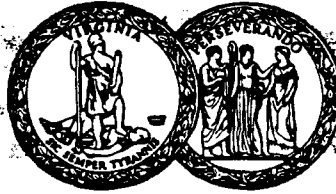


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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

April 23, 1985

ADMINISTRATIVE LETTER
1985-9

TO: All Insurance Companies, Life and Casualty Cooperative or Assessment Companies, Mutual Assessment Fire Insurance Companies, Prepaid Health Care Plans and Health Maintenance Organizations

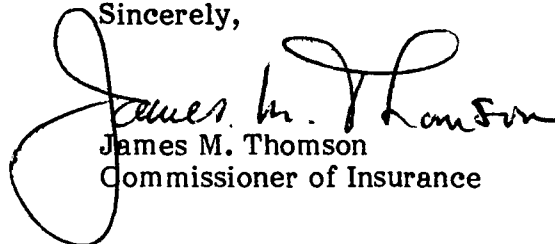
RE: Legislation enacted by the 1985 session of the General Assembly of Virginia

Attached are summaries of statutes enacted or amended and reenacted by the General Assembly of Virginia during its 1985 Session.

The effective date of these statutes is July 1, 1985 EXCEPT as otherwise indicated in the attachment.

Each organization to which this letter is being sent should review the attachment 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,



James M. Thomson
Commissioner of Insurance

JMT:bt
Attachment

(All Bills Effective July 1, 1985 Unless Otherwise Noted)

PROPERTY AND CASUALTY INSURANCE

Senate Bill 629

Mutual Aid Insurance Associations. This bill amends § 38.1-42.1 to provide that certain church related mutual aid insurance associations may write auto physical damage coverage in addition to fire and extended peril coverage without being subject to Virginia's insurance laws.

House Bill 1377

Establishment of Fire Programs Fund. This bill amends §§ 9-154 and 58.1-2508 and adds § 38.1-44.1 to establish a Fire Programs Fund to improve fire services and protection. There will be an annual assessment of licensed insurance companies writing fire, miscellaneous property and marine coverages and those combination policies containing fire, miscellaneous property and marine coverages. The assessment will be 8/10 of 1% of the total direct gross premium income for the applicable lines. The assessment will be levied pursuant to § 38.1-45. The minimum assessment will be \$100. The Bureau of Insurance will handle collections and will be reimbursed from the fund for necessary expenses. This bill has a sunset clause stating that its provisions will expire on July 1, 1990.

House Bill 1424

Service of Process on Uninsured Motorist Carrier. This bill amends subsection (e1) of § 38.1-381. It clarifies and reaffirms existing case law that the only proper service on an uninsured motorist carrier is by "serving process on the insurance carrier as though the insurance company were a party defendant." One may not rely on the provisions of § 8.01-288 relating to constructive service of process to bring an uninsured motorist carrier properly before the court.

House Bill 1434

Medical Malpractice Claim Reporting. This bill adds a new section numbered § 38.1-389.3:1 to the insurance laws. It requires that all medical malpractice claims settled or adjudicated to final judgment be reported to the Commissioner of Insurance annually by the insurer of the health care provider, or if there is no insurer, by the health care provider. The form of the annual report shall be prescribed by the Commissioner at a later date. However, the report shall include the following:

- (1) The nature of each claim and the damages asserted;
- (2) The principal medical and legal issues relating to each claim;
- (3) The attorneys' fees and expenses incurred in connection with each claim or defense to the extent these amounts are known;
- (4) The amount of each settlement or judgment;
- (5) The specialty of each health care provider;
- (6) A statistical summary of the claim data in addition to the individual reports on each claim; and

Each annual report shall be a matter of public record.

House Bill 1530

Extension of Immunity Under FAIR Plan. This bill extends the immunity provision of § 38.1-753 by (1) including directors, governing committee members, and officers among those immune from liability and by (2) granting immunity from liability for any action taken in good faith in the performance of the powers and duties under the FAIR plan chapter.

House Bill 1531

Liability Coverage for Rental Cars. This bill amends subsection (a3) of § 38.1-381. The amendment extends the primary coverage provision presently applicable only to businesses repairing or servicing the owner's motor vehicle to any person that leases or loans a motor vehicle to the owner of a motor vehicle that is being repaired or serviced.

LIFE AND HEALTH INSURANCE

House Bill 1111

Increase in Maximum Spouse and Dependent Coverage. This bill amends § 38.1-472.1 by doubling the maximum amount of life insurance that an employee may purchase on the lives of his family members under a group life insurance policy provided by his employer. The new maximums are:

<u>Age of Family Member at Death</u>	<u>Maximum Insurance</u>
Under 6 Months	\$1,000
6 Months and Over	5,000
Spouse	10,000

House Bill 1341

Definition of Annuities. This bill amends § 38.1-4 by including contracts that are for a "stated period of time." This extends insurers' authority by allowing them to write temporary annuities or annuities certain. Before this amendment, the only annuities allowed to be issued were those that were dependent upon the continuance of human life.

