed, if  
230 appointment is required by statute. The existence of the business entity shall be recorded pursuant to  
231 law. The Commission may require proof of the foregoing before issuing a license to the business entity.

232 D. For a nonresident business entity, a certification by the insurance department of the business  
233 entity's home state satisfying the requirements of subsection A of § 38.2-1836 shall be deemed to satisfy  
234 the foregoing requirements.

235 E. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity  
236 conducting the business of insurance in this Commonwealth under an assumed or fictitious name shall  
237 notify the Bureau of Insurance either at the time the application for a license to do business is filed or  
238 within 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name  
239 under which such business is to be conducted.

240 F. When the business of insurance is no longer conducted under an assumed or fictitious name,  
241 notification to the Bureau of Insurance is required within 30 calendar days from the date of cessation of  
242 use of such assumed or fictitious name.

243 G. Notwithstanding any other provision in this chapter, no license shall be required of (i) a person

244 whose employment responsibilities include enrolling individuals under a group insurance policy,  
245 provided that such person receives no commission or other valuable consideration for such enrollments,  
246 and that such compensation is in no manner contingent upon the number of individuals enrolled or the  
247 amount of premium generated by such enrollments, *or (ii) a motor vehicle rental contract enroller.* As  
248 used in this subsection "enrolling individuals" means the process of informing individuals of the  
249 availability of coverages, calculating the insurance charge, assisting with completion of the enrollment  
250 application, preparing and delivering the certificate of insurance, answering questions regarding the  
251 coverages, and assisting the individual in making an informed decision whether or not enrollment under  
252 the group insurance plan is to be elected.