

# 2021 SPECIAL SESSION I

INTRODUCED

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## HOUSE BILL NO. 1942

Offered January 13, 2021

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A *BILL to amend and reenact §§ 38.2-1866, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, and 38.2-1873 of the Code of Virginia and to repeal § 38.2-1845.9 of the Code of Virginia, relating to public adjusters; continuing education.*

Patron—Kilgore

Referred to Committee on Labor and Commerce

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

**1. That §§ 38.2-1866, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, and 38.2-1873 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 38.2-1866. Continuing education requirements.**

A. Every individual resident and nonresident (i) insurance consultant, (ii) life and annuities insurance agent, (iii) health agent, (iv) property and casualty insurance agent (v) personal lines agent, and (vi) title insurance agent shall, on a biennial basis, furnish evidence as set forth in this article that the continuing education requirements of this article have been satisfied. As used in this article, the term "agent" shall be construed to refer to any of the individual licensees referred to above.

B. *Every individual resident and nonresident public adjuster shall, on a biennial basis, furnish evidence as set forth in this article that the continuing education requirements of this article have been satisfied.*

C. Any agent who holds a life and annuities license or a health agent license, or both, shall complete 16 hours of relevant continuing education credits.

~~C.~~ D. Any agent who holds a personal lines license or a property and casualty license shall complete 16 hours of relevant continuing education credits.

~~D.~~ E. Any agent who holds a title agent license shall complete 16 hours of relevant continuing education credits.

~~E.~~ F. *A public adjuster shall complete 24 hours of relevant continuing education credits.*

G. Except as provided in subsection B and § 38.2-1871, any agent who holds licenses from more than one category of licenses identified in subsection A shall complete 24 hours of relevant continuing education credits with a minimum of eight credit hours in each such category.

~~F.~~ H. Of the total required credits for each biennium, *an agent shall complete three credit hours shall be in insurance ethics, which may include insurance law and regulations applicable in Virginia the Commonwealth.*

~~G.~~ I. *Of the total required credits for each biennium, a public adjuster shall complete three credit hours in insurance ethics.*

J. Agents may receive no more than 75 percent of their required credits from courses provided by insurance companies or agencies. The Board, in its sole discretion, shall, at the time of course approval, determine whether any particular course shall be considered to be insurance company or agency sponsored; and shall require all course sponsors to provide this information clearly and conspicuously to all those enrolling in that course.

#### **§ 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, programs of instruction, 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 *and public adjusters* 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

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59 review and approve or disapprove the proposed test as part of the course approval process.

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

65 D. ~~Excess~~ Any agent with excess credit hours accumulated during the two-year period set forth in  
66 subsection B of § 38.2-1868.1 may ~~be carried~~ carry such hours forward to the next biennium only.

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

68 1. One active member of the Independent Insurance Agents of Virginia, as recommended by the  
69 Independent Insurance Agents of Virginia;

70 2. One active member of the Professional Insurance Agents of Virginia and the District of Columbia,  
71 as recommended by the Professional Insurance Agents of Virginia and the District of Columbia;

72 3. One active member of the National Association of Insurance and Financial Advisors of Virginia,  
73 as recommended by the National Association of Insurance and Financial Advisors of Virginia;

74 4. One active member of the Virginia Land Title Association, as recommended by the Virginia Land  
75 Title Association;

76 5. One active member of the Virginia Association of Health Underwriters, as recommended by the  
77 Virginia Association of Health Underwriters;

78 6. Three representatives of the property and casualty insurance industry;

79 7. Three representatives of the life and health insurance industry; and

80 8. One representative of the adult education or higher education field.

81 F. No person shall serve as a member of the Board if, in the opinion of the Commission, such  
82 person (i) prepares, submits for approval, or teaches insurance continuing education courses in Virginia  
83 or in any other jurisdiction, other than as an incidental part of such person's employment, or (ii) no  
84 longer meets the criteria on which the original appointment to the Board was based pursuant to  
85 subsection E.

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

91 H. Actions of the Board shall be exempt from the application of the Administrative Process Act  
92 (§ 2.2-4000 et seq.).

93 **§ 38.2-1868.1. Proof of compliance with continuing education requirements; waivers.**

94 A. As used in this article:

95 "Proof of compliance" means all fees prescribed by the Board and all documents and forms specified  
96 by the Board for demonstrating completion of Board-approved continuing education courses relevant to  
97 the license held and for the required number of hours.

