

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 19.2-389, 38.2-1819, 38.2-1820, 38.2-1824, 38.2-1826, 38.2-1838,*  
 3 *38.2-1840, 38.2-1841, 38.2-1842, 38.2-1845.2, 38.2-1845.8, 38.2-1845.9, 38.2-1845.17, 38.2-1845.22,*  
 4 *38.2-1857.2, 38.2-1857.5, 38.2-1857.9, 38.2-1865.1, 38.2-1865.5, 38.2-1867, 38.2-1868.1, 38.2-1869,*  
 5 *38.2-1871, 38.2-1872, 38.2-1873, 38.2-1876, 38.2-1882, 38.2-1888, and 55-525.30 of the Code of*  
 6 *Virginia; to amend the Code of Virginia by adding sections numbered 38.2-1825.1 and*  
 7 *38.2-1857.4:1; and to repeal §§ 38.2-1857.3, 38.2-1857.4 and 38.2-1870 of the Code of Virginia,*  
 8 *relating to biennial insurance licensing; fingerprinting; criminal background checks; producer*  
 9 *licensing standards; insurance agents; continuing education requirements.*

10 [S 1222]

11 Approved

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

13 **1. That §§ 19.2-389, 38.2-1819, 38.2-1820, 38.2-1824, 38.2-1826, 38.2-1838, 38.2-1840, 38.2-1841,**  
 14 **38.2-1842, 38.2-1845.2, 38.2-1845.8, 38.2-1845.9, 38.2-1845.17, 38.2-1845.22, 38.2-1857.2, 38.2-1857.5,**  
 15 **38.2-1857.9, 38.2-1865.1, 38.2-1865.5, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, 38.2-1872,**  
 16 **38.2-1873, 38.2-1876, 38.2-1882, 38.2-1888, and 55-525.30 of the Code of Virginia are amended and**  
 17 **reenacted and that the Code of Virginia is amended by adding sections numbered 38.2-1825.1 and**  
 18 **38.2-1857.4:1 as follows:**

19 **§ 19.2-389. Dissemination of criminal history record information.**

20 A. Criminal history record information shall be disseminated, whether directly or through an  
 21 intermediary, only to:

22 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
 23 purposes of the administration of criminal justice and the screening of an employment application or  
 24 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
 25 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
 26 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
 27 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
 28 purposes of this subdivision, criminal history record information includes information sent to the Central  
 29 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
 30 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
 31 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
 32 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
 33 Commonwealth for the purposes of the administration of criminal justice;

34 2. Such other individuals and agencies that require criminal history record information to implement  
 35 a state or federal statute or executive order of the President of the United States or Governor that  
 36 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such  
 37 conduct, except that information concerning the arrest of an individual may not be disseminated to a  
 38 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
 39 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
 40 pending;

41 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
 42 services required for the administration of criminal justice pursuant to that agreement which shall  
 43 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the  
 44 security and confidentiality of the data;

45 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
 46 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
 47 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
 48 security of the data;

49 5. Agencies of state or federal government that are authorized by state or federal statute or executive  
 50 order of the President of the United States or Governor to conduct investigations determining  
 51 employment suitability or eligibility for security clearances allowing access to classified information;

52 6. Individuals and agencies where authorized by court order or court rule;

53 7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
 54 owned, operated or controlled by any political subdivision, and any public service corporation that  
 55 operates a public transit system owned by a local government for the conduct of investigations of  
 56 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is

necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other

than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; ~~and~~

45. *The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and*

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange

for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 38.2-1819. Application for license; fee required; fingerprints.**

A. Each applicant for a license shall make application to the Commission, in the form and containing the information the Commission prescribes. Each applicant shall, at the time of applying for a license, pay a nonrefundable application processing fee in an amount and in a manner prescribed by the Commission. The prescribed application processing fee shall not be less than ~~fifteen dollars~~ \$10 nor more than ~~thirty dollars~~ \$20 *per line of authority*. The fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

*B. Each individual who is a resident of the Commonwealth shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.*

C. No resident license requiring an examination shall be issued by the Commission later than 183 calendar days from the date the applicant satisfies the preclicensing examination requirements set forth in § 38.2-1817. Applicants failing to satisfy this requirement shall be required to satisfy all preclicensing requirements, including the examination, again before applying.

~~C. D.~~ Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in ~~this the~~ the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in ~~this the~~ the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.) ~~of this title~~.

**§ 38.2-1820. Issuance of license.**

A. Each applicant who is at least 18 years of age and who has satisfied the Commission that he is of good character, has a good reputation for honesty, and has complied with the other requirements of this article is entitled to and shall receive a license in the form the Commission prescribes.

B. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application, or such other application acceptable to the Commission. Before approving the application, the Commission shall find that:

1. The business entity has paid the ~~fees~~ *nonrefundable application processing fee* set forth in § 38.2-1819; and

2. The business entity has designated an employee, officer, director, manager, member, or partner to serve as the licensed producer responsible for the business entity's compliance with the insurance laws,

rules, and regulations of the Commonwealth. However, with respect to a business entity applying for a limited lines license pursuant to Article 8 (§ 38.2-1875 et seq.) or 8.1 (§ 38.2-1881 et seq.), the licensed producer designated by the vendor or lessor is not required to be an employee, officer, director, manager, member, or partner of the vendor or lessor.

C. The Commission may require any documents reasonably necessary to verify the information contained in an application.

**§ 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; 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; public adjuster; 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 preclicensing and, renewal, 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.

**§ 38.2-1825.1. Renewal application and fee; compliance with continuing education requirements; reinstatement; waiver.**

A. Beginning January 1, 2021, each individual agent shall submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Licenses shall be renewed biennially based on the agent's month and year of birth. The license for an agent born in an even-numbered year shall expire at the end of the agent's birth month in even-numbered years. The license for an agent born in an odd-numbered year shall expire at the end of the agent's birth month in odd-numbered years. Any license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission in the manner prescribed by the Commission shall automatically be terminated.

B. Each individual agent who is not exempt under § 38.2-1871 shall submit to the Virginia Insurance Continuing Education Board or its administrator proof of compliance with the continuing education requirements set forth in Article 7 (§ 38.2-1866 et seq.) on a biennial basis in conjunction with the agent's license renewal. The agent's license shall not be renewed if the agent has failed to satisfy the applicable continuing education requirements.

C. On or before May 1, 2021, and biennially thereafter, each business entity shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

D. The nonrefundable renewal application processing fee shall be paid in a manner and in an

amount prescribed by the Commission. The prescribed nonrefundable renewal application processing fee shall not be less than \$10 nor more than \$20 per line of authority. All fees shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

E. An individual agent whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license without the necessity of passing a prelicensing written examination by:

1. Submitting a renewal application;
2. Submitting a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee; and
3. Satisfying the relevant continuing education requirements.

