

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 16

An Act to amend and reenact §§ 13.1-400.1, 13.1-400.3, 13.1-400.4, 13.1-400.5, 38.2-1800, 38.2-1814, and 38.2-1824 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 13.1-400.4:1, relating to insurance; automobile clubs.

[S 41]

Approved March 9, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-400.1, 13.1-400.3, 13.1-400.4, 13.1-400.5, 38.2-1800, 38.2-1814, and 38.2-1824 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 13.1-400.4:1 as follows:

§ 13.1-400.1. Definitions.

As used in this chapter:

"Automobile club" ~~shall mean~~ *means* a legal entity which, in consideration of dues, assessments or periodic payments of money, promises its members or subscribers to assist them in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle, by supplying services which may include but are not limited to towing service, emergency road service, indemnification service, guaranteed arrest bond certificate service, discount service, financial service, theft service, map service, or touring service.

"Towing service" shall mean ~~furnishing~~ means to move a motor vehicle from one place to another under power other than its own.

"Emergency road service" shall mean adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle so that such motor vehicle may be operated under its own power.

"Indemnification service" shall mean providing reimbursement of members or subscribers for (a) attorney's fees in the event criminal proceedings are instituted against such members or subscribers as a result of the operation of a motor vehicle, or in the event the member's or subscriber's motor vehicle sustains property damage as a result of a motor vehicle accident, or in the event that such member or subscriber receives personal injuries while driving or riding in a motor vehicle; (b) expenses incurred by them for towing service or "emergency road service"; (c) losses occasioned by misuse or forgery in connection with a gasoline credit card; and (d) expenses incurred by members or subscribers when their motor vehicle is disabled as a result of an accident or collision.

"Guaranteed arrest bond certificate service" shall mean the issuance of such a card or certificate as is defined in subsection C of § 38.2-2407.

"Discount service" shall mean an arrangement by a motor club resulting in giving special discounts, rebates or reductions of price on gasoline, oil, repairs, parts, accessories or service for motor vehicles to holders of service contracts with any such club.

"Financial service" shall mean an arrangement by a motor club whereby loans or other advances of money are made to holders of service contracts with any such club.

"Theft service" shall mean assisting in locating, identifying or recovering a stolen or missing motor vehicle of a member or subscriber or assisting in detecting or apprehending any person guilty of the theft of such vehicle.

"Map service" shall mean the furnishing by a motor club of road maps without cost to holders of service contracts with any such club.

"Touring service" shall mean the furnishing by a motor club of touring information without cost to holders of service contracts with any such club.

"Discount service" means an arrangement by an automobile club resulting in giving special discounts, rebates or reductions of price on gasoline, oil, repairs, parts, accessories or service for motor vehicles to members or subscribers of any such club.

"Emergency road service" means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle so that such motor vehicle may be operated under its own power.

"Financial service" means an arrangement by an automobile club whereby loans or other advances of money are made to members or subscribers of any such club.

"Guaranteed arrest bond certificate service" means the issuance of such a card or certificate as is defined in subsection C of § 38.2-2407.

"Indemnification service" means providing reimbursement of members or subscribers for (i) attorney's fees in the event criminal proceedings are instituted against such members or subscribers as a result of the operation of a motor vehicle, or in the event the member's or subscriber's motor vehicle sustains property damage as a result of a motor vehicle accident, or in the event that such member or subscriber receives personal injuries while driving or riding in a motor vehicle; (ii) expenses incurred

by them for "towing service" or "emergency road service"; (iii) losses occasioned by misuse or forgery in connection with a gasoline credit card; and (iv) expenses incurred by members or subscribers when their motor vehicle is disabled as a result of an accident or collision.

"Map service" means the furnishing by an automobile club of road maps without cost to members or subscribers of any such club.

"Theft service" means assisting in locating, identifying or recovering a stolen or missing motor vehicle of a member or subscriber or assisting in detecting or apprehending any person guilty of the theft of such vehicle.

