

COMMONWEALTH OF VIRGINIA

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Administrative Letter 2002-1

REVISED 7-12-17*

TO: ALL INSURANCE COMPANIES; HEALTH, DENTAL, OPTOMETRIC AND LEGAL SERVICES PLANS; AND HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN VIRGINIA

RE: **PROCEDURES TO RECOGNIZE MILITARY CALL-UP TO ACTIVE DUTY – AGENT LICENSING AND AGENT APPOINTMENT PROCESSES**

This administrative letter is sent to all insurers with the request that they provide copies of it to their appointed agents in Virginia. Prospectively, insurers may instead provide their newly appointed agents with directions to review this letter on the [Bureau of Insurance website](#).

This administrative letter is also sent to the various agents associations in Virginia with the request that they attempt to disseminate this information to their members.

Finally, this administrative letter is sent to the Bureau's contracted licensing examination provider with the request that this information be incorporated into future editions of the [Insurance Candidate Licensing Handbook](#) and be provided in communications with those candidates preparing for the licensing examinations.

Due to unexpected activation of military units in which individuals serve as reserves, situations are likely to arise in which applicants for insurance agent licenses or those individuals holding agent licenses may be precluded from meeting certain license deadlines.

The Bureau of Insurance wishes to be as understanding as possible in such circumstances so that those serving our country are not unduly penalized. Fortunately, the Code of Virginia provides sufficient leeway to permit the State Corporation

Commission, through its Bureau of Insurance, to make exceptions where good cause is shown. The following Code of Virginia sections may be applicable:

- *Section 38.2-1817 F requires an applicant for a license requiring an examination to take the examination within 90 calendar days from the date the registration is accepted. Failure to do so results in forfeiture of the examination fee and withdrawal of the registration for the examination.*

The Bureau takes the position (and will so instruct its contracted licensing examination provider) that if the applicant is called to active duty prior to the end of the three month period, the applicant will be given a new period of three months following release from active duty to schedule and to take the examination WITHOUT PENALTY. The rationale behind this position is that the time period in the statute was created in contemplation of the agent having a full 90 calendar days in which to act. Upon release from active duty, and upon providing to the Bureau's contracted licensing examination provider proof of having been on active duty and proof of the date of release from active duty, the applicant will be given a new period of three months in which to schedule and take the examination.

- *Section 38.2-1817 G requires the applicant to apply for and be issued the license within 183 days following the date the applicant passes the required examination. Failure to meet this deadline results in invalidation of the examination grade and a requirement to register for, pay for, and pass the examination again. A similar requirement is found in § 38.2-1819 B.*

The Bureau takes the position that if the applicant is called to active duty prior to the deadline, the time limit will toll during the period that the applicant is on active duty. The rationale behind this position is that the time period in the statute was created in contemplation of the applicant having a full 183 calendar days in which to act. Upon release from active duty, and upon providing to the Bureau proof of having been on active duty and proof of the date of release from active duty, the period will begin to run again and the applicant will be permitted to apply for a license WITHOUT PENALTY within the extended deadline period.

- *Section 38.2-1817 H provides that an individual who applies for a resident agent's license, and who was previously licensed for the same lines of authority in the individual's former home state will be exempt from the licensing examination, but only if the application in Virginia is made while the individual is still licensed in the former home state or within 90 calendar days of the cancellation of the applicant's previous license in the home state. Similarly, § 38.2-1818 B gives an individual moving to Virginia a period of 90 calendar days to obtain a Virginia resident license without being subject to prelicensing examination requirements.*

The Bureau takes the position that if the applicant is called to active duty while in the process of relocating to Virginia, the applicant should not be penalized by being required to take the examination because the 90-day period elapsed in the interim.

Instead, the Bureau will grant the applicant a new period of 90 days following the applicant's release from active duty. The rationale behind this position is that the time period in the statute was created in contemplation of the agent having a full 90 calendar days in which to act. Upon release from active duty, the applicant will have a new period of 90 days in which to apply for a resident Virginia license, upon providing to the Bureau proof of having been on active duty and proof of the date of release from active duty.

