

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 38.2-1868.1, 38.2-1869, 38.2-1871, and 38.2-1872 of the Code of Virginia, relating to insurance agent licensing; continuing education requirements.

[S 853]

Approved

**Be it enacted by the General Assembly of Virginia:**  
**1. That §§ 38.2-1868.1, 38.2-1869, 38.2-1871, and 38.2-1872 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-1868.1. Proof of compliance; exemption or waiver.**

A. As used in this article:  
 "Proof of compliance" shall mean all documents, forms and fees specified by the Board for (i) filing proof of completion of Board-approved continuing education courses for the appropriate number of hours and for the appropriate content or (ii) filing proof of meeting the exemption requirements set forth in subsection B ~~or C~~ of § 38.2-1871.

"Received by the Board or its administrator" shall mean delivered into the possession of the Board or its administrator at the business address of the Board's administrator.

B. Each agent holding one or more licenses subject to the continuing education requirements of this article shall complete all continuing education course, exemption, or waiver requirements and shall submit to the Board or its administrator proof of compliance with or exemption from the continuing education requirements in the form and manner required by the Board by no later than ~~November 30~~ *December 31*, or the next working day *thereafter* if ~~November 30~~ *December 31* falls on a weekend, of each even-numbered year.

~~C. After November 30, agents who have failed to complete all continuing education course, exemption, or waiver requirements or have failed to pay any required fees shall be provided a final opportunity to complete such requirements, provided proof of compliance is received by the Board or its administrator by December 31, or the next working day thereafter if December 31 falls on a weekend.~~

~~D. Agents who have completed all continuing education course or, exemption, or waiver requirements by December 31 but failed to demonstrate proof of compliance by failing to pay the filing fee imposed by the Board shall be permitted to pay such filing fee for an additional period of time, until the close of business on January 31, or the next working day thereafter if January 31 falls on a weekend, of the following year, but only if the agent pays, in addition to the filing fee, a late filing penalty of \$100, payable to the Board in such manner as may be prescribed by the Board. No agent whose proof of compliance is received during this ~~final~~ period shall be considered in compliance with the continuing education requirements unless the filing fee and the late filing penalty described herein are paid by the close of business on January 31, or the next working day thereafter if January 31 falls on a weekend.~~

~~E. D. Failure of an agent to furnish proof of compliance by the applicable ~~date~~ *dates* specified in subsection ~~subsections B, and C~~ ~~or D~~ of this section and pay any applicable filing penalty shall result in license termination as set forth in § 38.2-1869.~~

~~F. E. Agents seeking a waiver of some or all of the course credit requirements for a biennium pursuant to § 38.2-1870 shall submit all documentation, forms, and fees specified by the Board so as to be received by the Board or its administrator no later than the deadlines set forth in subsection ~~subsections B or and C~~ of this section.~~

~~G. F. Any agent holding one or more licenses subject to this article who fails to submit complete documentation showing proof of compliance with continuing education requirements, as well as all specified forms and fees, so as to be received by the Board or its administrator by the close of business on the dates described in this section shall be deemed to be in noncompliance with the requirements of this article.~~

~~H. G. All fees specified by the Board shall be nonrefundable once received by the Board or its administrator, except that duplicate payments may be refunded.~~

**§ 38.2-1869. Failure to satisfy requirements; termination of license.**

A. Failure of an agent to satisfy the requirements of this article within the time period specified in § 38.2-1868.1, either by obtaining the continuing education credits required and furnishing evidence of same to the Board or its administrator as required by this article, or by furnishing to the Board acceptable evidence of exemption from the requirements of this article, or by obtaining, in a manner prescribed by the Board pursuant to this article, a waiver of the requirements for that biennium, shall

57 result, subsequent to notification by the Board to the Commission, in the administrative termination of  
58 each license held by the agent for which the requirement was not satisfied.

59 B. The Board shall, on or about a date six months prior to the end of each biennium, provide a  
60 status report to each agent who has not yet fully satisfied the requirements of this article for such  
61 biennium. Such report shall inform the agent of his current compliance status for each license held that  
62 is subject to this article, and the consequences associated with noncompliance, and shall be sent by  
63 first-class mail to such agent at his last-known residence address as shown in the Commission's records.  
64 Failure of an agent to receive such notification shall not be grounds for contesting license termination.

65 C. No administrative termination pursuant to this section shall become effective until the Commission  
66 has provided 30 calendar days' written notice of such impending termination to the agent by first-class  
67 mail sent to the agent at the agent's last known residence address as shown in the Commission's records.  
68 The notice period shall commence on the date that the written notice is deposited in the United States  
69 mail and, if the 30th calendar day falls on a weekend, the end of the notice period shall be extended to  
70 the next business day. Failure of an agent to receive such notification shall not be grounds for contesting  
71 a license termination. Any agent who obtained the required number of continuing education credits in  
72 the time permitted for obtaining such credits and paid any required fees shall be permitted to submit  
73 proof of compliance during the 30 calendar day notice period.