"Touring service" means the furnishing by an automobile club of touring information without cost to members or subscribers of any such club.

"Towing service" means furnishing means to move a motor vehicle from one place to another under power other than its own.

§ 13.1-400.3. Applications for licenses; fees; expiration and renewal; surety bond.

A. Each applicant for a license shall furnish such evidence as the Commission may require that it is able to perform its contracts and that it is managed by persons of good character and reputation. ~~With the application it shall file a list of the individuals who are to sell its contracts, giving their names and addresses and furnishing evidence of their good character and reputation. The applicant shall pay a license fee of \$100 for the automobile club and a license fee of \$2 for each agent. All licenses shall expire at midnight on December 31 of the year for which issued, and may be renewed on application and payment of the same fees. The applicant shall file a surety bond in the amount of \$30,000 conditioned to secure the performance of its contracts. Application for a license to do business as an automobile club shall be made in writing in the form prescribed by the Commission and shall be accompanied by a nonrefundable application fee of \$500. Upon the filing of an application and the payment of the application fee, the Commission shall make an investigation of the applicant. The Commission shall issue a license, expiring on June 30 immediately following the date of issuance, if it finds that (i) the application is in proper form and the required fee has been paid; (ii) the corporation is a corporation in this Commonwealth or a foreign corporation that has a certificate of authority to transact business in this Commonwealth; and (iii) the applicant has filed a surety bond in the amount of \$30,000 conditioned to secure the performance of its contracts. The application fee required by this subsection 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" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.~~

B. Subject to the above requirements and the provisions of § 13.1-400.5, a licensed automobile club may renew its license effective July 1 of each year, upon the prior payment of a nonrefundable annual license fee of \$200, unless the license has been surrendered, suspended or revoked. Automobile club licenses renewed effective January 1, 1998, shall continue in effect until July 1, 1999, unless the license is in the interim surrendered, suspended or revoked. The renewal fee required by this subsection 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" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

§ 13.1-400.4. Services licensed under other statutes.

Issuance of a license as provided in § 13.1-400.3 shall not be construed as permitting any automobile club to render services for which a license is required under other provisions of law until such other license shall have been obtained. ~~Provided, that~~ However, an undertaking by a licensed automobile club to perform any of the services defined in § 13.1-400.1 shall not subject such automobile club to the requirements of Title 38.2 other than those to which reference is made in this chapter.

§ 13.1-400.4.1. Automobile club agents.

A. Individuals, corporations, partnerships and limited liability companies acting as agents for an automobile club shall be required to obtain the appropriate license and appointment, as required in Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2, and shall be subject to all relevant requirements of that chapter. Any automobile club seeking to allow an individual, corporation, partnership or limited liability company to act as its agent in Virginia shall be subject to all relevant requirements of Chapter 18 of Title 38.2, and shall be required to appoint such agent and renew such appointments on an annual basis in the same manner as is required of insurers pursuant to Chapter 18 of Title 38.2.

B. Automobile club agent licenses renewed on or before January 1, 1998, or issued on or before July 1, 1998, shall not be required to be reissued pursuant to this section. For purposes of compliance with §§ 38.2-1833, 38.2-1834 and 38.2-1835, such agents shall be deemed to have been properly appointed by each automobile club with which the agents are licensed, and appointments under such licenses shall not be required to be renewed until July 1, 1999.

§ 13.1-400.5. Suspension, revocation or failure to renew license; fine for violations.

~~The Commission may, after notice and hearing, punish violations of this chapter by a licensed automobile club or a licensed agent of such club by a fine of not more than \$1,000, or by revocation of the license of such agent or club or by both fine and revocation.~~

A. The Commission may suspend, revoke or refuse to renew a license of any automobile club

whenever it finds that:

1. The licensee has (i) failed to pay the annual license fee; (ii) violated or failed to comply with any of the provisions of this chapter or with any rule, regulation, order, demand, ruling, provision or requirement of the Commission lawfully made pursuant to or within the authority of this chapter; or (iii) violated or failed to comply with any applicable provisions of Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2 or with any rule or regulation made by the Commission pursuant to any applicable provisions of that chapter; or

2. The licensee no longer meets the standards required for the initial issuance of a license.

B. In addition, the Commission may, after notice and hearing, punish violations of this chapter or of applicable provisions of Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2 by a licensed automobile club or a licensed agent of such club by a fine of not more than \$1,000, by revocation of the license of such agent or club, or by both fine and revocation.