F. A licensed agent who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Agents seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, agents who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subdivisions E 1 and 2 within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

**§ 38.2-1826. Requirement to report to Commission.**

A. Each licensed agent shall report within 30 calendar days to the Commission, and to every insurer for which he is appointed any change in his residence *address, email address, or name*.

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

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

D. The license authority of any licensed resident agent shall terminate immediately when such agent has moved his residence from the Commonwealth, whether or not the Commission has been notified of such move.

E. Each business entity acting as an insurance producer shall report within 30 calendar days to the Commission the removal, for any reason, of the designated licensed producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth pursuant to subdivision B 2 of § 38.2-1820, along with the name of the new designated licensed producer.

**§ 38.2-1838. License required of consultants; fingerprinting.**

A. No person, unless he holds an appropriate license shall:

1. Represent to members of the public that he provides planning or consulting services beyond those within the normal scope of activities of a licensed insurance agent; or
2. Except as provided in § 38.2-1812.2, charge or receive, directly or indirectly, a fee or other compensation for insurance advice, other than commissions received in such person's capacity as a licensed insurance agent or surplus lines broker resulting from selling, soliciting, or negotiating insurance or health care services as allowed by his license.

B. Each individual applying for an insurance consultant's license shall apply to the Commission in a form acceptable to the Commission, and shall provide satisfactory evidence of having met the following requirements:

1. To be licensed as a property and casualty insurance consultant the applicant must pass, within 183 calendar days prior to the date of application for such license, the property and casualty examination as required in § 38.2-1817, except that an applicant who, at the time of such application holds an active property and casualty insurance agent license, shall be exempt from the examination requirements;

2. To be licensed as a life and health insurance consultant, the applicant must pass, within 183 calendar days prior to the date of application for such license, both the life and annuities and the health examinations as required in § 38.2-1817, except that an applicant who, at the time of such application holds both an active life and annuities license and an active health agent license, shall be exempt from the examination requirements; ~~and~~

3. Each individual applicant for an insurance consultant license shall, at the time of applying for a

new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection; and

4. Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

C. Any individual who acts as an insurance consultant as an officer, director, principal or employee of a business entity shall be required to hold an appropriate individual license as an insurance consultant.

D. A business entity acting as an insurance consultant is required to obtain an insurance consultant license. Application shall be made in a form and manner acceptable to the Commission. Before approving the application, the Commission shall find that:

1. The business entity has paid the fee set forth in this section; and

2. The business entity has designated an employee, officer, director, manager, member, or partner to serve as the licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth.

E. The Commission may require any documents reasonably necessary to verify the information contained in an application.

F. Each applicant for an insurance consultant's license shall ~~submit, at the time of applying for a license, pay~~ a nonrefundable application processing fee of \$50 ~~at the time of initial application for such license in an amount and in a manner prescribed by the Commission.~~

**§ 38.2-1840. Renewal application and fee; compliance with continuing education requirements; reinstatement; waiver.**

A. ~~Before June 1 of each year Beginning January 1, 2021, each insurance consultant shall remit a renewal application in a form and manner acceptable~~ submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with the a nonrefundable renewal application processing fee prescribed herein by the Commission, for the renewal of the license; unless the license has been terminated, suspended or revoked on or before June 30 of that year. Any consultant license for which the required renewal application and nonrefundable renewal application processing fee has been received by the Commission on or before June 1 shall be renewed for a one-year period beginning on July 1 and ending on the following June 30. Any consultant license for which the required renewal application and nonrefundable renewal application processing fee has not been received by the Commission by June 1 shall be terminated effective on June 30. Licenses shall be renewed biennially based on the insurance consultant's month and year of birth. The license for a consultant born in an even-numbered year shall expire at the end of the consultant's birth month in even-numbered years. The license for a consultant born in an odd-numbered year shall expire at the end of the consultant's birth month in odd-numbered years. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

B. Each individual insurance consultant who is not exempt under § 38.2-1871 shall submit to the Virginia Insurance Continuing Education Board or its administrator proof of compliance with the continuing education requirements set forth in Article 7 (§ 38.2-1866 et seq.) on a biennial basis in conjunction with the insurance consultant's license renewal. The insurance consultant's license shall not be renewed if the agent has failed to satisfy the applicable continuing education requirements.

C. On or before May 1, 2021, and biennially thereafter, each business entity licensed as a consultant shall submit to the Commission a renewal application, along with a nonrefundable renewal application



processing fee prescribed by the Commission, for the renewal of the license. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

D. The ~~annual~~ nonrefundable renewal processing fee for each insurance consultant's license shall be fifty dollars, which shall be paid in a manner and in an amount prescribed by the Commission. All fees shall be collected by the Commission and paid directly into the state treasury and placed to the credit of credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

E. An individual insurance consultant whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license without the necessity of passing a written examination by:

1. Submitting a renewal application;  
2. Submitting a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee; and

3. Satisfying the relevant continuing education requirements.

F. An individual insurance consultant who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Insurance consultants seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, insurance consultants who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subdivisions E 1 and 2 within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

#### **§ 38.2-1841. Termination, suspension, or revocation of license.**

A. A license issued to an individual insurance consultant shall authorize him to act as an insurance consultant until his license is otherwise terminated, suspended, or revoked.

B. A license issued to a business entity shall authorize such business entity to act as an insurance consultant until such license is otherwise terminated, suspended, or revoked. The dissolution or discontinuance of a partnership, whether by intent or by operation of law, shall automatically terminate the insurance consultant's license issued to such partnership. The Bureau shall automatically terminate all insurance consultant licenses within 90 calendar days of receiving notification from the clerk of the Commission that the certificate of organization or charter of a domestic limited liability company or corporation respectively, whether by intent or by operation of law, has been terminated or that the certificate of registration or certificate of authority of a foreign limited liability company or corporation, respectively, has been revoked.

C. The termination of a ~~consultant's license~~ consultant as an insurance agent pursuant to subsection A of § 38.2-1825 shall not result in the termination of the consultant's license, provided that the annual renewal application and nonrefundable renewal application processing fee prescribed in § 38.2-1840 continues to be paid, the consultant license continues to be renewed as required by § 38.2-1840, and the license is not otherwise revoked, suspended, or terminated.

D. The license authority of any business entity licensed as a consultant shall terminate immediately if the designated licensed producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth pursuant to subdivision D 2 of § 38.2-1838 is removed for any reason and a new responsible producer has not been designated and the Commission notified within 30 calendar days of such removal and of the new designated responsible producer.

#### **§ 38.2-1842. Requirement to report to Commission.**

A. Each licensed insurance consultant shall report within ~~thirty~~ 30 calendar days to the Commission any change in his residence address, email address, or name.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as an insurance consultant in ~~this~~ the Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for an insurance consultant license is filed or within ~~thirty~~ 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the insurance consultant intends to operate in Virginia. The Commission shall also be notified within ~~thirty~~ 30 calendar days from the date of cessation of the

use of such assumed or fictitious name.

