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HOUSE BILL NO. 1937

House Amendments in [] — January 20, 2003

A BILL to amend and reenact § 38.2-1800 of the Code of Virginia, relating to the licensing of insurance agents; limited burial insurance authority.

Patron Prior to Engrossment—Delegate Nixon

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-1800 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-1800. Definitions.

As used in this chapter:

"Agent," "insurance agent," "producer," or "insurance producer," when used without qualification, means an individual or business entity that sells, solicits, or negotiates contracts of insurance or annuity in this Commonwealth.

"Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance producer," when used without qualification, means an individual or business entity licensed in this Commonwealth to sell, solicit, or negotiate 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 sell, solicit, or negotiate on 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 authority" means the authority in this Commonwealth to sell, solicit, or negotiate automobile club contracts on behalf of automobile clubs licensed under Chapter 3.1 (§ 13.1-400.1 et seq.) of Title 13.1.

"Business entity" means a partnership, limited partnership, limited liability company, corporation, or other legal entity other than a sole proprietorship.

"Dental services authority" means the authority in this Commonwealth to sell, solicit, or negotiate 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 sell, solicit, or negotiate insurance as defined in §§ 38.2-108 and 38.2-109, and including contracts issued by insurers, health services plans, health maintenance organizations, dental services plans, and optometric services plans licensed in this Commonwealth.

"Home protection insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in this Commonwealth.

"Home state" means the District of Columbia and any state or territory of the United States, except Virginia, or any province of Canada, in which an insurance producer maintains such person's principal place of residence or principal place of business and is licensed by that jurisdiction to act as a resident insurance producer.

"Legal services insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in this Commonwealth.

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

"License" means a document issued by the Commission authorizing an individual or business entity to act as an insurance producer for the lines of authority specified in the document. Except as provided in § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent, in the licensee to represent, commit, or bind an insurer.

"Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance producer," when used without qualification, means an individual or business entity licensed in this Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license.

"Life and annuities insurance agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-105.1, 38.2-106, and 38.2-107.1, respectively, on behalf of insurers licensed in this Commonwealth.

ENGROSSED

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60 "Limited burial insurance authority" means the authority in this Commonwealth to sell, solicit, or
61 negotiate burial insurance society membership where the certificates of membership will not exceed [
62 \$5,000 \$7,500] on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.)
63 of this title; or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of
64 that association for burial association group life insurance certificates in amounts of \$5,000 [\$10,000
65 \$7,500] or less. [*The Commission shall adjust this amount annually based on changes in the Consumer*
66 *Price Index for all items, urban consumers (CPI-U) published by the Bureau of Labor Statistics of the*
67 *federal Department of Labor.*]

68 "Limited lines credit insurance agent" means an agent licensed in this Commonwealth whose
69 authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in this
70 Commonwealth, one or more of the following coverages to individuals through a master, corporate,
71 group or individual policy: (i) credit life insurance and credit accident and sickness insurance, but only
72 to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.) of this title; (ii) credit involuntary
73 unemployment insurance as defined in § 38.2-122.1; (iii) credit property insurance, as defined in
74 § 38.2-122.2; (iv) mortgage accident and sickness insurance; (v) mortgage redemption insurance; (vi)
75 mortgage guaranty insurance; and (vii) any other form of insurance offered in connection with an
76 extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the
77 Commission specifically determines may be sold, solicited, or negotiated by those holding a limited lines
78 credit insurance agent license. Each insurer that sells, solicits or negotiates any of the coverages set forth
79 in this definition shall provide to each individual whose duties will include selling, soliciting or
80 negotiating such coverages a program of instruction that may, at the discretion of the Commission, be
81 submitted for approval by the Commission or reviewed by the Commission subsequent to its
82 implementation.

83 "Limited lines life and health agent" means an individual or business entity authorized by the
84 Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other
85 type of authority that the Commission may deem it necessary to recognize for the purposes of
86 complying with § 38.2-1836: dental services authority; legal services plan authority; limited burial
87 insurance authority; mutual assessment life and health insurance authority; optometric services authority;
88 and travel accident insurance authority. Limited lines life and health insurance shall not include life
89 insurance, health insurance, property insurance, casualty insurance, and title insurance.

90 "Limited lines property and casualty agent" means an individual or business entity authorized by the
91 Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other
92 type of authority that the Commission may deem it necessary to recognize for the purposes of
93 complying with § 38.2-1836: automobile club authority; home protection insurance authority; legal
94 services insurance authority; mutual assessment property and casualty insurance authority; ocean marine
95 insurance authority; pet accident, sickness and hospitalization insurance authority; and travel baggage
96 insurance authority. Limited lines property and casualty insurance shall not include life insurance, health
97 insurance, property insurance, casualty insurance, and title insurance.

98 "Mortgage accident and sickness insurance authority" means the authority in this Commonwealth to
99 sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in this
100 Commonwealth.