§ 38.2-1800. Definitions.

As used in this chapter:

"Agent" or "insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation that solicits, negotiates, procures or effects contracts of insurance or annuity in this Commonwealth.

"Licensed agent" or "licensed insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation licensed in this Commonwealth to solicit, negotiate, procure or effect contracts of insurance or annuity of the classes authorized within the scope of such license.

"Appointed agent" or "appointed insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation licensed in this Commonwealth to solicit, negotiate, procure, or effect contracts of insurance or annuity of the classes authorized within the scope of such license and who is appointed by a company licensed in this Commonwealth to solicit, negotiate, procure, or effect in its behalf contracts of insurance of the classes authorized within the scope of such license and, if authorized by the company, may collect premiums on those contracts.

"Cooperative nonprofit life benefit insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect life insurance, accident and sickness insurance or annuities on behalf of insurers licensed under Chapter 38 (§ 38.2-3800 et seq.) of this title.

"Automobile club agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect automobile club contracts on behalf of automobile clubs licensed under Chapter 3.1 (§ 13.1-400.1 et seq.) of Title 13.1.

"Bail bond agent" means an agent licensed in this Commonwealth for the sole purpose of writing appearance bonds as surety, as defined in subdivision 3 of § 38.2-121.

"Burial insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect burial insurance on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.) of this title.

"Cooperative nonprofit life benefit insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect life insurance, accident and sickness insurance or annuities on behalf of insurers licensed under Chapter 38 (§ 38.2-3800 et seq.) of this title.

"Credit life and health insurance agent" means an agent licensed in this Commonwealth exclusively to solicit, negotiate, procure, or effect credit life insurance and credit accident and sickness insurance on behalf of insurers licensed in this Commonwealth, but only to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.) of this title.

"Credit property insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect insurance against direct physical damage to personal household property used as security for a loan or other credit transaction. Such insurance may insure the creditor as sole beneficiary or may insure both the creditor and the debtor with the creditor as primary beneficiary and the debtor as beneficiary of proceeds not paid to the creditor. As used in this definition, "household personal property" does not include motor vehicles, mobile homes, or watercraft.

"Dental services agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect dental services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500 et seq.) of this title.

"Filed" means received by the Commission.

"Health agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect applications and coverage on behalf of corporations licensed in this Commonwealth under Chapter 42 (§ 38.2-4200 et seq.) of this title or for health maintenance organizations licensed in this Commonwealth under Chapter 43 (§ 38.2-4300 et seq.) of this title. Nothing in this chapter prohibits any person licensed in this Commonwealth as a life and health agent from also acting as a health agent.

"Legal services agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect legal services plan contracts on behalf of legal services plans licensed under Chapter 44 (§ 38.2-4400 et seq.) of this title.

"Licensed agent" or "licensed insurance agent," when used without qualification, means an

individual, partnership, limited liability company, or corporation licensed in this Commonwealth to solicit, negotiate, procure or effect contracts of insurance or annuity of the classes authorized within the scope of such license.

"Life and health insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect life insurance, annuity contracts, and accident and sickness insurance as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-106, 38.2-108 and 38.2-109, respectively, and variable contracts as defined in §§ 38.2-105 and 38.2-107, if so qualified, on behalf of insurers licensed in this Commonwealth. Except as otherwise provided, limitations or restrictions as to methods of compensation imposed by this title on agents shall not apply to life and health insurance agents.

"Mortgage accident and sickness insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mortgage accident and sickness insurance on behalf of insurers licensed in this Commonwealth.