74 D. Neither the Board, its administrator, nor the Commission shall have the power to grant an agent  
75 additional time for completing the continuing education credits required by § 38.2-1866, or additional  
76 time for submitting proof of compliance as required by § 38.2-1868.1, or additional time for seeking  
77 waivers or exemption pursuant to § 38.2-1870 or 38.2-1871.

78 E. ~~During the period set forth in subsection C of § 38.2-1868.1, the Board shall permit agents either~~  
79 ~~to demonstrate to the satisfaction of the Board that the agent had, in fact, timely submitted and the~~  
80 ~~Board or its administrator had received proof of compliance on or before the filing deadlines set forth in~~  
81 ~~§ 38.2-1868.1 or to complete all continuing education course, exemption, or waiver requirements and~~  
82 ~~present proof of compliance.~~

83 F. ~~During the period set forth in subsection C of § 38.2-1868.1, the Board shall not be obligated to~~  
84 ~~review or respond to any other submissions except for submissions that prove that the records of the~~  
85 ~~Board or its administrator are incorrect and late filing submissions permitted pursuant to subsection C of~~  
86 ~~§ 38.2-1868.1. Subsequent to the expiration of such period~~ *Immediately following December 31 of each*  
87 *even-numbered year, the Board shall provide a reasonable additional period of time for processing of*  
88 *appeals pursuant to § 38.2-1874. However, failure of an agent to provide written notice of appeal in the*  
89 *form and manner required by the Board within 30 calendar days following the expiration of the period*  
90 *set forth in subsection C of § 38.2-1868.1 by the close of business on January 31, or the next working*  
91 *day thereafter if January 31 falls on a weekend, of the following year shall be deemed a waiver by such*  
92 *agent of the right to appeal the determination of noncompliance.*

93 G. F. No more than 15 calendar days after the end of ~~such~~ *the* appeal period *set forth in subsection*  
94 *E, the Board or its administrator shall provide to the Commission a final updated record of those agents*  
95 *who complied with the requirements of this article, whereupon the Commission shall administratively*  
96 *terminate the licenses of those agents required to submit proof of compliance and by whom proof of*  
97 *compliance was not submitted in a proper or timely manner. Agents wishing to contest the*  
98 *Commission's action in terminating a license shall adhere to the Commission's Rules of Practice and*  
99 *Procedure (5 VAC 5-20-10 et seq.) and the Rules of the Supreme Court of Virginia. Failure by the*  
100 *agent to initiate such contest within 30 calendar days following the date the license was administratively*  
101 *terminated shall be deemed a waiver by the agent of the right to contest such license termination.*

102 H. G. Pursuant to the requirements of subsection C of § 38.2-1815, §§ ~~38.2-4806~~ *38.2-1857.1*, and  
103 *55-525.19*, respectively:

104 1. A resident variable contract agent whose life and annuities insurance agent license is  
105 administratively terminated for failure to satisfy the requirements of this article shall also have such  
106 variable contract license administratively terminated by the Commission;

107 2. A resident agent holding a license as a surplus lines broker whose property and casualty insurance  
108 agent license is administratively terminated for failure to satisfy the requirements of this article shall also  
109 have such surplus lines broker license administratively terminated by the Commission; and

110 3. An agent holding a registration as a title settlement agent whose title insurance agent license is  
111 administratively terminated for failure to satisfy the requirements of this article shall also have such  
112 registration as a title settlement agent administratively terminated by the Commission.

113 Any such license or registration so terminated may be applied for again after the agent has obtained,  
114 respectively, a new life and annuities insurance agent's license, a new property and casualty insurance  
115 agent's license, or a new title insurance agent's license and appointment, if appointment is required.

116 I. H. A resident agent whose license or licenses have been terminated under the terms of this section  
117 shall be permitted to make application for new licenses, provided that such agent has successfully

118 completed, subsequent to the end of the biennium, the examination required by § 38.2-1817. In such an  
119 event, the examination requirements shall not be subject to waiver under any circumstances, including  
120 those set forth in § 38.2-1817.

121 ~~J. I.~~ A nonresident agent whose license or licenses have been terminated under the terms of this  
122 section and who is in good standing in the person's state of residence shall be permitted to make  
123 application for new licenses in the manner prescribed by § 38.2-1836.

124 ~~K. J.~~ A resident or nonresident agent who voluntarily surrenders his license without prejudice during  
125 a biennium or prior to the expiration of the appeal period for that biennium as described in subsection ~~F~~  
126 ~~E~~, and who has not provided proof of compliance for such biennium, shall not be permitted to apply for  
127 a new license of the same type until such agent has complied with the requirements of subsection ~~H or I~~  
128 ~~or J~~.

129 ~~L. K.~~ A resident agent whose license terminates because, within 180 calendar days prior to the end  
130 of a biennium, or prior to the expiration of the appeal period for that biennium as described in  
131 subsection ~~F E~~, such agent moves his residence to another state, and who had not, prior to such  
132 relocation, provided proof of compliance for such biennium shall not be permitted to apply for a new  
133 license of the same type until such agent has complied with the requirements of subsection ~~J I~~.

