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**HOUSE BILL NO. 871**

Offered January 11, 2012

Prefiled January 11, 2012

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

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 Patron—Rust
 

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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~~ *the* 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~~ *the* 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~~ *the* 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~~ *the* 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 plan organization authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental benefit contracts on behalf of dental plan organizations licensed under Chapter 61 (§ 38.2-6100 et seq.) of ~~this~~ *title*.

"Dental services authority" means the authority in ~~this~~ *the* 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~~ *the* 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, optometric services plans, and dental plan organizations licensed in ~~this~~ *the* Commonwealth.

"Home protection insurance authority" means the authority in ~~this~~ *the* Commonwealth to sell, solicit, or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in ~~this~~ *the* 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~~ *the* Commonwealth to sell, solicit, or negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in ~~this~~ *the* Commonwealth.

"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~~ *the* 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~~ *the* Commonwealth to sell, solicit, or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104,

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59 38.2-105.1, 38.2-106, and 38.2-107.1, respectively, on behalf of insurers licensed in ~~this the~~  
60 Commonwealth.

61 "Limited burial insurance authority" means the authority in ~~this the~~ Commonwealth to sell, solicit, or  
62 negotiate burial insurance society ~~membership~~ *memberships or group insurance certificates* where the  
63 *memberships or certificates of membership will not exceed \$10,000 are used to fund preneed funeral*  
64 *contracts* on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.) of ~~this~~  
65 ~~title~~; or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that  
66 association for ~~burial~~ association group life insurance certificates ~~in amounts of \$10,000 or less where~~  
67 *the funds are used to fund preneed funeral contracts.*

68 "Limited lines credit insurance agent" means an agent licensed in ~~this the~~ Commonwealth whose  
69 authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in ~~this the~~  
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; limited burial insurance authority; mutual  
87 assessment life and health insurance authority; optometric services authority; travel accident insurance  
88 authority; and dental plan organization authority. Limited lines life and health insurance shall not include  
89 life 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; portable electronics  
96 insurance authority; and travel baggage insurance authority. Limited lines property and casualty  
97 insurance shall not include life insurance, health insurance, property insurance, casualty insurance, and  
98 title insurance.

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

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

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

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

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

121 1. Personal accident insurance that provides benefits in the event of accidental death or injury  
122 occurring during the rental period;

123 2. Liability coverage sold to the renter in excess of the rental company's obligations under  
124 §§ 38.2-2204, 38.2-2205, or Title 46.2, as applicable;

125 3. Personal effects insurance that provides coverages for the loss of or damage to the personal effects  
126 of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle  
127 during the rental period;

128 4. Roadside assistance and emergency sickness protection programs; and

129 5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company  
130 offers in connection with and incidental to the rental of vehicles.

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

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

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

141 "NAIC" means the National Association of Insurance Commissioners.

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

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

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

152 "Personal lines agent" means an agent licensed in ~~this~~ *the* Commonwealth to sell, solicit, or negotiate  
153 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,  
154 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal,  
155 family, or household needs rather than for business or professional needs.

156 "Pet accident, sickness and hospitalization insurance authority" means the authority in ~~this~~ *the*  
157 Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf  
158 of insurers licensed in ~~this~~ *the* Commonwealth.

159 "Property and casualty insurance agent" means an agent licensed in ~~this~~ *the* Commonwealth to sell,  
160 solicit, or negotiate both personal and commercial lines of insurance as defined in §§ 38.2-110 through  
161 38.2-122.2, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in ~~this~~ *the* Commonwealth.

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

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

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

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

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

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

194 "Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia  
195 State Bar pursuant to Chapter 27.3 (§ 55-525.16 et seq.) of Title 55.

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

198 "Surety bail bondsman" means a person licensed as a surety bail bondsman pursuant to Article 11  
199 (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

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

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

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

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

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

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

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

218 "Variable contract agent" means an agent licensed in ~~this~~ the Commonwealth to sell, solicit, or  
219 negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in ~~this~~ the  
220 Commonwealth.

221 "Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.) of  
222 this title, in accordance with Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby  
223 authorized to engage in the activities set forth in Chapter 60 (§ 38.2-6000 et seq.) of this title.