C. Each licensed insurance consultant convicted of a felony shall report within ~~thirty~~ 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

D. Each licensed insurance consultant shall report to the Commission within ~~thirty~~ 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in ~~this the~~ Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. The license authority of any licensed resident insurance consultant shall terminate immediately when such insurance consultant has moved his residence from ~~this the~~ Commonwealth, whether or not the Commission has been notified of such move.

**§ 38.2-1845.2. License required of resident public adjusters.**

A. No person shall engage in the business of public adjusting; ~~on or after January 1, 2013,~~ without first applying for and obtaining a license from the Commission, except as provided in § 38.2-1845.3. Every license issued pursuant to this article shall be for a term expiring two years from the date of issuance and may be renewed for ensuing two-year periods.

B. Each individual applicant for a public adjuster license who is at least 18 years of age, who has satisfied the Commission that he (i) is of good character; (ii) has a reputation for honesty; (iii) has not committed any act that is a ground for ~~refusal the Commission to refuse to issue, denial deny, suspension suspend, or revocation of revoke~~ a public adjuster license as set forth in § 38.2-1845.10; and (iv) has complied successfully with the other requirements of this article is entitled to and shall receive a license under this chapter in the form and manner prescribed by the Commission. The Commission may require, for resident licensing, proof of residency as described in subsection B of § 38.2-1800.1.

C. Each individual applicant for a public adjuster license shall apply to the Commission in the form and manner prescribed by the Commission and shall provide satisfactory evidence of having met the following requirements:

1. Each applicant shall pass, within 183 calendar days prior to the date of application for such license, the public adjuster examination as required by the Commission pursuant to and in accordance with the requirements set forth in § 38.2-1845.4.

2. Each applicant for a public adjuster license shall submit a nonrefundable application processing fee *in an amount and in a manner* prescribed by the Commission at the time of initial application for such license. *The fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

3. Prior to issuance of a license, each applicant shall attest that the applicant has, and thereafter shall keep in force for as long as the license remains in effect, a bond in favor of the Commonwealth in the amount of \$50,000 with corporate sureties licensed by the Commission, on a form prescribed by the Commission. The bond shall be conditioned that the public adjuster will conduct business under the license in accordance with the laws of the Commonwealth. The bond shall not be terminated unless at least 60 calendar days' prior written notice of the termination is filed with the Commission. If, prior to the expiration date of the bond, the licensed public adjuster fails to file with the Commission a certification or attestation that a new bond satisfying the requirements of this section has been put into effect, the public adjuster license shall terminate, and the licensee shall be required to satisfy any and all precensing requirements in order to apply for a new public adjuster license. The Commission may ask for a copy of the bond or other evidence of financial responsibility at any time.

4. *Each individual applicant for a public adjuster license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.*

D. Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the Clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the Clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth.

Service of process on the Clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

E. Any individual who acts as a public adjuster and who is also an officer, director, principal, or employee of a business entity acting as a public adjuster in the Commonwealth shall be required to hold an appropriate individual license as a public adjuster in the Commonwealth.

F. A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made in a form and manner acceptable to the Commission. Before approving the application, the Commission shall find that:

1. The business entity has paid the fee prescribed by the Commission;

2. The business entity has demonstrated proof of residency pursuant to subsection B of § 38.2-1800.1; and

3. The business entity has designated an individual employee, officer, director, manager, member, or partner licensed in Virginia as a public adjuster to be responsible for the business entity's compliance with the laws, rules, and regulations of the Commonwealth applicable to public adjusters.

G. Prior to issuance of a license, each entity shall attest that the entity has, and thereafter shall keep in force for as long as the license remains in effect, a bond in favor of the Commonwealth in the amount of \$50,000 with corporate sureties licensed by the Commission, on a form prescribed by the Commission. The bond shall be conditioned that the public adjuster will conduct business under the license in accordance with the laws of the Commonwealth. The bond shall not be terminated unless at least 60 calendar days' prior written notice of the termination is filed with the Commission. If, prior to the expiration date of the bond, the licensed public adjuster fails to file with the Commission a certification or attestation that a new bond satisfying the requirements of this section has been put into effect, the public adjuster license shall terminate, and the entity shall be required to satisfy any and all prelicensing requirements in order to apply for a new public adjuster license. The Commission may ask for a copy of the bond or other evidence of financial responsibility at any time.

H. The Commission may require any documents reasonably necessary to verify the information contained in an application.

**§ 38.2-1845.8. Renewal application and fee; reinstatement; waiver.**

A. ~~Each Beginning January 1, 2021, each individual~~ licensed public adjuster shall ~~remit submit~~ biennially ~~to the Commission~~ a renewal application in a form and manner ~~acceptable to~~ prescribed by the Commission, along with the nonrefundable renewal application processing fee prescribed by the Commission for the renewal of the license. *Licenses shall be renewed biennially based on the public adjuster's month and year of birth. The license for a public adjuster born in an even-numbered year shall expire at the end of the public adjuster's birth month in even-numbered years. The license for a public adjuster born in an odd-numbered year shall expire at the end of the public adjuster's birth month in odd-numbered years.* Any public adjuster license for which the required renewal application and nonrefundable renewal application processing fee ~~has have~~ been received by the Commission ~~and all other applicable licensing and renewal provisions in this chapter have been met~~ shall, unless the license has been terminated, suspended, or revoked be renewed for a two-year period. Any public adjuster license for which the ~~required~~ renewal application and nonrefundable renewal application processing fee ~~has have~~ not been received by the Commission in the manner prescribed by the Commission shall automatically be terminated.

B. ~~On or before May 1, 2021, and biennially thereafter, each business entity licensed as a public adjuster shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any public adjuster license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.~~

C. The nonrefundable renewal processing fee for each public adjuster license shall be paid in a manner and in an amount prescribed by the Commission. All fees shall be collected by the Commission and paid *directly* into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

~~C. D.~~ No nonresident public adjuster license shall be renewed unless the applicant meets the requirements for initial licensure as set forth in § 38.2-1845.5.

E. ~~An individual public adjuster whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license without the necessity of passing a written examination by:~~

1. Submitting a renewal application;

2. Submitting a nonrefundable reinstatement processing fee equivalent to double the nonrefundable

renewal application processing fee; and

3. Satisfying the relevant continuing education requirements.

F. An individual public adjuster who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Public adjusters seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, public adjusters who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subdivisions E 1 and 2 within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

**§ 38.2-1845.9. Continuing education; approval of credits; failure to satisfy requirements; termination of license.**

A. An individual who holds a public adjuster license and who is not exempt under subsection B shall satisfactorily complete a minimum of 24 hours of approved continuing education courses, including three hours of ethics, reported on a biennial basis in conjunction with his license renewal.

