

Virginia

Regulatory Hot Tip 2016 – 5

Professional Insurance Agents Association of Virginia and DC, Inc.

Designated Licensed Producer

During this 2016 Virginia General Assembly Session changes were made to the statutory language in the insurance code pursuant to HB 393. HB 393 was signed into law by the Governor and will become effective on July 1, 2016. These revisions attempt to ensure that each Commonwealth of Virginia insurance agency will have at least one licensed employee. These changes mandate that insurance agencies holding an insurance producer's license designate a Designated Licensed Producer (DLP). Types of licenses included in this new legislation include businesses selling life, health, annuities, property, or casualty coverages. Additionally businesses engaged in the business of being an insurance consultant, a public adjustor, surplus lines broker, title insurance agency, and a viatical settlement broker must designate a DLP. According to the summary contained in the Fiscal Impact Statement accompanying HB393, it:

requires that an insurance agency's designated licensed producer responsible for the agency's compliance with insurance laws and regulations be an employee, officer or director of the agency.

The author of this Regulatory Hot Tip endeavors to provide accurate and authoritative information about the subject matter covered as of the date of publication. However, the substantive information and any statutory authority contained in this Hot Tip should be verified as they are subject to change with the passage of time. The author provides this Hot Tip with the understanding that she is not rendering legal, accounting, or other professional advice or counsel. If legal advice or other expert assistance is required, the services of a competent professional should be sought. This publication is authored by JoAnne L. Nolte, JD, CIC, CPCU, FLMI, CLU, who practices at The Nolte Law Firm, P.C., 1427 W. Main Street, Richmond, VA 23220. NolteLaw offers [Solutions for Business—Large and Small](#); just call (804) 658-4518.

NolteLaw's practice focuses on general business matters (such as business formation, acquisitions, dissolutions and employment questions) and administrative law issues (such as rulemaking and compliance) affecting regulated entities. Our diverse client base includes restaurants, healthcare providers, contractors, fiber-optic and conduit installers, business entrepreneurs, telecommunications companies, insurance entities, financial institutions, mortgage loan originators, water & sewer providers, and insurance receiverships. Jo has served as attorney for the Virginia State Corporation Commission and as in-house counsel to a privately owned national corporation. She also owned and operated an insurance surplus lines brokerage agency and an insurance consulting business.

Some lines of insurance already required the DLP designation by statute. Many of you in your agencies have already informally identified someone within the agency to handle regulatory issues as they surface, but this new Virginia Code language mandates that every agency formally identify that DLP representative and advise the Bureau accordingly.

Importantly, should the DLP leave the agency, the DLP must be replaced and the Bureau of Insurance notified of the DLP replacement within the statutory time period of thirty (30) calendar days. Failure of agencies holding P&C, L&H and other major insurance agent licenses to notify the Bureau of Insurance within this time frame when the agency loses a DLP will be a violation of VA Code § 38.2-1826 and subjects the agency to the normal monetary fines and other penalties including the loss of a license. If you are engaged in a specialty license type, including but not limited to: public adjusters, surplus lines, or consultants, the loss of your specialty license is automatic if a DLP is not named within the 30 day time period. Keep in mind that most of these specialty license types of businesses must renew their license every year or every other year (depending upon the particular requirements of each license). Further, the language regarding automatic terminations has existed in the law for several years for these specialty licenses.

So, we recommend that this is one item you verify annually, when you review your other annual business matters to make sure that the Bureau's information is up to date. You could also take the occasion to annually remind your agency staff as to who is the designated licensed producer (DLP) for your agency.