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SENATE BILL NO. 422

Offered January 26, 1998

A *BILL to amend and reenact §§ 38.2-1866, 38.2-1868.1, 38.2-1869, and 38.2-1872 of the Code of Virginia, relating to insurance; continuing education requirements for insurance agents.*

Patrons—Colgan, Barry, Chichester, Holland and Stosch; Delegate: Parrish

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-1866, 38.2-1868.1, 38.2-1869, and 38.2-1872 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-1866. Continuing education requirements.

A. Every resident and nonresident (i) insurance consultant, (ii) health insurance agent, (iii) life and health insurance agent, (iv) property and casualty insurance agent, and (v) 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 licensees referred to above.*

B. Any agent who holds one type of license subject to this section shall complete sixteen hours of continuing education credits. Any agent who holds more than one type of license subject to this section shall complete twenty-four hours of continuing education credits with a minimum of eight credit hours in each license type. Of the total required credits for each biennium, two credit hours shall be in insurance law and regulations applicable in Virginia. Agents may receive no more than seventy-five percent of their required credits from *courses provided by insurance company or agency-sponsored courses 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.*

§ 38.2-1868.1. Proof of compliance; late filing penalty, exemption or waiver.

A. As used in this article:

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

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

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

1. Such proof of compliance must be received by the Board or its administrator *by the close of business on or before December 31 of each even-numbered year. However, notwithstanding the provisions of subsection A of § 38.2-1869, for the biennium ending December 31, 1996, an agent shall be permitted to submit proof of compliance to be received by the Board or its administrator on or before January 15, 1997 February 28 of the following year, or the next working day thereafter if February 28 falls on a weekend.*

2. Agents shall be permitted to submit proof of compliance for an additional period of time, until the close of business on March 31, or the next working day thereafter if March 31 falls on a weekend, of such year subject to payment by the agent, in addition to any filing fee imposed by the Board for timely filing of proof of compliance, of a late filing penalty of \$250, payable to the Board in such manner as may be prescribed by the Board. No agent whose proof of compliance is received during the extension provided by this subdivision shall be considered in compliance with the continuing education requirements unless the filing fee and the late filing penalty described herein have been paid by the close of business on March 31, or the next working day thereafter if March 31 falls on a weekend.

3. Failure of an agent to furnish proof of compliance by such date shall result in the imposition of the penalties set forth in § 38.2-1869.

C. Agents seeking a waiver of continuing education 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

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by the Board or its administrator as set forth in § 38.2-1870.

D. 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 ~~midnight~~ *the close of business* on the date specified in subsection B or C of this section shall be deemed to be in noncompliance with the requirements of this article.

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

A. Failure of an agent to satisfy the requirements of this article by the last day of each even-numbered year beginning December 31, 1994, 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 of each license held by the agent for which the requirement was not satisfied. *An agent whose license is terminated pursuant to this section shall have the right to appeal such termination in the manner set forth by the Board pursuant to subdivision A 7 of § 38.2-1874. However, failure of an agent to provide written notice of such appeal in the form and manner required by the Board within sixty days following the date of termination of such license shall be deemed a waiver by such agent of the right to appeal such license termination.*

1. 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.

2. The Board shall, ~~by~~ *on or about* a date ~~thirty~~ *forty-five* days 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.

3. No such administrative termination shall become effective until the Commission has provided thirty 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 thirty-day notice period shall commence on the date that the written notice is deposited in the United States mail. Failure of an agent to receive such notification shall not be grounds for contesting a license termination. Neither the Board, nor its administrator, nor the Commission shall have the power to grant an agent additional time for completing the continuing education credits required by subsection B of § 38.2-1866 or the time for seeking waivers or exemption pursuant to § 38.2-1870 or § 38.2-1871. The sole purpose of such thirty-day period shall be for the agent to demonstrate to the satisfaction of the Board that the agent had, in fact, submitted and the Board or its administrator had received proof of compliance on or before the ~~last day of the biennium~~ *filing deadlines set forth in subsection A or B of § 38.2-1868.1*. The Board shall not be obligated to review or respond to any other submissions during such thirty-day period except submissions indicating that the Board's records of compliance for such agent were incorrect. *At No more than fifteen days after the end of such thirty-day period, the Board 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.*

4. Pursuant to the requirements of subsection C of § 38.2-1817, an agent holding a license for variable life insurance and variable annuities whose life and health insurance agent license is administratively terminated for failure to satisfy the requirements of this article shall also have such variable life insurance and variable annuities license administratively terminated by the Commission. Such license may be applied for again after the agent has obtained a new life and health insurance agent's license.

B. ~~No~~ *1. Except as provided in subdivision 2 of this subsection, no* resident or nonresident agent whose license has been terminated under the terms of this section shall be permitted to make application for a new license prior to the expiration of a period of ninety days from the date of termination of such license. No resident or nonresident agent applying for a license after termination of a previous license pursuant to this section shall be issued a license unless the agent has successfully completed, ~~no earlier~~ *than the date of the thirty-day written notice required by subdivision A 3 of this section subsequent to the biennium*, any study course required by § 38.2-1816 and the examination required by § 38.2-1817. In

such an event, these study course and examination requirements shall not be subject to waiver under any circumstances, including those set forth in §§ 38.2-1816, 38.2-1817, 38.2-1836, and 38.2-1845.

2. A resident or nonresident agent whose license has been terminated under the terms of this section shall be permitted to make application for a new license prior to the expiration of the ninety-day period provided in this subsection, provided that such agent (i) pays to the Commission, in addition to any license processing fees, an administrative penalty of \$1,000, which shall be paid into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance and (ii) has successfully completed, subsequent to the end of the biennium, any study course required by § 38.2-1816 and the examination required by § 38.2-1817. In such an event, the study course and examination requirements shall not be subject to waiver under any circumstances, including those set forth in §§ 38.2-1816, 38.2-1817, 38.2-1836, and 38.2-1845.

C. A resident or nonresident agent who voluntarily surrenders his license without prejudice during a biennium or within 120 days after the end of a biennium, 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 B of this section. Further, if such agent chooses not to apply for a new license under the terms of subdivision B 2 of this section, such agent shall not be permitted to obtain a new license of the same type until the expiration of the same ninety-day period applicable to agents whose licenses are terminated pursuant to subsection A of this section.

D. A resident agent whose license terminates because, within 180 days prior to or within 120 days after the end of a biennium, 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 subdivisions B 1 and B 2 of this section. Further, if the agent chooses not to apply for a new license under the terms of subdivision B 2 of this section, such agent shall not be permitted to obtain a new license of the same type until the expiration of the same ninety-day period applicable to agents whose licenses are terminated pursuant to subsection A of this section.

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

§ 38.2-1872. 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, on a date and in a form acceptable to the Commission but in no event later than ~~January 15~~ May 30 following the end of each biennium, provide to the Commission a report of all licensees who satisfied the requirements of this article for such biennium. ~~However, for the biennium ending December 31, 1996, the Board shall have until January 31, 1997, to provide such report to the Commission.~~ 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 subdivision A 3 of § 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 "inquiry only" access to such automated system data as the Commission may deem appropriate.

2. That an emergency exists and this act is in force from its passage.