"Mortgage guaranty insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mortgage guaranty insurance on behalf of insurers licensed in this Commonwealth.

"Mortgage redemption insurance agent" means an employee of a lending institution, whether or not the institution accepts deposits from the public, licensed in this Commonwealth to solicit, negotiate, procure, or effect mortgage redemption insurance and mortgage accident and sickness insurance. "Mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing term life insurance policy written in connection with a mortgage transaction for a period of time coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the indebtedness outstanding at the time the insurance becomes effective, rounded up to the next \$1,000.

"Mutual assessment life and health insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mutual assessment life and accident and sickness insurance on behalf of insurers licensed under Chapter 39 (§ 38.2-3900 et seq.) of this title.

"Mutual assessment property and casualty insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mutual assessment property and casualty insurance on behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.) of this title.

"Ocean marine insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect those classes of insurance classified in § 38.2-126, except those kinds specifically classified as inland marine insurance, on behalf of insurers licensed in this Commonwealth.

"Optometric services agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect optometric services plan contracts on behalf of optometric services plans licensed under Chapter 45 (§ 38.2-4500 et seq.) of this title.

"Property and casualty insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect insurance as defined in §§ 38.2-110 through 38.2-122.1, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in this Commonwealth.

"Resident" means (i) an individual domiciled and residing in Virginia; (ii) a partnership duly formed and recorded in Virginia; (iii) a corporation incorporated and existing under the laws of Virginia; or (iv) a limited liability company organized and existing under the laws of Virginia.

"Single interest insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect single interest insurance on behalf of insurers licensed in this Commonwealth.

"Solicit, negotiate, procure, or effect" means and includes the selling or attempted selling, placing or attempted placing of insurance or coverage, whether directly or indirectly, in this Commonwealth, and for which action the agent receives, or would receive, direct or indirect compensation in the form of commissions, fees, or other inducements or benefits.

"Title insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect title insurance on behalf of title insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.) of this title.

"Travel accident insurance agent" means an individual at transportation terminal buildings, or a ticket-selling agent of a railroad, steamship company, air carrier, or public bus carrier, who is licensed in this Commonwealth solely to act as an agent in the sale of travel accident insurance to individuals.

"Travel baggage insurance agent" means the ticket-selling agent of a railroad or steamship company, air carrier, or public bus carrier who is licensed in this Commonwealth solely to act as an agent in the sale of travel baggage insurance to individuals.

"Variable contract agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect variable contracts on behalf of insurers licensed in this Commonwealth.

§ 38.2-1814. License required of resident property and casualty insurance agent.

No individual who is a resident of this Commonwealth shall obtain a license as a property and casualty insurance agent from the Commission unless he has passed a written examination prescribed by the Commission. However, any individual may obtain a license as a *an automobile club agent*, bail bond agent, credit property insurance agent, mortgage guaranty insurance agent, ocean marine insurance agent, or travel baggage insurance agent without taking a written examination. Mutual assessment property and casualty insurance agents shall be licensed without examination only within the limitations of

§ 38.2-2525.

§ 38.2-1824. Kinds of agents' licenses and appointments issued.

A. The Commission shall issue the following kinds of agents' licenses and appointments: life and health insurance, property and casualty insurance, *automobile club*, cooperative nonprofit life benefit insurance, bail (appearance) bonds, burial insurance, credit life and health insurance, credit property insurance, dental services insurance, health insurance, legal services insurance, mortgage accident and sickness insurance, mortgage guaranty insurance, mortgage redemption insurance, mutual assessment property and casualty insurance, mutual assessment life and health insurance, ocean marine insurance, optometric services insurance, title insurance, travel accident insurance, travel baggage insurance, and variable contract insurance.

B. All individuals and agencies who on July 1, 1987, held 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, may remain licensed under such limited licenses, but no such license which has lapsed or been revoked shall be reinstated, and no new or additional licenses for any of the categories enumerated above shall be issued.