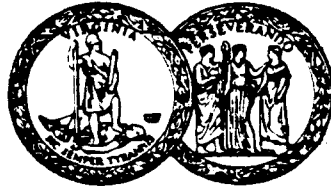


JAMES W. NEWMAN, JR.
COMMISSIONER OF INSURANCE

W. G. FLOURNOY
FIRST DEPUTY COMMISSIONER



BOX 1157
RICHMOND, VA. 23
TELEPHONE (804) 786

STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

May 9, 1980

Administrative Letter 1980-5

TO: All Insurance Companies, Fraternal Benefit Societies
and Prepaid Health Care Plans Licensed in Virginia

RE: 1980 Legislation by the General Assembly of Virginia

Attached are summarizations of statutes enacted or amended and reenacted by the General Assembly of Virginia during its 1980 Session.

The effective date of these statutes is July 1, 1980 EXCEPT in the case of Senate Bill 184 (Chapter 719) on page 4, which becomes effective on September 1, 1980.

Each organization to which this letter is being sent should review it carefully and see that notice of these laws is directed to the proper persons (including its licensed representatives) to insure that appropriate action is taken to effect compliance with these new legal requirements.

Sincerely,

A handwritten signature in cursive script that reads 'James W. Newman, Jr.'.

James W. Newman, Jr.
Commissioner of Insurance

JWNjr:dj
Attachment

Summary of
1980 INSURANCE LEGISLATION
Commonwealth of Virginia

AGENTS

1. House Bill 81 (Chapter 743)

Agents Licenses for Residents of Canada. This law authorizes the inclusion of the provinces of Canada as jurisdictions whose residents may be issued nonresident insurance agents' licenses in Virginia on a reciprocal basis. (Section 38.1-327.19 et al)

2. Senate Bill 506 (Chapter 581)

(A) Interest Charges by Agents on Premium Balances. This portion of Senate Bill 506 increases the rate of interest a property and casualty insurance agent, a mutual assessment fire insurance agent, or ocean marine insurance agent licensed in Virginia may charge on credit extended or money loaned for the premium due on such policy by such agent to the holder of any such insurance policy written by or being serviced through such agent from one percent (1%) a month on the amount of the unpaid balance to one and five-tenths percent (1 5/10%) per month. (Section 38.1-327.7)

(B) Person Acting as Insurance Agent Without License. This portion of Senate Bill 506 adds to the existing law, which prohibits any person acting in this State as an insurance agent without first becoming licensed, prohibition against any insurance company or licensed agent knowingly permitting another person to act as an insurance agent in this State without such other person first obtaining a license as prescribed by law. (Section 38.1-327.33)

FINANCIAL CONDITION DIVISION

3. House Bill 266 (Chapter 665)

Captive Insurance Companies. This law provides for the establishment and regulation of captive insurance companies organized by companies or associations based in Virginia. A "pure" captive insures only risks of its parent, subsidiary companies of its parent, and associated and affiliated companies. An "association" captive insures risks of the member organizations of the association. (Section 38.1-863 et seq)

4. House Bill 456 (Chapter 186)

Virginia Life, Accident and Sickness Insurance Guaranty Association. This law amended the name of the Association to include the word "Virginia". (Section 38.1-482.19 et seq)

5. House Bill 457 (Chapter 187)

Domestic Mutual Insurance Companies Acquiring Initial Surplus or Voluntary Increase in Guaranty Funds. This law increases the rate of interest such companies may pay in acquiring funds for these purposes from eight percent (8%) per annum to ten percent (10%) per annum. (Sections 38.1-92 and 92.1)

6. House Bill 793 (Chapter 286)

Medical Malpractice Joint Underwriting Association. This law relates to the operation of this Association, its dissolution and reactivation by decision of the State Corporation Commission. (Sections 38.1-776.1, 776.2 and 778)

LIFE AND ACCIDENT AND SICKNESS INSURANCE

7. Senate Bill 74 (Chapter 110)

Group Life Insurance. This law increases the permissible amount of life insurance on the spouse or minor children of the insured under an employee group life insurance policy to \$5,000 on the spouse; \$500 on a child under six (6) months of age; and \$2,500 on a child six (6) months of age or over. These amounts are subject to a limit per person of 50% of the amount of the insurance on the life of the insured employee. (Section 38.1-472.1)

8. Senate Bill 220 (Chapter 205)

Life Insurance; Backdating. This law eliminates the prohibition against backdating a new life insurance policy more than six (6) months in the case of the exchange of a policy or contract insuring one person for a policy or contract insuring another person dated not earlier than the original policy so exchanged. (Section 38.1-435)

9. Senate Bill 184 (Chapter 719)

Accident and Sickness Insurance; Deductibles and Co-insurance. This law requires an insurer or offerer of prepaid hospital, medical, surgical, dental or optometric plans to make available to the potential insured or contract holder prior to issuance of a policy or contract three options under which the individual insured or group certificate holder pays:

- (1) the first \$100 of the cost of covered services during a twelve-month period; or
- (2) twenty percent (20%) of the first \$1,000 of the cost of covered services during a twelve-month period; or
- (3) the first \$100 and twenty percent (20%) of the next \$1,000 of the cost of covered services during a twelve-month period.

