

Virginia

Regulatory Hot Tip 2009 –3

Professional Insurance Agents Association of Virginia and DC, Inc.

You Can't Just Walk Away

In recent months, there have been several articles in our local newspaper about successful local businesses that have been in existence for years but, for varying reasons, have decided to close their doors and go out of business. You may be aware of similar events in your locality. You may even be aware of insurance agencies that have chosen to close their doors and go out of business rather than try and sell to another agency.

What legal rules apply to this situation?

As a general matter, in most states, when a business owner decides he or she has had enough and wishes to close their business, they are free to do so. Once the company's creditors (including the tax man) have been paid, the company need only file the appropriate termination paperwork, or, by failing to file, simply let the company's charter lapse into oblivion.

Virginia insurance agents, however, have additional legal and regulatory hurdles that they must overcome before an agency merely shuts its doors. Failing to comply with these required steps may result in violations of the Virginia insurance statutes---violations that carry significant financial penalties. So the Bottom Line is: Although most businesses can simply pay their creditors and close their doors, as a licensed insurance agent---**You can't just walk away!**

As we all know, insurance is a personal business, and as an insurance agent, you have fiduciary obligations to your customers to safeguard and protect the customer information in your files, as well as customer funds in your escrow account. But with all the doom and gloom

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in the industry, some agents who have found themselves working on a shrinking margin are now concluding that they need to find themselves another line of work.

Here's what we are seeing:

- Agents failing to notify customers that they are shutting their agency or failing to properly transfer their files to another agent.
- Agents misusing their escrow accounts to pay agency bills.
- Agents creating fictitious premium finance contracts to generate revenue.

Rather than risk the very real penalties associated with the above actions, if you're thinking of exiting the business, take steps to properly transfer your files to another agent. I've spoken with agents who think their book of business is worthless, but I can assure you that no matter how small your book of business might be, there are agents out there willing to acquire it. And, of course, some of these agents might even be willing to pay you for your book! If you want to exit the insurance business and know of other agents who might be willing to assume your customer accounts and files, go and speak with them. I hear frequently from agents and brokers looking to acquire additional books of business, so I know they're out there. If you don't know anyone to ask about this, call your local agent association such as the PIA and tell them that you want to exit the business. Don't overlook this resource!

Alternatively, before you violate the law and risk a big fine, don't hesitate to contact your regulators. They too may be a resource for insurance agents.

I fervently hope that you are not looking to exit the insurance agency business. But if you are, please keep in mind that you can't just walk away. Before you close your doors, you must find someone willing to take over your accounts.