- *Section 38.2-1818 A provides a grace period for an agent who holds a nonresident Virginia license to obtain a resident license without penalty for a period of 90 calendar days from the date the agent becomes a Virginia resident. Failure to apply for and be issued a resident license by the end of the 90 calendar day period subjects the agent to termination of the license authority and thus imposes a requirement that the agent satisfy Virginia prelicensing examination requirements before a new resident license could be issued.*

The Bureau takes the position that if the applicant is called to active duty after establishing Virginia residence and prior to the expiration of the 90 calendar day period provided in § 38.2-1818 A, the agent will be given a period of 90 calendar days following release from active duty in which to secure the Virginia resident license. The rationale behind this position is that the time period in the statute was created in contemplation of the agent having a full 90 calendar days in which to act. Upon release from active duty, and upon providing to the Bureau proof of having been on active duty and proof that the application is submitted within 90 calendar days of the date of release from active duty, the application will be considered and if approved will be issued without regard to the expiration of the 90 calendar day period interrupted by the agent's active military service.

- *Section 38.2-1830 D provides for a temporary license to be issued, valid for a period of 180 days. Subsection 38.2-1830 G provides that "[t]he Commission, in its sole discretion and for good cause shown may renew licenses granted under this section."*

The Bureau takes the position that if the applicant is called to active duty after being issued a temporary license and prior to expiration of the temporary license, the effective period of the license will toll during the period the licensee is on active duty, thereby effectively "renewing" the license for an additional 180 days. Upon release from active duty, and upon providing to the Bureau proof of having been on active duty and proof of the date of release from active duty, the period will begin to run again and the applicant's temporary license will continue in force until the end of the new 180 day period.

The Bureau recognizes that not every possible situation may have been addressed above. It is the Bureau's intent that similar situations be addressed consistently with the situations herein addressed. Examples also apply to licenses such as "consultant", "surplus lines broker", "managing general agent", and "viatical settlement broker" which are renewable licenses. Renewal dates will be extended upon submission of proof of having been on active duty and proof of the date of release from active duty.

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The Bureau is not the entity responsible for development and administration of Virginia's insurance continuing education program; that responsibility lies with the Virginia Insurance Continuing Education Board created and operating under Article 7 of Chapter 18 of Title 38.2 of the Code of Virginia. The Bureau however will urge the Board to adopt procedures consistent with the spirit of those described above for continuing education compliance and granting full or partial waivers pursuant to § 38.2-1870.

Throughout this document, we have made reference to "proof of having been on active duty and proof of the date of release from active duty". While acknowledging that other forms of proof may, in the future, prove to be sufficient, at this time the Bureau is defining the terms to require the individual to provide copies of the ORDERS showing the activation start date and end date. Copies of the AMENDED ORDERS must also be provided. It is our understanding that these documents are used consistently throughout the United States armed forces.

It is the Bureau's intent to interpret these procedures more liberally rather than more stringently. That is, in lieu of adhering strictly to a set number of days, reasonable adherence to the deadlines and extended deadlines will be accepted.

Finally, we urge those affected by the call to active military duty to provide, whenever possible, **prior** notice to the Bureau (or the C.E. Board's administrator, as appropriate) of having received orders so that the individual's file can be appropriately annotated, subject to later submission of proof of having been on active duty and proof of the date of release from active duty.

Further information may be obtained by contacting the Bureau's Agent Licensing Section at AgentLicensing@scc.virginia.gov or at 804-371-9631. Also, see the [Bureau's website](#) for additional information.

Sincerely,



Alfred W. Gross
Commissioner of Insurance

AWG/gm

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Made several technical corrections,
and removed references to §§ 38.2-
1816 and 38.2-1825 B as they were
repealed effective -9/1/2002 and
7/1/2007, respectively