98 "Received by the Board or its administrator" means delivered into the possession of the Board or its  
99 administrator in a form and manner prescribed by the Board.

100 B. Each agent and *public adjuster* holding one or more licenses subject to the continuing education  
101 requirements of this article shall complete all continuing education course or waiver requirements and  
102 shall submit to the Board or its administrator proof of compliance with such requirements in the form  
103 and manner required by the Board biennially, based on the agent's or *public adjuster's* month and year  
104 of birth. An agent or *public adjuster* born in an even-numbered year shall complete all continuing  
105 education course or waiver requirements and shall submit proof of compliance by the end of the  
106 agent's or *public adjuster's* birth month in even-numbered years. An agent or *public adjuster* born in an  
107 odd-numbered year shall complete all continuing education course or waiver requirements and shall  
108 submit proof of compliance by the end of the agent's or *public adjuster's* birth month in odd-numbered  
109 years.

110 C. A licensed agent or *public adjuster* who is unable to comply with the continuing education  
111 requirements of this article due to military service or other extenuating circumstances, including  
112 long-term illness or incapacity may request a waiver of such requirements. Requests for waivers of  
113 continuing education requirements shall be made in a form and manner prescribed by the Board. Agents  
114 An agent or *public adjuster* seeking a waiver of some or all of the continuing education requirements  
115 shall submit all documentation, forms, and fees specified by the Board so as to be received by the  
116 Board or its administrator no later than the last day of the two-year period set forth in subsection B and  
117 in §§ 38.2-1825.1 and, 38.2-1840, and 38.2-1845.8. After the two-year period, agents an agent or *public*  
118 *adjuster* who have has failed to complete the continuing education requirements may request a waiver of  
119 the continuing education reinstatement requirements set forth in subsection E of § 38.2-1825.1 and,  
120 subsection E of § 38.2-1840, and subsection E of § 38.2-1845.8 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 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 *or public adjuster* to complete all continuing education course or waiver requirements, 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, or to complete the license renewal requirements set forth in § 38.2-1825.1 ~~or~~, 38.2-1840, *or* 38.2-1845.8, shall result in the termination, pursuant to § 38.2-1825.1 ~~or~~, 38.2-1840, *or* 38.2-1845.8, of each license held by the agent *or public adjuster* for which the requirements of this article were not satisfied.

B. Neither the Board, its administrator, nor the Commission shall have the power to grant an agent *or public adjuster* 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.

C. An agent *or public adjuster* whose license has been terminated pursuant to § 38.2-1825.1 ~~or~~, 38.2-1840, *or* 38.2-1845.8 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 *or public adjuster* to provide notice of appeal in the form and manner prescribed by the Board 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 38.2-1825.1~~, 38.2-1840, *and* 38.2-1845.8 shall be deemed a waiver by such agent *or public adjuster* of the right to appeal the determination of noncompliance with the Board.

D. Pursuant to the requirements of subsection C of § 38.2-1815 and §§ 38.2-1857.1 and 55.1-1003, respectively:

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

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

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

E. An insurance consultant who fails to renew his insurance consultant license by the date specified in § 38.2-1840, but who 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.

F. 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.

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

A. A resident or nonresident agent *or public adjuster* who has been issued a license during the last 13 months of the two-year period set forth in subsection B of § 38.2-1868.1 and in §§ 38.2-1825.1 ~~and~~, 38.2-1840, *and* 38.2-1845.8 shall be exempt from fulfilling the continuing education course requirements set forth in this article for that license for that biennium.

B. The following licensees are not subject to the continuing education 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

182 nonresident agent's home state will grant similar exemptions to Virginia residents have met the  
183 continuing education requirements of their home state and whose home state gives credit to residents of  
184 the Commonwealth on the same basis; and

185 4. Nonresident public adjusters who have met the continuing education requirements of their home  
186 state and whose home state gives credit to residents of the Commonwealth on the same basis; and

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

189 **§ 38.2-1873. Continuing insurance education fees.**

190 The continuing insurance education program established by this article shall be self-supporting, and  
191 any costs incurred by the Board, its members, its administrator, or the Commission in connection with  
192 the good faith execution of their respective duties pertaining to the continuing education of insurance  
193 agents and public adjusters licensed in the Commonwealth shall be borne by the continuing insurance  
194 education fees paid by agents, public adjusters, course sponsors, and course instructors, which fees,  
195 except for duplicate payments, shall be nonrefundable upon receipt.

196 2. That § 38.2-1845.9 of the Code of Virginia is repealed.