B. This section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of the Commonwealth on the same basis.

C. 1. The Commission or its administrator shall approve all continuing education instructors, continuing education courses, and programs of instruction. The Commission shall establish and monitor standards for the education of public adjusters, approve courses, including evaluating credit hours for all courses or programs offered, and set minimum requirements for course instructors. The Commission shall have the authority to disapprove or withdraw approval of course sponsors, courses, or course instructors when the established standards are not satisfied or where such standards have been violated.

2. The number of credits for each self-study course, correspondence course, or program of classroom instruction shall be determined in a manner prescribed by the Commission. However, for an approved classroom course, a credit hour shall be equivalent to a classroom hour providing at least 50 minutes of continuous instruction or participation. No credits shall be granted for approved classroom courses unless notice to the Commission or its administrator is accompanied by proof of attendance by the course provider. No credits shall be granted for any correspondence or self-study course that does not include a test of the subject matter, which shall be successfully completed by each public adjuster requesting credit. The Commission shall have the right to review and approve or disapprove the proposed test as part of the course approval process.

3. An instructor of an approved continuing education course shall be eligible to receive the same number of credits as a person enrolled in the course for the purpose of meeting the requirements. However, public adjusters and instructors may apply credits for attending or teaching the same course only once during any continuing education reporting period.

D. Each public adjuster holding a license subject to the continuing education requirements of this article shall complete all continuing education courses, pay a nonrefundable fee, and shall submit to the Commission or its administrator proof of compliance with continuing education requirements in the form and manner required by the Commission.

E. Any public adjuster 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 nonrefundable fees, to the Commission or its administrator shall be deemed to be in noncompliance with the requirements of this article.

F. 1. The license of the public adjuster shall not be renewed if the public adjuster has failed to satisfy the continuing education requirements of this section.

2. A public adjuster shall have 30 calendar days to appeal to the Commission or its administrator the decision to administratively terminate the license for failure to complete continuing education requirements as required by this section. A public adjuster wishing to contest the Commission's action in terminating a license shall adhere to the Commission's Rules of Practice and Procedure (5VAC5-20-10 et seq.) and the Rules of Supreme Court of Virginia. Failure by the public adjuster to initiate such contest within 30 calendar days following the date of license termination shall be deemed a waiver by the public adjuster of the right to contest such license termination.

G. A resident public adjuster whose license has been terminated under the terms of this section and whose license is not reinstated pursuant to § 38.2-1845.8 shall be permitted to make application for a new license if all of the requirements of § 38.2-1845.2 are met.

H. Each public adjuster shall pay a nonrefundable continuing education processing fee in an amount prescribed by the Commission.

**§ 38.2-1845.17. Requirement to report to Commission.**

A. Each licensed public adjuster shall report within 30 calendar days to the Commission any change in his residence *address, email address, or name.*

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as a public adjuster in the Commonwealth and operating under an assumed or fictitious name shall provide notice to the Commission, at the earlier of the time the application for a public adjuster license is filed or within 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the public adjuster intends to operate in the Commonwealth. The Commission shall also be notified within 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed public adjuster shall report to the Commission any conviction involving a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust in another jurisdiction or in the Commonwealth within 30 calendar days of the final disposition of the matter. This report shall include a copy of the order and other relevant legal documents.

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

**§ 38.2-1845.22. Power of Commission to investigate affairs of persons engaged in the business of public adjusting; penalties for refusal to permit investigation.**

The Commission shall have power to examine and investigate the business affairs of any person engaged or alleged to be engaged in the business of public adjusting in the Commonwealth to determine whether the person has engaged or is engaging in any violation of this title. The Commission shall have the right to examine all records relating to the business of public adjusting by any such person in the Commonwealth to determine whether the person is now or has been violating any of the provisions of this title. Any licensee under this article or any person purporting to be a licensee under this article or any person whose actions have led any person to believe that he is a licensee under this article who refuses to permit the Commission or any of its employees or agents, including employees of the Bureau of Insurance, to make an examination or who fails or refuses to comply with the provisions of this section, may, after notice and an opportunity to be heard, be subject to any of the penalties relating to licensees under this article, as provided in this title, including the *termination, denial, suspension, or revocation of his license.*

**§ 38.2-1857.2. Applications for surplus lines broker license; fee required; fingerprinting.**

A. Every original applicant for a surplus lines ~~broker's broker~~ license shall apply for such license in a form and manner prescribed by the Commission, and containing any information the Commission requires. *Each applicant shall, at the time of applying for a license, pay a nonrefundable application processing fee in an amount and in a manner prescribed by the Commission. The prescribed application fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

B. *Each applicant for a surplus lines broker license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.*

C. Prior to issuance of a license, the applicant shall file with the Commission a certification or attestation that the applicant has, and thereafter shall keep in force for as long as the license remains in effect, a bond in favor of the Commonwealth in the amount of \$25,000 with corporate sureties licensed by the Commission. The bond shall be conditioned that the broker will conduct business under the license in accordance with the provisions of the surplus lines insurance law and that he will promptly remit the taxes provided by such law. The bond shall not be terminated unless at least 30 calendar days' prior written notice of the termination is filed with the Commission. If, prior to the expiration date of the bond, the licensed surplus lines broker fails to file with the Commission a certification or attestation that a new bond satisfying the requirements of this section has been put into effect, the surplus lines

broker license shall terminate and the licensee shall be required to apply for a new surplus lines broker license.

C. D. Notwithstanding any other provisions of this title, a person licensed as a surplus lines broker in his home state, as defined in § 38.2-1800, shall receive a nonresident surplus lines broker license subject to meeting the requirements set forth in § 38.2-1857.9.

D. E. Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

E. F. A business entity acting as a surplus lines broker is required to obtain a surplus lines broker license. In addition to the other requirements in this section, and before approving the application, the Commission shall find that:

1. The business entity has paid the fee set forth in ~~§ 38.2-1857.3~~ subsection A; and

2. If:

a. A resident of the Commonwealth, the business entity has designated an employee, officer, director, manager, member, or partner to serve as the licensed Virginia Property and Casualty insurance agent to be responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth; or

b. Not a resident of the Commonwealth, the business entity has designated an employee, officer, director, manager, member, or partner licensed in his home state to be responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth.

F. G. The Commission may require any documents reasonably necessary to verify the information contained in an application.

**§ 38.2-1857.4:1. Renewal application and fee; reinstatement; waiver.**

A. Beginning January 1, 2021, each individual surplus lines broker shall submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Licenses shall be renewed biennially based on the broker's month and year of birth. The license for a surplus lines broker born in an even-numbered year shall expire at the end of the broker's birth month in even-numbered years. The license for a surplus lines broker born in an odd-numbered year shall expire at the end of the broker's birth month in odd-numbered years. Any surplus lines broker license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any surplus lines broker license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

B. On or before May 1, 2021, and biennially thereafter, each business entity licensed as a surplus lines broker shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any surplus lines broker license for which the required renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any surplus lines broker license for which the required renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

C. The nonrefundable renewal application processing fee shall be paid in a manner and in an amount prescribed by the Commission. The nonrefundable renewal processing fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

D. An individual surplus lines broker whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license by submitting the renewal application and a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee and by complying with all other applicable licensing and renewal provisions in this chapter.

