

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 44

An Act to amend and reenact §§ 38.2-1840, 38.2-1841, 38.2-1847, 38.2-1859, 38.2-4802 and 38.2-4803 of the Code of Virginia, relating to insurance; consultants and surplus lines brokers; application and renewal fees.

[S 900]

Approved March 5, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-1840, 38.2-1841, 38.2-1847, 38.2-1859, 38.2-4802 and 38.2-4803 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-1840. Annual license fee.

The *nonrefundable application processing fee and the annual nonrefundable renewal processing fee* for each insurance consultant's license shall be fifty dollars, which shall be paid in a manner prescribed by the Commission. Prior to August 1 of each year thereafter, every consultant shall renew his license in the manner prescribed by the Commission. All fees shall be collected by the Commission and paid into the state treasury and placed to the credit of the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

§ 38.2-1841. Renewal of license; 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 partnership, limited liability company or corporation shall authorize such partnership, limited liability company, or corporation 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 ninety days of receiving notification from the clerk of the Commission that the charter of a domestic limited liability company or corporation, whether by intent or by operation of law, has been terminated or that the certificate of authority of a foreign limited liability company or corporation has been revoked.

C. Upon the termination, suspension or revocation of an insurance consultant's license, the insurance consultant or the person having possession of the license shall immediately return it to the Commission.

D. Before August 1 of each year, each insurance consultant shall remit the *nonrefundable renewal application processing fee* prescribed in § 38.2-1840 for the renewal of the license, unless the license has been terminated, suspended or revoked on or before July 31 of that year. Any consultant license for which the required renewal form and *nonrefundable renewal application processing fee* has been received by the Commission on or before July 31 shall be renewed for a one-year period ending on the following July 31. Any consultant license for which the required renewal form and *nonrefundable renewal application processing fee* has not been received by the Commission by July 31 shall not be renewed effective on that date.

E. The termination of an insurance agent's license pursuant to subsection A of § 38.2-1825 shall not result in the termination of the agent's ~~consultant's~~ *consultant* license provided the annual ~~license~~ *nonrefundable renewal application processing fee* prescribed in § 38.2-1840 continues to be paid and the consultant license continues to be renewed as otherwise required by this section.

§ 38.2-1847. License requirements.

A. No insurer shall permit a person to act, and no person shall act, as a reinsurance intermediary broker in this Commonwealth if the reinsurance intermediary broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation:

1. In this Commonwealth, unless such reinsurance intermediary broker is a licensed reinsurance intermediary in this Commonwealth; or

2. In another state, unless such reinsurance intermediary broker is a licensed reinsurance intermediary in this Commonwealth or in another state having a law substantially similar to this law.

B. No insurer shall permit a person to act, and no person shall act, as a reinsurance intermediary manager:

1. For a reinsurer domiciled in this Commonwealth, unless such reinsurance intermediary manager is a licensed reinsurance intermediary in this Commonwealth;

2. In this Commonwealth, if the reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this Commonwealth, unless such reinsurance intermediary manager is a licensed

reinsurance intermediary in this Commonwealth; or

3. In another state for an insurer not domiciled in this Commonwealth, unless such reinsurance intermediary manager is a licensed reinsurance intermediary in this Commonwealth or in another state having a law substantially similar to this law.

C. The Commission may require a reinsurance intermediary manager to:

1. Be bonded in a manner acceptable to the Commission for the protection of the reinsurer; and
2. Maintain an errors and omissions policy in an amount acceptable to the Commission.

D. 1. The Commission may issue a reinsurance intermediary license to any person who has complied with the requirements of this article. Any such license issued to a partnership or corporation will authorize all the members of such partnership or corporation and any designated officers, directors or employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto.

2. If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the clerk of the Commission as agent for service of process in the manner, and with the same legal effect, provided for by this title for designation of service of process upon unauthorized insurers; and also shall furnish the clerk of the Commission with the name and address of a resident of this Commonwealth upon whom notices or orders of the Commission or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the clerk of the Commission in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the Commission.

E. The Commission may refuse to issue a reinsurance intermediary license, subject to the right of the applicant to demand a hearing on the application, if the Commission believes the applicant, any person named on the application, or any member, principal, officer or director of the applicant, is not trustworthy; that any controlling person of such applicant is not trustworthy to act as a reinsurance intermediary; or that any of the foregoing has given cause for revocation or suspension of such license or has failed to comply with any prerequisite for the issuance of such license.

