

**LICENSING PROCEDURES
AND INFORMATION
FOR
INSURANCE CONSULTANTS**

July 2005

GENERAL INFORMATION

The 1987 Virginia General Assembly passed legislation regarding the regulation of financial planners. The law, effective July 1, 1987, combined regulation of investment advisors through the SCC's Division of Securities and Retail Franchising and insurance consultants through the SCC's Bureau of Insurance (Bureau). Anyone interested in obtaining information on the investment advisors portion should call the Division of Securities at 804-371-9051. A brief synopsis of the insurance consultant provision is set out below.

Who is considered to be an insurance consultant under the law?

Under Virginia law (§ 38.2-1838), anyone who, for a fee, advises or offers or purports to advise in the area of life and health insurance or property and casualty insurance is required to be licensed as an insurance consultant. The only exemptions are:

- A. A licensed attorney acting in his professional capacity,
- B. A trust officer of a bank acting in the normal course of his/her employment,
- C. An actuary or certified public accountant who consults during the normal course of his/her business, and
- D. Any person employed as a risk manager and who consults for his/her employer only.

The key to the definition is "for a fee," which is separate and distinct from commissions received by a licensed insurance agent or surplus lines broker resulting from selling, soliciting, or negotiating, or insurance or health care services as allowed by his/her license. In other words, an insurance agent acting in his/her professional capacity who advises an insured or prospective insured in the area of insurance or health care services and receives a commission only upon sale does not come under the auspices of insurance consultant. However, as soon as a fee for the consulting services is implemented, whether or not the consultant is a licensed insurance agent and whether or not a commission is received, the definition of insurance consultant applies and licensing is required.

Does a financial planner have to be licensed as an insurance consultant if a licensed insurance agent or insurance consultant prepares the insurance portion of the client's plan but the plan is presented to the client by the financial planner himself who is receiving a fee for the overall plan?

That depends. If the financial planner merely provides the client with the plan that was prepared by someone else appropriately licensed, then he/she is not advising, and a license is not required.

However, once the presentation becomes an explanation of options, then insurance knowledge is necessary and licensure is required. If the planner's presentation includes a recommendation of one insurance plan or option, either an insurance consultant's or insurance agent's license is required. The consultant's license

is required if the recommendation of a specific insurance option or plan is part of the overall plan recommended, but no commission for the sale of that insurance is received. If commission is received from the sale of an insurance product, including indirectly sharing commissions or any other compensation received by an insurance agent who ultimately sells an insurance product to your client, the financial planner **MUST** also be licensed as an insurance agent.

What are the insurance consultant prelicensing requirements?

There are two insurance consultant licenses available. A Life and Health insurance consultant advises in the areas of Life and Annuities and Health insurance or health care services as defined in the Insurance Code. Licensure requires the successful passage of the Life and Health insurance examination. A Property and Casualty insurance consultant advises in the areas of Property and Casualty insurance as defined in the Insurance Code. Licensure requires the successful passage of the Property and Casualty insurance examination.

An insurance agent already licensed in Virginia is deemed to have satisfied the testing requirements for a consultant's license with respect to the classes of insurance for which he/she holds an agent's license. Such an agent would only have to file an application and pay the annual consultant's licensing fee.

How does an individual apply for an insurance consultant's license?

If you are **not** licensed as a Life and Annuities and Health agent or Property and Casualty agent, you must successfully pass the appropriate examination. If you fail to apply for the license within 183 calendar days from the date you pass the examination, the examination grade will be considered invalid and you will be required to reapply for the examination.

If you are already a licensed Life and Annuities and Health agent or Property and Casualty agent, you need to complete the PIN3701 (Application for License) Form and submit it to the Bureau, along with the annual nonrefundable license application fee of \$50, for each license requested.

In addition, **for Virginia resident applicants only**, you must attach to the application a Criminal History Record Report. A criminal history record report may be obtained by contacting the Virginia State Police and requesting the information. **If you fail to provide a current (no more than 90 days old) criminal history record, the Bureau will refuse to issue a license to you.**

What are the license renewal requirements?

The license will be in effect for up to one year depending upon when it is issued. It must be renewed prior to June 30 of each calendar year. The Bureau will mail a renewal application form to the insurance consultant that must be returned to the Bureau on or before **June 1** of each year in which the license will expire. A criminal history record is **not** required in order to renew the license.