E. A licensed surplus lines broker's failure to file the maintenance assessment report required by § 38.2-406 or pay the maintenance assessment and any related fines, penalties, and interest required by

§ 38.2-403 on or before the first day of March of each year shall result in the termination of the surplus lines broker license.

F. An individual surplus lines broker who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Surplus lines brokers seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, surplus lines brokers who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subsection D within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

**§ 38.2-1857.5. Requirement to report to Commission.**

A. Each licensed surplus lines broker shall report within ~~thirty~~ 30 calendar days to the Commission any change in his residence address, email address, or name.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as a surplus lines broker in ~~this the~~ Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for a surplus lines broker license is filed or within ~~thirty~~ 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the surplus lines broker intends to operate in Virginia. The Commission shall also be notified within ~~thirty~~ 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed surplus lines broker convicted of a felony shall report within ~~thirty~~ 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

D. Each licensed surplus lines broker shall report to the Commission within ~~thirty~~ 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in ~~this the~~ Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. Any licensed resident surplus lines broker who has moved his residence from ~~this the~~ Commonwealth shall have all licenses immediately terminated by the Commission, whether or not the surplus lines broker has notified the Commission of such move. Nothing shall prohibit such surplus lines broker from applying for a license as a nonresident surplus lines broker.

F. The license authority of any business entity licensed as a surplus lines broker shall terminate immediately if the sole licensed responsible producer designated pursuant to subdivision ~~E~~ F 2 of § 38.2-1857.2 for the business entity's compliance with the insurance laws, rules and regulations of ~~this the~~ Commonwealth is removed for any reason, and a new responsible producer has not been designated and the Commission notified within 30 calendar days of such removal and of the newly designated responsible producer.

**§ 38.2-1857.9. Licensing nonresidents; clerk of the Commission to be appointed agent for service of process; reciprocal agreements with other states and Canadian provinces.**

A. An individual or business entity who is not a resident as defined in § 38.2-1800, but who is a resident of another state, territory, or province of Canada, shall receive a nonresident surplus lines broker license if:

1. The applicant presents proof in a form acceptable to the Commission that the applicant is currently licensed or otherwise authorized as a resident surplus lines broker and is in good standing in his home state;

2. The applicant has submitted the proper application for licensure, or in lieu thereof has submitted a copy of the application for a Surplus Lines Broker license submitted to the home state, and has paid the fees ~~required by § 38.2-1857.3~~ prescribed by the Commission; and

3. The applicant's home state issues nonresident surplus lines broker licenses to residents of ~~this the~~ Commonwealth on the same basis, or will permit a resident of ~~this the~~ Commonwealth to act as a surplus lines broker in such state without requiring a license.

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

C. The Commission may enter into a reciprocal agreement with an appropriate official of any other state or province of Canada if such an agreement is required in order for a Virginia resident to be similarly licensed as a nonresident in that state or province.

D. The Commission may verify the surplus lines broker's licensing status through the Producer Database maintained by the NAIC, its affiliates or subsidiaries.

E. A nonresident surplus lines broker who moves from one state or province to another state or province shall file a change of address within 30 calendar days of the change of legal residence. No fee or license application is required.

F. Any licenses issued to nonresidents pursuant to this section shall be terminated at any time that the nonresident's equivalent authority in his home state is terminated, suspended, or revoked.

G. As used in this section, "home state" has the same meaning that is ascribed to the term in § 38.2-1800.

**§ 38.2-1865.1. License required for viatical settlement brokers; Commission's authority; conditions; renewal application and fee; reinstatement; waiver; fingerprinting.**

A. No person shall act as a viatical settlement broker, or solicit a viatical settlement contract while acting as a viatical settlement broker, ~~on or after January 1, 1998,~~ without first obtaining a license from the Commission.

B. A resident or nonresident life and annuities insurance agent shall not be prohibited from obtaining a license, and subsequently acting as, a viatical settlement broker. Such licensed life and annuities agent applying for a license as a viatical settlement broker shall comply with all provisions of this chapter.

C. Application for a viatical settlement ~~broker's broker~~ license shall be made to the Commission in the manner, in the form, and accompanied by the nonrefundable license processing fee prescribed by the Commission.

D. *Each individual applicant for a viatical settlement broker license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.*

E. A business entity acting as a viatical settlement broker is required to obtain a viatical settlement broker license. In addition to the other requirements in this section, and before approving the application, the Commission shall find that:

1. The business entity has paid the fee set forth in this section; and
2. The business entity has designated an employee, officer, director, manager, member, or partner who is a licensed viatical settlement broker as the individual responsible for the business entity's compliance with the insurance and other laws of this title, and related rules and regulations of the Commonwealth.

~~E. F.~~ The Commission may require any documents reasonably necessary to verify the information contained in an application.

~~F. G.~~ Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

~~G. H.~~ The license processing fee required by this section shall be collected by the Commission, paid directly into the state treasury, and credited to the "Bureau of Insurance Special Fund — State Corporation Commission" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

~~H.~~ Before June 1 of each year, each viatical settlement broker shall remit the nonrefundable renewal fee and renewal application prescribed by the Commission for the renewal of the license effective July 1 of that year.

I. *Viatical Beginning January 1, 2021, each individual settlement broker's licenses may be renewed for a one-year period ending on the following June 30 if the required renewal application and renewal fee have been received by the Commission on or before June 1, and the license has not been terminated, suspended or revoked on or before June 30 broker shall submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with a nonrefundable renewal*



application processing fee prescribed by the Commission, for the renewal of the license. Licenses shall be renewed biennially based on the viatical settlement broker's month and year of birth. The license for a viatical settlement broker born in an even-numbered year shall expire at the end of the broker's birth month in even-numbered years. The license for a viatical settlement broker born in an odd-numbered year shall expire at the end of the broker's birth month in odd-numbered years. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

J. On or before May 1, 2021, and biennially thereafter, each business entity licensed as a viatical settlement broker shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

K. The nonrefundable renewal application processing fee shall be paid in a manner and in an amount prescribed by the Commission. The nonrefundable renewal application processing fee required by this section shall be collected by the Commission, and paid directly into the state treasury, and credited to the "Bureau of Insurance Special Fund State Corporation Commission" fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

L. An individual viatical settlement broker whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license by submitting the renewal application and a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee.

M. An individual viatical settlement broker who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Viatical settlement brokers seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, viatical settlement brokers who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subsection L within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

~~K.~~ N. Each applicant for a viatical settlement broker's broker license shall provide satisfactory evidence that no disciplinary action has resulted in the suspension or revocation of any federal or state license pertaining to the business of viatical settlements or to the insurance or other financial services business.

~~L.~~ O. In the absence of a written agreement making the broker the viator's agent, viatical settlement brokers are presumed to be agents of viatical settlement providers.

