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HOUSE BILL NO. 800

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 38.2-1815, 38.2-1825, and 38.2-1869 of the Code of Virginia, relating to nonresident insurance agents; licensing requirements.

Patron—Plum

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-1815, 38.2-1825, and 38.2-1869 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-1815. License required of resident life and annuities agent.

A. No individual who is a resident of ~~this~~ *the* Commonwealth shall obtain a license as a life and annuities agent from the Commission unless ~~he~~ *the individual* has passed an examination in a form and manner prescribed by the Commission.

B. An individual may obtain a license as a limited lines credit insurance agent, a limited lines life and health agent, a motor vehicle rental contract insurance agent, or any other type of license of restricted authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836 without taking such examination.

C. No individual *who is a resident of the Commonwealth* shall obtain a license as a variable contract agent unless ~~he~~ *the individual* currently holds a life and annuities license ~~or a restricted nonresident life and annuities license~~, and *no individual, whether resident or nonresident, shall obtain a license as a variable contract agent unless the individual* has passed the National Association of Securities Dealers examination or examinations prescribed by the Commission or such other examination prescribed by the Commission.

§ 38.2-1825. Duration and termination of licenses and appointments.

A. A license issued to:

1. An individual agent shall authorize him to act as an agent until ~~his~~ *the* license is otherwise terminated, suspended or revoked.

2. A business entity shall authorize such business entity to act as an agent until ~~such~~ *the* 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 all licenses issued to such partnership. The Bureau shall automatically terminate all insurance licenses within ninety calendar days of receiving notification from the clerk of the Commission that the certificate of organization or charter of a domestic limited liability company or corporation, respectively, whether by intent or by operation of law, has been terminated or that the certificate of registration or certificate of authority of a foreign limited liability company or corporation, respectively, has been revoked.

B. The license issued to a *resident* variable ~~contracts~~ *contract* agent pursuant to this chapter shall terminate immediately upon the termination of the licensee's life and annuities insurance agent license, and may not be applied for again until the person has been issued a new life and annuities insurance agent license.

C. The license issued to a *resident* surplus lines broker pursuant to this title shall terminate immediately upon the termination of the licensee's property and casualty insurance agent license, and may not be applied for again until the person has been issued a new property and casualty insurance agent license.

D. Immediately upon termination of a settlement agent's last appointment under his title insurance agent license, the Bureau shall notify the Virginia State Bar to terminate the settlement agent's registration and the person shall not be permitted to act as a settlement agent under his title insurance agent's license until a new appointment has taken effect.

E. An appointment issued to an agent by an insurer, unless terminated, suspended or revoked, shall authorize the appointee to act as an agent for that insurer and to be compensated therefor notwithstanding the provisions of §§ 38.2-1812 and 38.2-1823.

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

A. Failure of an agent to satisfy the requirements of this article within the time period specified in § 38.2-1868.1, 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

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59 prescribed by the Board pursuant to this article, a waiver of the requirements for that biennium, shall
60 result, subsequent to notification by the Board to the Commission, in the administrative termination of
61 each license held by the agent for which the requirement was not satisfied.

62 B. The Board shall, on or about a date six months prior to the end of each biennium, provide a
63 status report to each agent who has not yet fully satisfied the requirements of this article for such
64 biennium. Such report shall inform the agent of his current compliance status for each license held that
65 is subject to this article, and the consequences associated with noncompliance, and shall be sent by
66 first-class mail to such agent at his last-known residence address as shown in the Commission's records.
67 Failure of an agent to receive such notification shall not be grounds for contesting license termination.

68 C. The Board shall, no later than 45 calendar days and no sooner than 60 calendar days prior to the
69 end of each biennium, provide a status report to each agent who has not yet fully satisfied the
70 requirements of this article for such biennium. Such report shall inform the agent of his current
71 compliance status for each license held that is subject to this article, and the consequences associated
72 with noncompliance, and shall be sent by first-class mail to such agent at his last known residence
73 address as shown in the Commission's records. Failure of an agent to receive such notification shall not
74 be grounds for contesting license termination.