This law applies to policies or contracts delivered or issued for delivery in this State on or after September 1, 1980, and to group policies or contracts issued prior to September 1, 1980 at the first renewal on or after September 1, 1980. Certain limited types of policies or contracts and policies or contracts designed for issuance to persons eligible for Medicare or other similar State or federal government plans are excepted. (Sections 38.1-348.12; 38.1-360; 38.1-818; 38.1-841; and 38.1-855)

10. Senate Bill 188 (Chapter 204)

Accident and Sickness Insurance; Minimum Standards for Individual Policies. This law authorizes the State Corporation Commission, after notice and hearing, to issue rules and regulations to provide reasonable standardization and simplification of terms and coverages for such policies. (Section 38.1-362.10 et seq)

11. House Bill 759 (Chapter 556)

Disclosure of Patient Information to Third-Party Payors (Insurers and Prepaid Plans) by Mental Health, Mental Retardation or Substance Abuse Professionals and Facilities. This law provides that a request by a patient to a professional to submit a bill to a third-party payor for payment under a policy or contract (insurance or prepaid plan) is deemed consent of the patient for disclosure of certain pertinent information to the third-party payor. Release of such information by the third-party payor to the patient or others is restricted. (Section 37.1-225 et seq)

PREPAID HEALTH CARE PLANS

12. Senate Bill 351 (Chapter 682)

Prepaid Hospital, Medical and Surgical Plans; Dental and Optometric Plans. This law contains a number of amendments to Chapter 23 of Title 38.1 relating to prepaid hospital, medical and surgical plans; the repeal of Chapter 24 (Dental Service Corporations) and Chapter 25 (Optometric Service Corporations); and the enactment of Chapter 26 (Plans for Future Dental or Optometric Services). The principal result of the law is to eliminate statutory inconsistencies between the different kinds of plans, which have prompted challenges about their constitutionality, and to conform the prepaid plans to the administrative procedures generally applicable to other organizations regulated under Title 38.1. (Sections 38.1-810 et al through 885)

13. Senate Bill 185 Chapter 720)

Health Maintenance Organizations. This law sets up a separate chapter for the establishment and regulation of Health Maintenance Organizations and repeals the original enabling authority for health maintenance organizations that was provided under Section 38.1-813 relative to prepaid hospital, medical and surgical plans. (Section 38.1-863 et seq)

(SEE ALSO - SENATE BILL 184 [9. on page 3])

(SEE ALSO - SENATE BILL 210 [20. on page 6])

PROPERTY AND CASUALTY INSURANCE

14. Senate Bill 111 (Chapter 112)

Performance Standards for Insurers and Agents with Respect to Assigned Risk Insurance. This law authorizes the State Corporation Commission to require that agreements among insurers with respect to the equitable apportionment of insurance among them pursuant to Section 38.1-264 contain reasonable performance standards for insurers and agents, or both, with respect to insurance afforded applicants for coverage through the plan. Failure to comply with such standards may be punished by a fine or by a suspension or revocation of license or a refusal to renew a license. (Section 38.1-264 B.)

15. House Bill 255 (Chapter 156)

Basic Property Insurance Inspection and Placement Plan and Joint Underwriting Association ["FAIR" Plan]; Extended to Statewide. This law changes the qualifying location of property affected from "in an urban area" to "in the Commonwealth". (Section 38.1-747 et seq)

16. House Bill 379 (Chapter 326)

Motor Vehicle Liability Insurance; Coverage of Prospective Purchaser Using Demonstrator Applicable Prior to that of Demonstrator Vehicle Owner. This law adds motor vehicles being used for the purpose of demonstration to prospective purchasers to those situations in which the liability insurance of the user of the vehicle is primary to such liability insurance of the owners of the vehicles. (Section 38.1-381[a3])