~~M.~~ P. A viatical settlement broker shall not, without the written agreement of the viator obtained before performing any services in connection with a viatical settlement, seek or obtain any compensation from the viator.

#### **§ 38.2-1865.5. Requirement to report to Commission.**

A. Each licensed viatical settlement broker shall report, in writing, any change in business or residence address, email address, or name within ~~thirty~~ 30 calendar days to the Commission.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as a viatical settlement broker in ~~this~~ the Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for a viatical settlement broker license is filed or within 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the viatical settlement broker intends to operate in Virginia. The Commission shall also be notified within 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed viatical settlement broker convicted of a felony shall report within 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

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

E. The license authority of any licensed resident viatical settlement broker shall terminate immediately when such viatical settlement broker has moved his residence from the Commonwealth, whether or not the Commission has been notified of such move.

F. The license authority of any business entity licensed as a viatical settlement broker shall terminate immediately if the designated licensed viatical settlement broker responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth pursuant to subdivision D E 2 of § 38.2-1865.1 is removed for any reason and a new responsible viatical settlement broker has not been designated and the Commission notified within 30 calendar days of such removal and of the new designated responsible viatical settlement broker.

**§ 38.2-1867. Insurance continuing education board; approval of credits.**

A. An insurance continuing education board, hereinafter called the Board, appointed by the Commission, shall approve all continuing education instructors, ~~continuing education courses and~~ programs of instruction, ~~to include and courses, including~~ technical courses or agency management and operations courses, ~~and shall evaluate credit hours for all programs or courses offered.~~ The Board shall establish and monitor standards for the education of insurance agents; ~~approve courses including~~ evaluating credit hours for all courses or programs offered, and set minimum requirements for course instructors. The Board shall have the authority to disapprove or withdraw approval of course sponsors, courses, or course instructors when the established standards are not satisfied, or where such standards have been violated.

B. The number of credits for each self-study course, correspondence course, or program of classroom instruction shall be determined in a manner prescribed by the Board. However, for an approved classroom course, a credit hour shall be equivalent to a classroom hour providing at least 50 minutes of continuous instruction or participation. No credits shall be granted for approved classroom courses unless notice to the Board is accompanied by proof of attendance by the course provider. No credits shall be granted for any correspondence or self-study course that does not include a test of the subject matter which shall be successfully completed by each agent requesting credit. The Board shall have the right to review and approve or disapprove the proposed test as part of the course approval process.

C. An instructor of an approved continuing education course shall be eligible to receive the same number of credits as a person enrolled in the course for the purpose of meeting the *continuing education course* requirements of this article. However, agents and instructors may apply credits for attending or teaching the same course only once during ~~any biennium~~ the two-year period set forth in subsection B of § 38.2-1868.1.

D. Excess credit hours accumulated during ~~any biennium~~ the two-year period set forth in subsection B of § 38.2-1868.1 may be carried forward to the next biennium only.

E. Members of the Board shall be appointed by the Commission as follows:

1. One ~~representative from~~ active member of the Independent Insurance Agents of Virginia, as recommended by the Independent Insurance Agents of Virginia;

2. One ~~representative from~~ active member of the Professional Insurance Agents of Virginia and the District of Columbia, as recommended by the Professional Insurance Agents of Virginia and the District of Columbia;

3. One ~~representative from~~ active member of the Virginia National Association of Insurance and Financial Advisors of Virginia, as recommended by the National Association of Insurance and Financial Advisors of Virginia;

4. One representative of a licensed property and casualty insurance company writing business in the Commonwealth that operates through an exclusive agency force active member of the Virginia Land Title Association, as recommended by the Virginia Land Title Association;

5. One representative of a licensed life and health insurance company writing business in the Commonwealth that operates through an exclusive agency force active member of the Virginia Association of Health Underwriters, as recommended by the Virginia Association of Health Underwriters;

6. One representative of a licensed property and casualty insurance company domiciled and writing business in the Commonwealth Three representatives of the property and casualty insurance industry;

7. One representative of a licensed life and health insurance company domiciled and writing business in the Commonwealth Three representatives of the life and health insurance industry; and

8. One representative of a licensed life and health insurance company writing business in the

Commonwealth;

9. One representative of a licensed property and casualty insurance company writing business in the Commonwealth;

10. One representative from the Virginia Land Title Association;

11. One representative from of the adult education or higher education field; and

12. One representative from the Virginia Association of Health Underwriters.

F. On and after July 1, 1996, no person shall be appointed to serve as a member of the Board if, in the opinion of the Commission, other than as an incidental part of or unrelated to such person's employment, such person (i) prepares, submits for approval, or teaches insurance continuing education courses in Virginia or in any other jurisdiction, other than as an incidental part of such person's employment, or (ii) no longer meets the criteria on which the original appointment to the Board was based pursuant to subsection E.

G. No meeting of the Board or any subcommittee of the Board shall be held unless timely notice of such meeting has been provided to the Commission's Bureau of Insurance. At any such meeting of the Board or any subcommittee of the Board, one or more representatives from the Bureau of Insurance shall be permitted to attend and to participate in such meeting, except that such Bureau of Insurance representative or representatives shall not have the right to vote on any matters before the Board.

H. Actions of the Board shall be exempt from the application of the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 38.2-1868.1. Proof of compliance with continuing education requirements; waivers.**

A. As used in this article:

"Proof of compliance" shall mean means all fees prescribed by the Board and all documents, and forms and fees specified by the Board for (i) filing proof of demonstrating completion of Board-approved continuing education courses relevant to the license held and for the appropriate required number of hours and for the appropriate content or (ii) filing proof of meeting the exemption requirements set forth in subsection B of § 38.2-1871.

"Received by the Board or its administrator" shall mean means delivered into the possession of the Board or its administrator at the business address of the Board's administrator in a form and manner prescribed by the Board.

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 such requirements in the form and manner required by the Board by no later than December 31, or the next working day thereafter if December 31 falls on a weekend, of each even-numbered year biennially, based on the agent's month and year of birth. An agent born in an even-numbered year shall complete all continuing education course or waiver requirements and shall submit proof of compliance by the end of the agent's birth month in even-numbered years. An agent born in an odd-numbered year shall complete all continuing education course or waiver requirements and shall submit proof of compliance by the end of the agent's birth month in odd-numbered years.

C. Agents who have completed all continuing education course, 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 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.

D. Failure of an agent to furnish proof of compliance by the dates specified in subsections B and C and pay any applicable filing penalty shall result in license termination as set forth in § 38.2-1869.

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 subsections B and C.

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.

