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**STATE CORPORATION COMMISSION
BUREAU OF INSURANCE**

May 29, 2007

Administrative Letter 2007-06

To: All Insurers and Other Interested Parties

Re: Legislation Enacted by the 2007 Virginia General Assembly

We have attached for your reference summaries of certain statutes enacted or amended and re-enacted during the 2007 Session of the Virginia General Assembly. **The effective date of these statutes is July 1, 2007, except as otherwise indicated in this letter.** Each organization to which this letter is being sent should review the summaries carefully and see that notice of these laws is directed to the proper persons, **including appointed representatives**, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Copies of individual bills may be obtained at <http://legis.state.va.us/>. You may enter the bill number (not the chapter number) on the Virginia General Assembly Home Page, and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia. All statutory references made in the letter are to Title 38.2 (Insurance) of the Code of Virginia unless otherwise noted.

Please note that this document is a **summary** of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments affecting insurance-related laws during the 2007 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

Cordially,

A handwritten signature in cursive script, appearing to read "Alfred W. Gross".

Alfred W. Gross
Commissioner of Insurance

AWG/met
Attachment

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AGENT REGULATION

Chapter 449 (House Bill 1957)

The bill contains amendments to § 38.2-1839 in the Insurance Agents chapter with regard to insurance consultants and at what point the insurance consultant must enter into a written contract with his client in order to act as a consultant. As the result of the bill, a licensed insurance consultant who does not sell, solicit or negotiate insurance as part of his services must enter into a written contract with a client prior to providing any service as a consultant. A licensed insurance consultant who sells, solicits or negotiates insurance as part of his services must enter into a written contract with a client prior to the client purchasing insurance.

Chapter 621 (House Bill 1953)

The bill amends §§ 6.1-5, 54.1-2820, and 54.1-2822 of the Code of Virginia dealing with funeral services to permit incorporated associations authorized to sell burial association group life insurance certificates to serve as trustees of trusts established to fund preneed funeral contracts. The bill also clarifies the method of calculation by which adjustments to the face value of a life insurance or annuity contract shall be made when used to fund a preneed contract.

Chapter 703 (House Bill 3016)

The bill repeals Section B of § 38.2-1825 that directs the automatic termination of an insurance agent's license if the agent has failed to have at least one active appointment to represent an insurer for a period of 183 days from the date the agent's license was issued.

Chapter 898 (Senate Bill 745)

The bill amends § 6.1-2.21 (Virginia Consumer Real Estate Settlement Protection Act) to prohibit any person convicted of a felony from acting as a settlement agent unless the person's civil rights have been restored by the Governor or the person has been granted a writ of actual innocence. A person who has been convicted of a felony involving fraud, deceit or misrepresentation is also prohibited from working for settlement agents in an administrative or clerical capacity involving the receipt or disbursement of funds from real estate settlements in Virginia and settlement agents may not employ such persons.

PROPERTY AND CASUALTY BILLS

Chapter 496 (House Bill 2518)

The bill amends § 46.2-316 of the Motor Vehicle Code to require persons who have been convicted of certain offenses, such as a DUI, to file proof of financial responsibility with double the minimum limits of liability required by § 46.2-472. Consequently, an insurance company filing proof of financial responsibility on behalf of such persons will have to show that the person is insured under a motor vehicle liability insurance policy with limits of at least **50/100/40**.

NOTE: Since neither § 46.2-472 nor § 38.2-2206 were amended, policyholders who are subject to this new requirement are not required to carry *uninsured motorists* limits equal to double the minimum limits of liability, and such policyholders may reject the higher UM limits.

This law is applicable to policies issued or renewed on or after January 1, 2008. Any insurance company that does not have limits of at least 50/100/40 on file with the Bureau must make the appropriate filing prior to the application of the new law.

Chapter 762 (House Bill 3055)

The bill amends § 38.2-111 in the General Provisions chapter to add language to the definition of miscellaneous property and casualty insurance. The bill will allow inclusion of provisions obligating the insurer to pay medical, hospital, surgical, funeral expenses, and death and dismemberment benefits, arising out of the death, dismemberment, sickness, or injury if caused by or incidentally caused by a cause of loss insured under a policy of miscellaneous casualty insurance. Language has also been added to the definition of burglary and theft in § 38.2-113 to state that any policy of burglary and theft insurance may include provisions obligating the insurer to pay medical, hospital, surgical, funeral expenses, and death and dismemberment benefits, arising out of the death, dismemberment, sickness, or injury if caused by or incidentally caused by a cause of loss insured under a policy insuring burglary or theft.