17. House Bill 536 (Chapter 331)

Motor Vehicle Liability Insurance; Insurer's Obligation to Perform. This law provides that an insurer having actual notice of a motion for judgment or complaint having been served on its insured cannot use the mere failure of the insured to turn such suit papers over to it as a defense against performing its contractual obligation to the insured. (Section 38.1-381[al])

18. House Bill 414 (Chapter 437)

Motor Vehicle Insurance; Refusal of Small Claim; Action Against Insurer. This law increases from \$300 to \$500 the maximum amount that may be subject to payment of double the amount otherwise due (plus reasonable attorney's fees and expenses) if a court of proper jurisdiction finds that an insurer's denial, refusal or failure to pay was not made in good faith in the following circumstances:

- (1) claim of an insured under his own policy in amount of \$500 or less in excess of the deductible, if any;
- (2) third-party claim of \$500 or less when the court has found the insured to be liable;
- (3) claim of \$500 or less under medical payments coverage.

In addition, this law also applies to such denial, refusal or failure to pay by an uninsured motorist who

paid the required uninsured motorist fee or provided proof of financial responsibility in lieu of obtaining a policy of motor vehicle liability insurance pursuant to the provisions of Title 46.1, or who was required to pay such fee or furnish such proof but failed to do so. (Section 8.01-66.1)

19. House Bill 546 Chapter 748)

Mortgage Guaranty Insurance Premiums. This law provides that any financial institution receiving premium for the purchase of mortgage Guaranty insurance shall return to the person who paid the premium any portion of the premium so received that is not used for the purchase of such insurance. (Section 6.1-2.10)

GENERAL

20. Senate Bill 210 (Chapter 404)

Unfair Trade Practices. This law amends and reenacts the substantive portion of the Unfair Trade Practices Act with particular attention being called to the amendment of Section 38.1-52.3 ("Defamation") and Section 38.1-52.7 ("Unfair Discrimination"). (Sections 38.1-50 through 38.1-56)

OTHER INSURANCE-RELATED LEGISLATION AND RESOLUTIONS

Senate Bill 6 (Chapter 608)

Virginia Health Services Cost Review Commission. This law amends the existing law to increase the number of members of the Commission from nine to eleven; set basic qualifications for two consumer members; provide that members of the Commission receive fifty dollars (\$50) per meeting of the Commission and Committees appointed by the Chairman (not to exceed fifty dollars (\$50) for any one day) and also reimbursement for necessary and proper expenses incurred in the performance of their duties on behalf of the Commission. (Sections 9-157 and 9-161)

Senate Bill 300 (Chapter 600)

Workmen's Compensation; Accidental Loss of Hearing; Rehearings. This law adds "loss of hearing" to the accidental occurrences for which the employer shall provide medical attention and vocational rehabilitation.

This law also provides that a member of the Industrial Commission who makes an award shall not participate in a rehearing and review of such award. (Sections 65.1-88 and 65.1-96)

House Bill 383 (Chapter 421)

Workmen's Compensation; Option of Sole Proprietors and Partners to be Included as Employees. This law provides that any sole proprietor or all partners of a business whose employees are eligible for benefits under the Workmen's Compensation laws may elect to be included as employees under the Workmen's Compensation coverage of such business if the insurer is notified of such election. (Section 65.1-4.2)

House Bill 395 (Chapter 486)

Motor Vehicles; Safety Lap Belts and Shoulder Straps or Harnesses. This law provides that evidence of nonuse of these devices shall not be considered in mitigation of damages of whatever nature. (Section 46.1-309.1)

House Resolution No. 6

Workmen's Compensation Insurance Premiums. This Resolution requests a continuation of the study of the factors accounting for the accelerating increase in Workmen's Compensation insurance premiums by the Workmen's Compensation Subcommittee of the House Committee on Labor and Commerce. Report is to be made to the Governor and General Assembly not later than November 1, 1980.

Senate Joint Resolution No. 32

Commission to Study Containment of Health Care Costs. This Resolution continues the Commission and directs the study of (i) the issue of legislatively-mandated coverages, (ii) the advisability of laws limiting the coordination of health insurance benefits and (iii) such other matters as the Commission may deem pertinent to the containment of health care costs. Report is to be made to the Governor and the General Assembly not later than December 1, 1981.

Senate Joint Resolution No. 80

Subcommittee to Work with Hospice Advisory Committee. This Resolution requests the Senate Committee on

Education and Health and the House of Delegates Committee on Health, Welfare and Institutions to appoint a joint subcommittee to work with the Hospice Advisory Committee during 1980. Joint report of subcommittee and Committee is to be made to the Governor and the 1981 Session of the General Assembly.