G. A licensed agent who is unable to comply with the continuing education requirements of this article due to military service or other extenuating circumstances including long-term illness or incapacity may request a waiver of such requirements. Requests for waivers of continuing education

requirements shall be made in a form and manner prescribed by the Board. Agents seeking a waiver of some or all of the continuing education requirements 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 last day of the two-year period set forth in subsection B and in §§ 38.2-1825.1 and 38.2-1840. After the two-year period, agents who have failed to complete the continuing education requirements may request a waiver of the continuing education reinstatement requirements set forth in subsection E of § 38.2-1825.1 and subsection E of § 38.2-1840 within the 12-month reinstatement period described therein. The Board shall approve or disapprove the waiver request within 30 days of receipt thereof and shall provide written notice of its decision to the waiver applicant within five days of rendering its decision. Any waiver granted pursuant to this subsection shall be valid only for the biennium for which waiver application was made.

D. All fees specified by the Board shall be nonrefundable once received by the Commission, the Board, or its the Board's 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 complete all continuing education course or waiver requirements of this article within the time period specified, pay any fee imposed by the Board, or otherwise furnish proof of compliance during the two-year period set forth in subsection B of § 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 result, subsequent to notification by the Board to the Commission, in the administrative termination, or to complete the license renewal requirements set forth in §§ 38.2-1825.1 or 38.2-1840, shall result in the termination, pursuant to §§ 38.2-1825.1 or 38.2-1840, of each license held by the agent for which the requirement was requirements of this article were not satisfied.

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

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

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

E. Immediately following December 31 of each even-numbered year, the Board shall provide a reasonable period of time for processing of appeals pursuant to § 38.2-1874. C. An agent whose license has been terminated pursuant to §§ 38.2-1825.1 or 38.2-1840 for failure to satisfy the continuing education requirements of this article may appeal the determination of noncompliance to the Board. However, failure of an agent to provide written notice of appeal in the form and manner required prescribed by the Board by the close of business on January 31, or the next working day thereafter if January 31 falls on a weekend, of the following year within 30 calendar days following expiration of the two-year period set forth in subsection B of § 38.2-1868.1 and in §§ 38.2-1825 and 38.2-1840 shall be deemed a waiver by such agent of the right to appeal the determination of noncompliance with the Board.

F. No more than 15 calendar days after the end of the appeal period set forth in subsection E, the Board or its administrator shall provide to the Commission a final updated record of those agents who complied with the requirements of this article, whereupon the Commission shall administratively terminate the licenses of those agents required to submit proof of compliance and by whom proof of compliance was not submitted in a proper or timely manner. Agents wishing to contest the Commission's action in terminating a license shall adhere to the Commission's Rules of Practice and Procedure (5VAC5-20-10 et seq.) and the Rules of the Supreme Court of Virginia. Failure by the agent

to initiate such contest within 30 calendar days following the date the license was administratively terminated shall be deemed a waiver by the agent of the right to contest such license termination.

G. *D.* Pursuant to the requirements of subsection C of § 38.2-1815, §§ 38.2-1857.1, and 55-525.19, respectively:

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

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

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

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

H. A resident agent whose license or licenses have been terminated under the terms of this section shall be permitted to make application for new licenses, provided that such agent has successfully completed, subsequent to the end of the biennium, the examination required by § 38.2-1817. In such an event, the examination requirements shall not be subject to waiver under any circumstances, including those set forth in § 38.2-1817.

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

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

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

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

#### **§ 38.2-1871. Licensees not subject to the continuing education requirements of this article.**

A. *Resident A* resident or nonresident agents *agent* who have *has* been issued a license during the last 12 13 months of the biennium in which such licenses are issued, and who are not otherwise exempt from the continuing education requirements for that license, *two-year period set forth in subsection B of* § 38.2-1868.1 and in §§ 38.2-1825.1 and 38.2-1840 shall be exempt from fulfilling the continuing education *credit course* requirements set forth in this article for that license for that biennium.

B. The following licensees are *exempt from fulfilling not subject to* the continuing education *credit course* requirements set forth in this article:

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

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

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

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

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

A. The Board shall have the authority to transfer all or part of its administrative duties to an outside administrator. The performance of the administrator shall be confirmed at least annually by the Board and appropriate corrective action shall be taken for any deficiencies. Such administrator shall maintain

records reflecting the continuing education status of all licensed agents reporting credits to it, subject to the requirements of this article.

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

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

**§ 38.2-1873. Continuing insurance education fees.**

The continuing insurance education program established by this article shall be self-supporting, and any costs incurred by the Board, its members, its administrator, or the Commission, administrator, or the Board or its members, including legal fees and other legal expenses incurred during or as a result of in connection with the good faith execution of their respective duties, pertaining to the continuing education of insurance agents licensed in the Commonwealth shall be borne by the continuing insurance education fees paid by agents, course sponsors, and course instructors, which fees, except for duplicate payments, shall be nonrefundable upon receipt.

**§ 38.2-1876. Licensure of vendors.**

A. A vendor is required to hold a limited lines property and casualty insurance agent license to sell or offer coverage under a policy of portable electronics insurance.

B. On or before May 1, 2021, and biennially thereafter, each vendor licensed as a limited lines property and casualty insurance agent shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

C. A license issued under this article shall authorize any employee or authorized representative of a licensed vendor to sell or offer portable electronics insurance coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions.

D. The acts of a licensed vendor's employee or authorized representative offering to sell coverage under a policy of portable electronics insurance shall be deemed to be the acts of the vendor for purposes of this article.

E. Every licensed vendor shall maintain a list of all locations in the Commonwealth where the vendor offers coverage under a policy of portable electronics insurance and shall make the list available to the Commissioner for inspection upon request.

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

**§ 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. On or before May 1, 2021, and biennially thereafter, each lessor licensed as a limited lines property and casualty insurance agent shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall

1338 *automatically be terminated.*

1339 C. A license issued under this article shall authorize any employee or authorized representative of a  
1340 licensed lessor to sell or offer self storage insurance coverage under a policy of self storage insurance to  
1341 a customer at each location at which the lessor engages in self storage unit transactions.

1342 ~~C.~~ D. The acts of a licensed lessor's employee or authorized representative offering to sell coverage  
1343 under a policy of self storage insurance shall be deemed to be the acts of the lessor and the insurer for  
1344 purposes of this article.

1345 ~~D.~~ E. Every licensed lessor shall maintain a list of all locations in the Commonwealth where the  
1346 lessor offers coverage under a policy of self storage insurance and shall make the list available to the  
1347 Commissioner for inspection upon request.

1348 ~~E.~~ F. Notwithstanding any other provision of law, a license issued pursuant to this article shall  
1349 authorize the licensed lessor's employees and authorized representatives to engage only in those activities  
1350 that are expressly permitted in this article.