Is there a bond requirement?

No.

Are there any other requirements?

Yes. An insurance consultant must enter into a written contract with his/her client prior to engaging in any consultant activity. The contract must include, without limitation, the amount and basis of any consulting fee and the duration of employment. If the insurance consultant may receive commissions for selling, soliciting, or negotiating insurance as a part of his/her services in addition to a consulting fee, such information must also be disclosed in the contract. And of course the consultant is subject to all laws and regulations pertaining to insurance agents and their practices.

One final caution

Rebating by an insurance consultant is prohibited and could be grounds for refusal, suspension or revocation of an insurance consultant's license as well as monetary penalties of up to \$5,000 for each violation. The term "rebating" includes waiving or reducing the fee or compensation for consulting services for the purpose of inducing a client or potential client to purchase a policy, or waiving or reducing commission on the sale of insurance to a consulting client.

LICENSING PROCEDURES

There are two types of licenses available:

**LIFE AND HEALTH INSURANCE CONSULTANT
PROPERTY AND CASUALTY INSURANCE CONSULTANT**

If you wish to consult in both fields, you must apply for both licenses.

I. Licensing of Individuals

In order to be authorized to act as either a Life and Health Insurance Consultant or a Property and Casualty Insurance Consultant:

NOTE: If you are already a licensed Life and Annuities and Health agent or Property and Casualty agent, go to Step 2.

A. **YOU** must be at least 18 years of age.

B. **YOU** must follow the procedures outlined in the Licensing Information Bulletin for passing of the examination for Life and Health or Property and Casualty Insurance, then proceed with Step 2.

C. **YOU** must submit a completed PIN3701 (Application for License) Form along with a nonrefundable license application fee in the form of a certified check, bank or teller's check, insurance company check or money order for \$50 made payable to:

TREASURER OF VIRGINIA, SCC/BOI

D. **Resident applicants only** must attach to the application a Criminal History Record Report. A criminal history record report may be obtained by contacting the Virginia State Police and requesting the information. **If you fail to provide a current (no more than 90 days old) criminal history record, the Bureau will refuse to issue a license to you.**

In addition to the completed application form and nonrefundable application fee, **nonresident applicants** must be licensed or otherwise authorized as an insurance consultant in their home state or province or where their principal place of business is located. The Bureau will verify nonresident licensing through the NAIC's Producer Data Base (PDB). If the resident state does not participate in the PDB, a letter of certification will be required.

E. After review and approval of a completed PIN3701 (Application for License) Form and nonrefundable license application fee, the Bureau will send you the appropriate consultant license.

II. Licensing of partnerships, corporations, or limited liability companies

In the event that a partnership, corporation or limited liability company renders insurance advice as a consultant in its capacity as a partnership, corporation, or limited liability company and receives a fee for that advice, it must obtain an Insurance Consultant's license. In addition, each active partner and employee in a partnership must be licensed if he/she is to be an insurance consultant; and each officer, director, or employee of a corporation or limited liability company must be licensed if he/she is to be an insurance consultant.

If the partnership, corporation, or limited liability company is also in any way in the business of selling, soliciting, or negotiating insurance and receiving commissions, insurance agency licensing requirements must also be met.

Licensing of a partnership, corporation, or limited liability company does not convey any rights to the individuals involved. Each individual must apply for licensing in the normal manner.

NOTE: If a financial planner/insurance consultant is also dealing in the area of securities, he/she must also contact the Division of Securities of the State Corporation Commission of Virginia with regard to additional registration requirements. The Division of Securities may be reached at (804)371-9051.

A. A corporation, partnership, or limited liability company seeking a consultant license must submit a PIN3702 (Agency Application for License) Form for either a Life and Health Agency Consultant License or a Property and Casualty Agency Consultant License along with the nonrefundable license application fee in the form of a certified check, bank or teller's check, insurance company check or a money order for \$50 made payable to:

TREASURER OF VIRGINIA, SCC/BOI

B. A Virginia domiciled corporation/limited liability company must submit a copy of its charter.

A Virginia domiciled partnership must submit, pursuant to § 38.2-1822 C of the Code of Virginia, as amended, a copy of its recordation (filing) with the SCC's Clerk of the Commission.