75 D. 1. No administrative termination pursuant to this section shall become effective until the
76 Commission has provided 30 calendar days' written notice of such impending termination to the agent
77 by first-class mail sent to the agent at the agent's last known residence address as shown in the
78 Commission's records. The notice period shall commence on the date that the written notice is deposited
79 in the United States mail and, if the 30th calendar day falls on a Saturday or Sunday, the end of the
80 notice period shall be extended to the next business day. Failure of an agent to receive such notification
81 shall not be grounds for contesting a license termination. Any agent who obtained the required number
82 of continuing education credits in the time permitted for obtaining such credits shall be permitted to
83 submit proof of compliance during the 30 calendar day notice period if the agent pays, in addition to the
84 filing fee established by the Board for submission of proof of compliance, a penalty of \$500 to the
85 Board in the manner prescribed by the Board; provided that such payment and submission of proof of
86 compliance shall be received by the Board or its administrator, in the form and manner required by the
87 Board, prior to the end of the 30 calendar day notice period.

88 2. Neither the Board, its administrator, nor the Commission shall have the power to grant an agent
89 additional time for completing the continuing education credits required by § 38.2-1866, or additional
90 time for submitting proof of compliance as required by § 38.2-1868.1, or additional time for seeking
91 waivers or exemption pursuant to § 38.2-1870 or § 38.2-1871. During the period of 30 calendar days
92 immediately following such notice from the Commission, the Board shall permit agents either to
93 demonstrate to the satisfaction of the Board that the agent had, in fact, timely submitted and the Board
94 or its administrator had received proof of compliance on or before the filing deadlines set forth in
95 § 38.2-1868.1 or to present proof of compliance and payment of the prescribed penalty and filing fee in
96 accordance with the procedure established in subdivision 1 of this subsection.

97 3. During the 30 calendar day notice period, the Board shall not be obligated to review or respond to
98 any other submissions except for submissions that prove that the records of the Board or its
99 administrator are incorrect and late filing submissions permitted pursuant to subdivision 1 of this
100 subsection. Subsequent to the expiration of such 30-day period, and prior to providing to the
101 Commission the record of those agents who complied with the requirements of this article, the Board
102 shall provide a reasonable additional period of time for processing of appeals pursuant to § 38.2-1874.
103 However, failure of an agent to provide written notice of appeal in the form and manner required by the
104 Board within 45 calendar days following the expiration of the 30-day period shall be deemed a waiver
105 by such agent of the right to appeal the determination of noncompliance.

106 4. No more than 15 calendar days after the end of such appeal period, the Board or its administrator
107 shall provide to the Commission a final updated record of those agents who complied with the
108 requirements of this article, whereupon the Commission shall administratively terminate the licenses of
109 those agents required to submit proof of compliance and by whom proof of compliance was not
110 submitted in a proper or timely manner. Agents wishing to contest the Commission's action in
111 terminating a license shall adhere to the Commission's Rules of Practice (5 VAC 5-20-10 *et seq.*) and
112 Procedure and the Rules of the Supreme Court of Virginia. Failure by the agent to initiate such contest
113 within 30 calendar days following the date of license termination shall be deemed a waiver by the agent
114 of the right to contest such license termination.

115 E. Pursuant to the requirements of subsection C of § 38.2-1815, §§ 38.2-4806 and 6.1-2.21,
116 respectively:

117 1. ~~An A resident variable contract agent holding a license for variable life insurance and variable~~
118 ~~annuities~~ whose life and annuities insurance agent license is administratively terminated for failure to
119 satisfy the requirements of this article shall also have such variable life insurance and variable annuities
120 contract license administratively terminated by the Commission;

121 2. ~~An~~ A resident agent holding a license as a surplus lines broker whose property and casualty
122 insurance agent license is administratively terminated for failure to satisfy the requirements of this article
123 shall also have such surplus lines broker license administratively terminated by the Commission; and

124 3. An agent holding a registration as a title settlement agent whose title insurance agent license is
125 administratively terminated for failure to satisfy the requirements of this article shall also have such
126 registration as a title settlement agent administratively terminated by the Commission.