1351 **§ 38.2-1888. Requirements for sale of travel insurance.**

1352 A. A travel retailer may offer and disseminate travel insurance under its own or another's limited  
1353 lines travel insurance agent license only if the following conditions are met:

1354 1. Any travel retailer offering or disseminating travel insurance shall make available to prospective  
1355 purchasers brochures or other written materials that:

1356 a. Provide the identity and contact information of the insurer and the limited lines travel insurance  
1357 agent;

1358 b. Explain that the purchase of travel insurance is not required in order to purchase any other product  
1359 or service from the travel retailer; and

1360 c. Explain that an unlicensed travel retailer is permitted to provide general information about the  
1361 insurance offered by the travel retailer, including a description of the coverage and price, but is not  
1362 qualified or authorized to answer technical questions about the terms and conditions of the insurance  
1363 offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage;

1364 2. The limited lines travel insurance agent or travel retailer provides to purchasers of travel  
1365 insurance:

1366 a. A description of the material terms or the actual material terms of the insurance coverage;

1367 b. A description of the process for filing a claim;

1368 c. A description of the review or cancellation process for the travel insurance policy; and

1369 d. The identity and contact information of the insurer and limited lines travel insurance agent;

1370 3. At the time of licensure, the limited lines travel insurance agent shall establish and maintain a  
1371 register on a form prescribed by the Commission of each travel retailer that offers travel insurance on  
1372 the limited lines travel insurance agent's behalf. The register shall be maintained and updated by the  
1373 limited lines travel insurance agent and shall include the name, address, and contact information of the  
1374 travel retailer and an officer or person who directs or controls the travel retailer's operations, and the  
1375 travel retailer's Federal Tax Identification Number. The limited lines travel insurance agent shall submit  
1376 such register to the Commission upon reasonable request. The limited lines travel insurance agent shall  
1377 also certify that the travel retailer registered complies with 18 U.S.C. § 1033;

1378 4. The limited lines travel insurance agent has designated a DRLP;

1379 5. The DRLP, president, secretary, treasurer, and any other officer or person who directs or controls  
1380 the limited lines travel insurance agent's insurance operations complies with a background check or  
1381 fingerprinting requirements applicable to insurance agents;

1382 6. The limited lines travel insurance agent has paid all applicable insurance agent licensing fees as  
1383 set forth in this title; ~~and~~

1384 7. The limited lines travel insurance agent requires each employee or authorized representative of the  
1385 travel retailer whose duties include offering and disseminating travel insurance to receive a program of  
1386 instruction or training, which may be subject to review by the Commission. The training material shall,  
1387 at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required  
1388 disclosures to prospective customers; *and*

1389 8. *On or before May 1, 2021, and biennially thereafter, each travel retailer licensed as a limited*  
1390 *lines travel insurance agent shall submit to the Commission a renewal application, along with a*  
1391 *nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the*  
1392 *license. Any limited lines travel insurance agent license for which the renewal application and*  
1393 *nonrefundable renewal application processing fee have been received by the Commission and all other*  
1394 *applicable licensing and renewal provisions in this chapter have been met shall, unless the license has*  
1395 *been terminated, suspended, or revoked, be renewed for a two-year period. Any limited lines travel*  
1396 *insurance agent license for which the renewal application and nonrefundable renewal application*  
1397 *processing fee have not been received by the Commission shall automatically be terminated.*

1398 B. A travel retailer's employee or authorized representative who is not licensed as an insurance agent

1399 may not:

1400 1. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance  
1401 coverage;

1402 2. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

1403 3. Hold himself or itself out as a licensed insurer, licensed agent, or insurance expert.

1404 C. A travel retailer whose insurance-related activities, and those of its employees or authorized  
1405 representatives, are limited to offering and disseminating travel insurance on behalf of and under the  
1406 direction and license of a limited lines travel insurance agent meeting the conditions stated in this article  
1407 is authorized to conduct such activities and receive related compensation, upon registration by the  
1408 limited lines travel insurance agent as described in subdivision A 3. No travel retailer employee or  
1409 authorized representative may be compensated based primarily on the number of customers who  
1410 purchase travel insurance coverage; however, nothing in this article shall prohibit payment of  
1411 compensation to a travel retailer or its employees or authorized representatives for activities under the  
1412 limited lines travel insurance agent's license that are incidental to the travel retailer's or its employee's or  
1413 authorized representative's overall compensation.

1414 D. Travel insurance may be provided under an individual policy or under a group or master policy.

1415 E. As the insurer designee, the limited lines travel insurance agent and the insurer (i) are responsible  
1416 for the acts of a travel retailer who is not a limited lines travel insurance agent and (ii) shall use  
1417 reasonable means to ensure compliance by the travel retailer with this article.

1418 **§ 55-525.30. Settlement agent registration requirements and compliance with unauthorized**  
1419 **practice of law guidelines.**

1420 A. Every settlement agent subject to the provisions of this chapter shall be registered as such with  
1421 the appropriate licensing authority. In conjunction therewith, settlement agents shall furnish (i) their  
1422 names, business addresses, and telephone numbers and (ii) such other information as may be required.  
1423 Each such registration (a) shall be accompanied by a nonrefundable fee ~~not to exceed \$100, prescribed~~  
1424 *by the appropriate licensing authority* and (b) shall be renewed at least biennially thereafter. When the  
1425 registration of a settlement agent is renewed, the appropriate authority shall notify the registrant of the  
1426 provisions of § 17.1-223.

1427 B. *The Commission shall retain the authority to enforce the provisions of and impose any penalty or*  
1428 *remedy authorized by this title and Title 38.2 against any person who is under investigation by the*  
1429 *Commission for or charged with a violation of this title, even if the person's license or registration has*  
1430 *been surrendered, terminated, suspended, or revoked or has lapsed by operation of law.*

1431 C. The Virginia State Bar, in consultation with the Commission and the Virginia Real Estate Board,  
1432 shall adopt regulations establishing guidelines for settlement agents designed to assist them in avoiding  
1433 and preventing the unauthorized practice of law in conjunction with providing escrow, closing, and  
1434 settlement services. Such guidelines shall be furnished by the appropriate licensing authority to (i) each  
1435 settlement agent at the time of registration and any renewal thereof, (ii) state and federal agencies that  
1436 regulate financial institutions, and (iii) members of the general public upon request. Such guidelines  
1437 shall also be furnished by settlement agents to any party to a real estate transaction in which such agents  
1438 are providing escrow, closing, or settlement services, upon request.

1439 ~~C.~~ D. The Virginia State Bar shall receive complaints concerning settlement agent or financial  
1440 institution noncompliance with the guidelines established pursuant to subsection ~~B~~ C and shall (i)  
1441 investigate the same to the extent they concern the unauthorized practice of law or any other matter  
1442 within its jurisdiction, and (ii) refer all other matters or allegations to the appropriate licensing authority.  
1443 The willful failure of any settlement agent to comply with the guidelines shall be considered a violation  
1444 of this chapter, and such agent shall be subject to a penalty of up to \$5,000 for each such failure as the  
1445 Virginia State Bar may determine.

1446 2. That §§ 38.2-1857.3, 38.2-1857.4, and 38.2-1870 of the Code of Virginia are repealed.

1447 3. That the provisions of this act shall become effective on January 1, 2021.