101 "Mortgage guaranty insurance authority" means the authority in this Commonwealth to sell, solicit, or
102 negotiate mortgage guaranty insurance on behalf of insurers licensed in this Commonwealth.

103 "Mortgage redemption insurance authority" means the authority in this Commonwealth to sell, solicit,
104 or negotiate mortgage redemption insurance on behalf of insurers licensed in this Commonwealth. As
105 used in this chapter, "mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing
106 term life insurance policy written in connection with a mortgage transaction for a period of time
107 coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the
108 indebtedness outstanding at the time the insurance becomes effective, rounded up to the next \$1,000.

109 "Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a motor
110 vehicle rental company that is in the business of providing primarily private motor vehicles to the public
111 under a rental agreement for a period of less than six 6 months, and receives no direct or indirect
112 commission from the insurer, the renter or the vehicle rental company.

113 "Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor
114 vehicle rental company that is in the business of providing primarily private passenger motor vehicles to
115 the public under a rental agreement for a period of less than six 6 months and (ii) whose license in this
116 Commonwealth is restricted to selling, soliciting, or negotiating only the following insurance coverages,
117 and solely in connection with and incidental to the rental contract:

118 1. Personal accident insurance which provides benefits in the event of accidental death or injury
119 occurring during the rental period;

120 2. Liability coverage sold to the renter in excess of the rental company's obligations under
121 §§ 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.

The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental contract enrollers.

"Mutual assessment life and health insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of insurers licensed under Chapter 39 (§ 38.2-3900 et seq.) of this title, but only to the extent permitted under § 38.2-3919.

"Mutual assessment property and casualty insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate mutual assessment property and casualty insurance on behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.) of this title, but only to the extent permitted under § 38.2-2525.

"NAIC" means the National Association of Insurance Commissioners.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

"Ocean marine insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate those classes of insurance classified in § 38.2-126, except those classes specifically classified as inland marine insurance, on behalf of insurers licensed in this Commonwealth.

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

"Personal lines agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124, 38.2-125, 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal, family, or household needs rather than for business or professional needs.

"Pet accident, sickness and hospitalization insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate 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 sell, solicit, or negotiate both personal and commercial lines of insurance as defined in §§ 38.2-110 through 38.2-122.2, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in this Commonwealth.

"Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of Virginia whose principal place of business is in Virginia, who is able to demonstrate to the satisfaction of the Commission that the laws of his home state prevent him from obtaining a resident agent license in that state, and who affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of licensing and continuing education, both in Virginia and in the state in which the individual resides, if applicable; (iii) a partnership duly formed and recorded in Virginia; (iv) a corporation incorporated and existing under the laws of Virginia; (v) a limited liability company organized and existing under the laws of Virginia; or (vi) a foreign business entity that is not licensed as a resident agent in any other jurisdiction, and that demonstrates to the satisfaction of the Commission that its principal place of business is within the Commonwealth of Virginia.

"Restricted nonresident health agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a health agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident life and annuities agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a life and annuities agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident personal lines agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a personal lines agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which

183 the agent is authorized in his home state.

184 "Restricted nonresident property and casualty agent" means a nonresident agent whose license
185 authority in his home state does not include all of the authority granted under a property and casualty
186 agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or
187 negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance
188 for which the agent is authorized in his home state.

189 "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on
190 behalf of an insurer.

191 "Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia
192 State Bar pursuant to Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1.

193 "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular
194 class of insurance from one or more insurers.

195 "Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of this
196 chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4800 et
197 seq.) of this title.

198 "Terminate" means the cancellation of the relationship between an insurance producer and the
199 insurer, or the termination of an insurance producer's authority to transact insurance.

200 "Title insurance agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate
201 title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance
202 companies licensed under Chapter 46 (§ 38.2-4600 et seq.) of this title.

203 "Travel accident insurance authority" means the authority in this Commonwealth to sell, solicit, or
204 negotiate travel accident insurance to individuals on behalf of insurers licensed in this Commonwealth.

205 "Travel baggage insurance authority" means the authority in this Commonwealth to sell, solicit, or
206 negotiate travel baggage insurance to individuals on behalf of insurers licensed in this Commonwealth.

207 "Variable contract agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate
208 variable life insurance and variable annuity contracts on behalf of insurers licensed in this
209 Commonwealth.

210 "Viatical settlement broker" means a person licensed pursuant to Article 6.1 (§ 38.2-1865.1 et seq.)
211 of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 57
212 (§ 38.2-5700 et seq.) of this title.

213 "Uniform Application" means the current version of the NAIC Uniform Application for resident and
214 nonresident producer licensing.

215 "Uniform Business Entity Application" means the current version of the NAIC Uniform Business
216 Entity Application for resident and nonresident business entities.