134 ~~M. L.~~ An insurance consultant who fails to renew his insurance consultant license by the date  
135 specified in § 38.2-1840, but who obtains a new insurance consultant license within 12 months following  
136 such renewal date shall be treated, for purposes of determining exemption from continuing education  
137 requirements pursuant to § 38.2-1871, as if such insurance consultant license had been renewed in a  
138 timely manner.

139 **§ 38.2-1871. Licensees exempt from continuing education requirements of article.**

140 A. Resident or nonresident agents who have been issued a license during the last ~~twelve~~ 12 months  
141 of the biennium in which such licenses are issued, and who are not otherwise exempt from the  
142 continuing education requirements for that license, shall be exempt from fulfilling the continuing  
143 education credit requirements set forth in this article for that license for that biennium.

144 B. The following licensees are exempt from fulfilling the continuing education credit requirements  
145 set forth in this article:

146 1. Life and health insurance consultants who are also licensed both as life and annuities insurance  
147 agents and as health agents and who satisfy the continuing education requirements needed for  
148 continuation of their life and annuities and health agent licenses; ~~and~~

149 2. Property and casualty insurance consultants who are also licensed as property and casualty agents  
150 and who satisfy the continuing education requirements needed for continuation of their property and  
151 casualty agent license;;

152 C. The following licensees may request exemptions from continuing education requirements, but shall  
153 not be exempt unless such exemption is approved by the Board after submission of an exemption  
154 request in the form and manner required by the Board:

155 1. An agent who can prove, in the form and manner required by the Board, that he has attained or  
156 will attain at least the age of sixty-five by the end of a biennium may apply for a permanent exemption  
157 with respect to one or more licenses held by such agent, subject to submission of proof of the following,  
158 in a form and manner required by the Board:

159 a. A resident or nonresident agent must demonstrate that the agent has held any combination of  
160 resident or nonresident Virginia licenses of equivalent type continuously and without interruption for at  
161 least the twenty years immediately preceding the end of the biennium; or

162 b. A resident agent who will have held a Virginia resident agent license continuously and without  
163 interruption for no fewer than the immediately preceding four years by the end of the biennium must  
164 furnish proof of having held equivalent license authority continuously and without interruption in other  
165 states for a period that, when combined with the number of years of resident licensure in Virginia,  
166 equals at least twenty continuous and uninterrupted years immediately preceding the end of the  
167 biennium; or

168 e. A resident agent who will have held a Virginia resident license continuously and without  
169 interruption for no fewer than the immediately preceding four years by the end of the biennium shall  
170 furnish proof (i) of having held equivalent license authority in Virginia for at least twenty of the  
171 preceding thirty years; and (ii) that any unlicensed period was not the result of a license revocation or  
172 termination by the Commission pursuant to § 38.2-1832 or § 38.2-1869; and

173 2. 3. Nonresident agents who furnish evidence in the form and manner required by the Board of their  
174 current good standing in their home state, provided that the insurance supervisory official of the  
175 nonresident agent's home state will grant similar exemptions to Virginia residents; *and*

176 4. *Agents who have applied for and received a permanent exemption from the continuing education*  
177 *credit requirements set forth in this article by December 31, 2018.*

178 **§ 38.2-1872. Administrative duties of Board; transfer to outside administrator.**

179 A. The Board shall have the authority to transfer all or part of its administrative duties to an outside  
180 administrator. The performance of the administrator shall be confirmed at least annually by the Board  
181 and appropriate corrective action shall be taken for any deficiencies. Such administrator shall maintain  
182 records reflecting the continuing education status of all licensed agents reporting credits to it, subject to  
183 the requirements of this article.

184 B. The Board or its administrator shall, following the end of each biennium and on a date and in a  
185 form acceptable to the Commission but in no event later than fifteen calendar days following the end of  
186 the appeal period provided by the Board pursuant to § 38.2-1869, provide to the Commission a report of  
187 all licensees who satisfied the requirements of this article for such biennium. The Board or its  
188 administrator shall not, however, be required to include in such report those licensees exempt pursuant  
189 to subsection A of § 38.2-1871. The administrative termination of licenses, as required by ~~subsection C~~  
190 ~~of~~ § 38.2-1869, shall be carried out by operation of law.

191 C. The Board or its administrator shall be provided such information from the Commission's records  
192 as the Board may reasonably require in order to carry out its duties, including, but not limited to, (i)  
193 requesting and receiving from the Commission computer-generated reports, mailing labels, or other  
194 computer-generated information containing the names, license identification numbers, license types, and  
195 residence addresses of all licensees subject to the requirements of this article; and (ii) direct on-line  
196 access to such automated system data as the Commission may deem appropriate.

197 **2. That the provisions of this act shall become effective on January 1, 2019.**