127 Any such license or registration so terminated may be applied for again after the agent has obtained,
128 respectively, a new life and annuities insurance agent's license, a new property and casualty insurance
129 agent's license, or a new title insurance agent's license and appointment, if appointment is required.

130 F. 1. Except as provided in subdivision 2 of this subsection, no resident agent whose license has
131 been terminated under the terms of this section shall be permitted to make application for a new license
132 prior to the expiration of a period of ninety calendar days from the date of termination of such license.
133 No resident agent applying for a license after termination of a previous license pursuant to this section
134 shall be issued a license unless the agent has successfully completed, subsequent to the end of the
135 biennium, the examination required by § 38.2-1817. In such an event, the examination requirements shall
136 not be subject to waiver under any circumstances, including those set forth in § 38.2-1817.

137 2. A resident agent whose license or licenses have been terminated under the terms of this section
138 shall be permitted to make application for new licenses prior to the expiration of the 90-day period
139 provided in this subsection, provided that such agent (i) pays to the Commission, in addition to any
140 license processing fees, an administrative penalty of \$1,000, which shall be paid into the state treasury
141 and credited to the fund for the maintenance of the Bureau of Insurance and (ii) has successfully
142 completed, subsequent to the end of the biennium, the examination required by § 38.2-1817. In such an
143 event, the examination requirements shall not be subject to waiver under any circumstances, including
144 those set forth in § 38.2-1817.

145 3. A nonresident agent whose license or licenses have been terminated under the terms of this section
146 shall be permitted to make application for new licenses prior to the expiration of the 90 calendar day
147 period provided in this subsection, provided that such agent pays to the Commission, in addition to any
148 license processing fees, an administrative penalty of \$1,000, which shall be paid into the state treasury
149 and credited to the fund for the maintenance of the Bureau of Insurance. Nonresident agents who furnish
150 evidence in the form and manner required by the Commission of their good standing in their state of
151 residence shall not be required to complete the examination required by § 38.2-1817, provided that the
152 insurance supervisory official of the nonresident agent's state of residence will grant similar exemptions
153 to Virginia residents seeking license renewal or reissue in such state.

154 G. A resident or nonresident agent who voluntarily surrenders his license without prejudice during a
155 biennium or prior to the expiration of the appeal period for that biennium as described in subsection D,
156 and who has not provided proof of compliance for such biennium, shall not be permitted to apply for a
157 new license of the same type until such agent has complied with the requirements of subsection F of
158 this section. Further, if such agent chooses not to apply for a new license under the terms of subdivision
159 F 2 or F 3 of this section, such agent shall not be permitted to obtain a new license of the same type
160 until the expiration of the same 90-day period applicable to agents whose licenses are terminated
161 pursuant to subsection A of this section.

162 H. A resident agent whose license terminates because, within 180 calendar days prior to the end of a
163 biennium, or prior to the expiration of the appeal period for that biennium as described in subsection D,
164 such agent moves his residence to another state, and who had not, prior to such relocation, provided
165 proof of compliance for such biennium shall not be permitted to apply for a new license of the same
166 type until such agent has complied with the requirements of subdivisions F 1 and F 2 of this section.
167 Further, if the agent chooses not to apply for a new license under the terms of subdivision F 2 of this
168 section, such agent shall not be permitted to obtain a new license of the same type until the expiration
169 of the same 90-day period applicable to agents whose licenses are terminated pursuant to subsection A
170 of this section.

171 I. An insurance consultant who fails to renew his insurance consultant license by the date specified
172 in § 38.2-1840, but who obtains a new insurance consultant license within 12 months following such
173 renewal date shall be treated, for purposes of determining exemption from continuing education
174 requirements pursuant to § 38.2-1871, as if such insurance consultant license had been renewed in a
175 timely manner.