LIFE AND HEALTH BILLS

Chapter 186 (House Bill 2001)

The bill amends §38.2-301 in the Provisions Relating to Insurance Policies chapter, to clarify provisions relating to insurable interest and when a trustee has an insurable interest in a life insurance policy. In the case of a trustee, the lawful and substantial economic interest required in subdivision 2 of § 38.2-301 shall be deemed to exist whether the life insurance policy is owned by a trustee before, on or after July 1, 2005. A second enactment clause exempts certain policies or contracts from the provisions of the bill in limited cases involving life insurance policies issued on the lives of donors to specific charitable organizations. Refer to the statute for details.

Chapter 346 (House Bill 3137)

The bill amends and reenacts §38.2-5902 in the Adverse Utilization Review Decisions chapter relating to expedited appeals of final adverse decisions regarding health care coverage. The bill requires that for a patient whose condition would be terminal without the treatment being appealed, the Commissioner of Insurance or his designee shall issue a final ruling affirming, modifying, or reversing the final adverse decision no later than one business day following the receipt of the recommendation. Failure by the utilization review entity to comply with the written ruling of the Commissioner or his designee within three days of an expedited ruling shall also be deemed a knowing and willful violation of the section.

Chapter 428 (House Bill 1622)

The bill amends § 38.2-3525 in the Accident and Sickness Insurance Policies chapter to provide that if a policy provides coverage to a dependent child under the age of 25 who is enrolled as a full-time student, and the child is unable to continue school as a full-time student because of a medical condition, coverage must continue for the child (i) for not more than 12 months from the time the child ceases to be a full-time student; or (ii) until the child turns 25; whichever comes first. The child's treating physician must certify that the child's absence is medically necessary. The child's status as a full-time student is to be determined by the criteria of the institution where the child is enrolled.

FINANCIAL REGULATION BILLS

Chapter 157 (Senate Bill 1113)

The bill amends §§ 38.2-4811 and 38.2-4812 in the Surplus Lines Insurance Law chapter and § 38.2-800 in the Service of Process chapter. Amendments clarify that an alien insurer cannot be approved as a surplus lines carrier unless it maintains at least \$2.5 million in an irrevocable trust fund, in addition to meeting applicable capital and surplus requirements. Amendments also specify that an unlicensed insurer approved by the Commission to issue surplus lines coverage shall provide to the Commission a current annual statement certified by the insurer by March 1 unless the insurer's state of domicile or entry establishes a later date, but such later date shall not be later than August 31. Amendments also clarify the service of process requirements for surplus lines carriers.

Chapter 360 (Senate Bill 1317)

The bill amends §§ 38.2-5501 and 38.2-5503 in the Risk-Based Capital Act chapter to add and correct language regarding the Negative Trend Test and the Trend Test Calculation in accordance with the RBC Instructions for Life and Health insurers. The bill includes a new provision adding the Trend Test Calculation for property and casualty insurers as a “Company Action Level Event,” and corrects a subsection reference in the “Adjusted RBC Report” definition.

Chapter 482 (House Bill 2351)

The bill amends § 38.2-1704 in the Virginia Life, Accident and Sickness Insurance Guaranty Association chapter to add to the contractual obligations for which the Guaranty Association may become liable, which is a maximum of \$250,000 in the present value of annuity benefits for IRAs, Section 457 Plans, defined contribution plans, or Keogh Plans. The bill also increases the maximum aggregate amount for which the Guaranty Association may become liable with respect to any one individual from \$300,000 to \$350,000.

Chapter 488 (House Bill 2394)

The bill amends §§ 38.2-1306.1 and 38.2-1320.5 from the Reports, Reserves and Examinations chapter and § 38.2-4319. The amendments to these confidentiality provisions require that financial analysis files and working papers of Bureau of Insurance staff, which may include proprietary information concerning insurance companies or health maintenance organizations and their transactions, be afforded the same confidential treatment that the Code of Virginia provides for financial examination documents.

Chapter 579 (Senate Bill 1303)

The bill adds Article 2.1 to the Licensing and Organizing of Insurers chapter and amends § 38.2-4319 to make the provisions applicable to health maintenance organizations (HMO). The bill provides for the conversion of a Virginia-domiciled HMO to a Virginia-domiciled insurer licensed to write accident and sickness insurance. The bill establishes a procedure by which a Virginia domiciled health maintenance organization may convert, without reincorporating, to an accident and sickness insurer.