F. Residents of Virginia who are members of the Virginia State Bar when acting in their professional capacity as such shall be exempt from the requirements of this section.

G. Any person seeking to be licensed as a reinsurance intermediary in this Commonwealth shall apply for such license in a form acceptable to the Commission, and shall pay to the Commission a nonrefundable application fee in an amount prescribed by the Commission. Such fee shall be not less than \$500 and not more than \$1,000. Every licensed reinsurance intermediary shall pay to the Commission a nonrefundable biennial renewal fee in an amount prescribed by the Commission. Such fee shall be not less than \$500 and not more than \$1,000. Each license shall expire on June 30 of the appropriate year. Prior to April 1 of the renewal year, each licensed reinsurance intermediary shall submit to the Commission a renewal application form and fee in the manner and form prescribed by the Commission. *All fees shall be collected by the Commission and paid into the state treasury and placed to the credit of the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

H. Any person seeking to be licensed as a reinsurance intermediary in this Commonwealth shall observe and abide by the laws of this Commonwealth and submit with its license application the following:

1. A statement identifying its principal place of business, organizational structure, and other such information as the Commission may require to verify that the reinsurance intermediary is qualified under the definition of this article;
2. A copy of its plan of operations;
3. A statement of registration which designates the clerk of the Commission as its agent for the purpose of receiving service of legal documents or process;
4. A copy of its current financial statement, which shall be certified by an independent public accountant and in a form acceptable to the Commission; and
5. Such information or reports as may be required to verify its continuing qualification as a reinsurance intermediary.

§ 38.2-1859. Licensure.

A. No domestic insurer shall permit a person to act, and no person shall act, in the capacity of a managing general agent for an insurer domiciled in this Commonwealth unless such person is licensed in this Commonwealth to act as a managing general agent.

B. No foreign or alien insurer shall permit a person to act, and no person shall act, in the capacity of a managing general agent representing such an insurer unless such person is licensed (i) in this Commonwealth to act as a managing general agent or (ii) in another state under laws which are substantially similar to the provisions of this article.

C. The Commission may license as a managing general agent any person who has complied with the requirements of this article and any regulations concerning licensure which may be promulgated by the Commission. The Commission may refuse to issue a license, subject to the right of the applicant to

demand a hearing on the application, if the Commission believes the applicant, any person named on the application, or any member, principal, officer or director of the applicant is not trustworthy to act as a managing general agent, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for issuance of such license.

D. Any person seeking a license pursuant to subsection A or B (i) of this section shall apply for such license in a form acceptable to the Commission, and shall pay to the Commission a nonrefundable application fee in an amount prescribed by the Commission. Such fee shall be not less than \$500 and not more than \$1,000. Every licensed managing general agent shall pay to the Commission a nonrefundable biennial renewal fee in an amount prescribed by the Commission. Such fee shall be not less than \$500 and not more than \$1,000. Each license shall expire on June 30 of the appropriate year. Prior to April 1 of the renewal year, each licensed managing general agent shall submit to the Commission a renewal application form and fee in the manner and form prescribed by the Commission. *All fees shall be collected by the Commission, paid into the state treasury, and placed to the credit of the fund for maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

E. The Commission may require that the managing general agent be bonded in a manner acceptable to the Commission for the protection of the insurer.

F. The Commission may require a managing general agent to maintain an errors and omissions policy.

§ 38.2-4802. Fees for surplus lines brokers' licenses.

The *nonrefundable application processing fee and the annual nonrefundable renewal application processing fee* for each surplus lines broker's license shall be fifty dollars. The fee shall be paid when the application for license is filed and then prior to March 15 of each subsequent year. However, the fee for any license applied for after September 15 shall be twenty-five dollars. All fees shall be collected by the Commission and paid into the state treasury to the credit of the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

§ 38.2-4803. Term of licenses; renewal.

Every license issued pursuant to this chapter shall be for a term expiring on March 15 next following the date of its issuance and may be renewed for the ensuing license year, upon the filing of an application in the form prescribed by the Commission and payment of the *nonrefundable renewal application processing fee* prescribed in § 38.2-4802.