Virginia law (§ 38.2-1845) allows the Bureau to issue a nonresident consultant license to a corporation, limited liability company or partnership only if the state of domicile of the corporation, limited liability company or partnership would issue a similar license to a Virginia corporation, limited liability company or partnership.

C. A nonresident corporation, limited liability company or partnership seeking an agency consultant license in Virginia must submit:

- The appropriate application (PIN3702) form; and
- The nonrefundable license application fee in the amount of \$50; and
- A copy of the "certificate of authority" issued by the Clerk of the Commission. The "Certificate of Authority" is the document authorizing the corporation, limited liability company or partnership to conduct business in the Commonwealth of Virginia. Information on obtaining a "certificate of authority" is available by contacting the Clerk's Office at (804) 371-9733.

D. The Bureau will verify nonresident licensing through the NAIC's Producer Data Base (PDB). If the resident state does not participate in the PDB, a letter of certification will be required.

E. After review and approval of a completed PIN3702 (Agency Application for License) Form and nonrefundable license application fee, the Bureau will send the agency the appropriate license.

CONTINUING EDUCATION

Virginia has a biennial Continuing Education (CE) requirement for all agents holding one or more of the following license types:

Life and Annuities	-	Type 007
Health	-	Type 008
Life and Health Consultant	-	Type 059
Property and Casualty	-	Type 030
Personal Lines	-	Type 032
Property and Casualty Consultant	-	Type 058
Title	-	Type 033

The CE program in Virginia is NOT administered by the Bureau. A separate entity, known as the Virginia Insurance Continuing Education Board, is responsible for development and administration of the CE program. The Board, in turn, has contracted with Thomson Prometric (formerly Experior Assessments, LLC) for operation of the program.

For further information on Virginia's CE program, including reciprocity information, or to obtain a copy of the Virginia Insurance Continuing Education Information Handbook, call Thomson Prometric at 1-800-482-2366, or you may review the Handbook on its website at www.experioronline.com/vaceprod.htm.

MISCELLANEOUS

I. Certifications

Certification letters may be requested by the company or individual and must include Name, Social Security number/DMV-assigned number, number of certifications being requested, and a self-addressed envelope. There is NO FEE.

II. Clearance Letters

Clearance letters must be requested by the licensee (agent), providing the Social Security number/DMV-assigned number, the state the consultant is moving to, and a self-addressed envelope. Request must be signed by the licensee (agent). All licenses and appointments will be terminated once an agent is cleared to another state. There is NO FEE.

III. Felony Conviction

An agent (resident or nonresident) is required by law to report to the Bureau of Insurance within 30 calendar days the facts and circumstances regarding a conviction of or pleading guilty or nolo contendere to any felony offense.

IV. Administrative Actions

An agent (resident or nonresident) is required by law to report to the Bureau of Insurance within 30 calendar days the final disposition, to include a copy of the order, consent to order, and/or other relevant legal documents, of any administrative action taken against him in another jurisdiction or by another governmental agency.

V. Name and Address Changes

Pursuant to § 38.2-1842, each licensed consultant is required by law to notify this Bureau in writing within 30 days of any change of residence or name. When notifying the Bureau of such changes, please include the following information:

- Social Security Number/DMV-assigned number/FEIN
- Name
- Old Address/New Address
- Copy of Divorce Decree, if applicable, when changing from current name to a previous name.
- Copy of certificate from Clerk of Court, Bureau of Vital Statistics, etc., when making formal name change.

For your convenience, a Virginia Service Request Form is attached. Upon receiving a service request form regarding a change of address, the Bureau of Insurance will update our system and generate an acknowledgement letter that will reflect your new resident address. If you do not receive an acknowledgement letter within 30 days of submitting your change of address, you should contact the Bureau of Insurance again.

Any licensed agent or consultant who has moved his/her residence from this Commonwealth shall have all licenses terminated by the Commission.

The above information is not intended to be all-inclusive. If you have any questions not addressed here, please contact us.

You may obtain forms for licensing by calling the Bureau's Interactive Voice Response (IVR) number, 804-371-9631, or you may use the Bureau's website at <http://www.scc.virginia.gov/division/boi/webpages/boiformsapplications.htm>.

**Bureau of Insurance
Agents Licensing Section
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