

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 86

An Act to amend and reenact §§ 38.2-1800, 38.2-1815, 38.2-1816, 38.2-1817, 38.2-1824, 38.2-1866, 38.2-3523.3, 38.2-4224, and 38.2-4313 of the Code of Virginia, relating to health insurance agents; licensure.

[H 1543]

Approved March 15, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-1800, 38.2-1815, 38.2-1816, 38.2-1817, 38.2-1824, 38.2-1866, 38.2-3523.3, 38.2-4224, and 38.2-4313 of the Code of Virginia are amended and reenacted as follows:

§ 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.

"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.

"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.

"Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than six months and (ii) is licensed in the Commonwealth as an agent to solicit, negotiate, procure, or effect the following insurance coverages solely in connection with and incidental to the rental contract:

1. Personal accident insurance which provides benefits in the event of accidental death or injury occurring during the rental period;
2. Liability coverage sold to the renter in excess of the rental company's obligations under §§ 38.2-2204, 38.2-2205, or Title 46.2, as applicable;
3. Personal effects insurance which provides coverages for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period;
4. Roadside assistance and emergency sickness protection programs; and
5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.

"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.

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

"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.

§ 38.2-1815. License required of resident life and health insurance agents and health agents.

No individual who is a resident of this Commonwealth shall obtain a license as a life and health insurance agent ~~or health agent~~ from the Commission unless he has passed a written examination prescribed by the Commission. However, any individual may obtain a license as a travel accident insurance agent, a motor vehicle rental contract insurance agent, a mortgage redemption insurance agent, a credit life and health insurance agent, a dental services agent, an optometric services agent, or a legal services agent, without taking a written examination. Agents of an association referred to in § 38.2-3318 who will be limited to soliciting members of that association for burial association group life insurance certificates in amounts of \$5,000 or less may also obtain a license without taking a written examination. Agents of burial societies as defined in Chapter 40 (§ 38.2-4000 et seq.) of this title who will be limited to soliciting members for such societies, and where the certificates of membership will not exceed \$5,000 on any individual, may also obtain a license without taking written examination. Mutual assessment life and health insurance agents shall be licensed without examination only within the limitations of § 38.2-3919.

§ 38.2-1816. Study course required; exception based upon employment experience.

A. Before registering to take an examination for a license, each applicant shall have completed an insurance study course of forty-five hours of classroom instruction or equivalent distance learning, or any combination thereof, in accordance with an examination content outline approved by the Commission and shall submit proof of such completion in a form acceptable to the Commission. ~~However, applicants for a health agent license shall complete an insurance study course of twenty-five hours of classroom instruction or equivalent distance learning, or any combination thereof, in accordance with an examination content outline approved by the Commission.~~

1. The term "classroom instruction," as used in this section, shall mean actual hours in a classroom environment with an instructor. Instructors shall have the right to consider an applicant to have met the classroom-hour requirement if the applicant was present for no less than ninety-five percent of the required hours. The term "distance learning," as used in this section, means instruction delivered under the general supervision of an instructor through a medium other than a classroom setting.

2. The proof of study course completion referred to in this section shall be signed by the applicant and sworn to before a notary public, indicating that the applicant completed a course for which the requisite number of classroom hours, or equivalent distance learning, were completed. Any applicant who submits a materially false proof of course completion shall, in addition to any applicable civil or criminal penalties for perjury, be deemed to have committed a knowing and willful violation of this section, and shall be punished as set forth in § 38.2-218. Upon receipt of acceptable proof that an applicant submitted a materially false proof of course completion, the Commission may administratively terminate any license issued based upon such submission.

3. The proof of study course completion referred to in this section shall be certified by the individual who acted as instructor for the course, and such individual shall be required to certify that the requisite number of classroom hours, or equivalent distance learning, were completed by the applicant. An instructor who is found to have submitted a materially false certification that an applicant completed the requisite number of classroom hours, or equivalent distance learning, shall be deemed to have committed a knowing and willful violation of this section, and shall be punished as set forth in § 38.2-218. If such instructor is also a licensed insurance agent or insurance consultant, the additional penalties set forth in §§ 38.2-1831 and 38.2-1843, respectively, may also be imposed by the Commission.

B. An applicant shall register to take an examination for a license and shall attain a passing grade on such examination within one year after meeting the education requirement in subsection A of this section. The Commission, however, may waive this time limit in individual circumstances in accordance with such criteria as may be prescribed.

C. An applicant may apply to the Commission to take the examination for a license without taking the required study course if the applicant submits proof in a form acceptable to the Commission that he has attained equivalent knowledge through employment experience as determined by the Commission. The employment experience shall include no less than one year of full-time experience as an employee of an insurer, an insurance department, an insurance agency, or equivalent employment as determined by the Commission. The employment experience shall have involved the performance of responsible insurance duties in connection with the kind of insurance for which the applicant has applied for a license. The applicant shall register for and attain a passing grade on such examination within one year of completion of the required employment experience.

§ 38.2-1817. Examination for license; fee required; when fee forfeited.

A. 1. Examinations for licenses shall be conducted at least monthly at the times and places the Commission prescribes. Each applicant shall pass a written examination prescribed by the Commission unless otherwise exempted.

2. If an applicant fails three times to pass the examination, the applicant must take or retake the study course required in § 38.2-1816 before the applicant may retake the examination.

B. An applicant who has been awarded the designation of Chartered Property and Casualty Underwriter shall be exempt from the education and examination requirements of this article for a property and casualty insurance license. An applicant who has been awarded the designation of Chartered Life Underwriter shall be exempt from the education and examination requirements for a life and health insurance license ~~or a health license~~. However, no applicant shall be exempt from the requirement to submit the application and pay the fee required by § 38.2-1819.

C. No individual shall obtain a license for variable life insurance and variable annuity contracts unless he currently holds a life and health insurance agent's license and has passed the National Association of Security Dealers examination or other examination prescribed by the Commission.

D. Each applicant for an examination shall make a written application in the form and containing the information the Commission prescribes.

E. Each applicant shall, at the time of applying to take the examination, pay such fee as may be prescribed by the Commission and in a manner prescribed by the Commission. The prescribed examination fee shall not be less than \$20 nor more than \$100. The examination fee shall be nonrefundable.

F. [Repealed.]

G. If the applicant fails to take the examination within three months from the date his registration for the examination is accepted, the examination fee shall be forfeited and the registration shall be considered withdrawn.

H. If the applicant fails to apply to the Commission for a license within six months from the date he passes the examination, the examination grade shall be considered invalid and the examination fee and application processing fee shall be forfeited. Such applicant shall be required to reapply for the examination and to satisfy any appropriate prelicensing requirements.

§ 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, motor vehicle rental contract insurance, mutual assessment property and casualty insurance, mutual assessment life and health insurance, ocean marine insurance, optometric services insurance, pet accident, sickness and hospitalization 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.

C. *All individuals who, on July 1, 1999, held a health insurance agent license may retain such license until June 30, 2000, at which time such license shall terminate. No such license which has lapsed or been revoked shall be reinstated, and no new health insurance agent license shall be issued on or after July 1, 1999. Agents holding a health insurance agent license who wish to continue to be authorized to solicit, negotiate, procure or effect the types of insurance authorized under such license on or after July 1, 2000, shall be required to obtain a life and health insurance agent license by June 30, 2000.*

§ 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)~~ (iii) property and casualty insurance agent, and ~~(v)~~ (iv) 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 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.

§ 38.2-3523.3. Requirements for those marketing group accident and sickness insurance.

Insurance marketed to certificate holders of a group which does not qualify under § 38.2-3521.1 or § 38.2-3522.1 must be marketed by a person holding a valid life and health insurance agent ~~or health agent~~ license as required by Chapter 18 (§ 38.2-1800 et seq.) of this title.

§ 38.2-4224. Licensing of agents.

Subscription contracts may be solicited only through ~~health agents~~ or life and health insurance agents licensed in accordance with Chapter 18 of this title. Home office salaried officers whose principal duties and responsibilities do not include the negotiation or solicitation of subscription contracts shall not be required to be licensed.

§ 38.2-4313. Licensing of agents.

Enrollee contracts may be solicited only through ~~licensed health agents~~ or life and health insurance agents as provided for in Chapter 18 of this title. Home office salaried officers whose principal duties and responsibilities do not include the negotiation or solicitation of enrollee contracts shall not be required to be licensed.

2. That the provisions of this act amending § 38.2-1866 shall become effective on January 1, 2000.