House Bill 1507

Mutual Assessment Life, Accident and Sickness Insurance Companies. This bill is a complete revision of the Life and Casualty Cooperative or Assessment Companies chapter, including a change in the manner of designating such companies. The bill provides for capitalization requirements to be increased from \$10,000 to a range of \$100,000 to \$800,000 depending upon the classes of insurance written. A five-year period is provided for insurers writing the company's traditional classes of insurance to

comply with all title-wide requirements, except that certain Grace Periods and Privacy Act requirements will be applicable during the five-year period. A number of sections were deleted in the present law and not rewritten since these companies will be subject to a majority of the provisions of the insurance code. The standard incontestability clause limiting the time in which a company can raise certain defenses is required to be included in policies issued by such a company. This will correspond to the requirements to which other companies must adhere. Mandatory grace periods for payment of premiums are required to be included in these policies. These companies will be required to make claim payments within thirty days after receipt of due proof of the occurrence of a loss, which is consistent with similar policies issued by other companies. After July 1, 1990, a company licensed under this chapter will be required to meet all of the provisions of the insurance title, subject to certain grandfather provisions.

House Bill 1533 (Effective March 14, 1985)

Credit Life Insurance on Variable Rate Loans. This bill repeals § 38.1-482.4:1 and adds a new section numbered 38.1-482.4:2. The complexity of the unearned premium refund requirements of § 38.1-482.4:1 made the sale and administration of credit life insurance on variable rate loans very difficult and cumbersome. This bill resolves the refunding problems by requiring the insurer to calculate premium refunds as if the policy was issued on a conventional fixed rate loan. However, the insurer must always provide enough coverage to liquidate the insured debt, even if the actual debt exceeds the original scheduled debt.

HEALTH CARE PLANS

House Bill 1174

Distributions to Affiliated Nonprofit Corporations. This bill amends § 13.1-229 of the corporations title and adds a new section numbered 38.1-39.1 to the insurance title. The Title 13.1 amendment provides that a nonprofit corporation qualifying under §501 C of the United States Code may distribute income or pay dividends to another nonprofit corporation of which it is a member. However, § 38.1-39.1 provides that a nonstock corporation licensed under Title 38.1 must obtain the Commission's approval prior to such a distribution. Approval shall be based on the condition that the distribution is in the best interest of the subscribers.

This bill applies to nonprofit Health Maintenance Organizations as well as all Blue Cross/Blue Shield Associations.

House Bill 1225

Open Enrollment Period. This bill adds a new section numbered 38.1-818.2 to the insurance code. The new section requires Blue Cross/Blue Shield Associations to provide open enrollment periods year-round. However, the bill also provides that the open enrollment period may be shorter in duration if credit is given toward any applicable waiting period for coverage of pre-existing conditions for the period of time a person has been continuously enrolled under a Blue Cross/Blue Shield Association's coverage immediately prior to the effective date of the open enrollment coverage.

Change in Agent Status. This bill amends § 38.1-816 by providing a mechanism whereby a Blue Cross/Blue Shield Association may petition the Commission for a change in its status as an agent or nonagent corporation. Any such change shall be subject to the Commission's approval and the Commission may require a nonagent corporation to join the Guaranty Association and/or meet certain surplus requirements.

House Bill 1759

Discrimination Among Providers Prohibited. This bill amends the Health Maintenance Organizations chapter (§ 38.1-863 et seq.) to prohibit an HMO from excluding any class of health care provider from eligibility from membership on the governing body of any HMO. The bill also prohibits any HMO from unreasonably discriminating against physicians as a class or any class of providers in § 38.1-824 (including podiatrists, chiropractors, optometrists, opticians, psychologists or licensed clinical social workers) if the plan covers the services which members of those classes are licensed to render. However, an HMO is not prevented from selecting the number of providers it considers necessary.

INSURANCE AGENTS

House Bill 136

Property and Casualty Insurance Consultants. This bill amends § 38.1-327.9 and adds a new article (§ 38.1-327.62 et seq.) to the agents licensing chapter of the insurance code. The bill requires that persons acting as property and casualty consultants be licensed. Such consultants must meet the same education and examination requirements imposed on property and casualty insurance agents.

The following people are exempted for this new licensing requirement:

1. Any licensed attorney acting in his professional capacity;
2. Any property and casualty insurance agent duly licensed in Virginia;
3. A trust officer of a bank acting in the normal course of his employment;
4. Any actuary or certified public accountant who consults during the normal course of his business; and
5. Any person employed as a risk manager and who consults for his employer only.

However, property and casualty insurance agents that also act as consultants shall be required to pay the \$50 annual license fee required of consultants, maintain a \$25,000 surety bond required of consultants, and notify the Commission of change in his office or home address.

House Bill 1235

Cancellation for Nonpayment of Premium. This bill amends § 38.1-327.7 by allowing property and casualty insurance agents, mutual assessment fire insurance agents and ocean marine insurance agents who have extended credit to policyholders to request cancellation of the policy for non-payment of premium when the agent is not repaid by the policyholder. The bill requires that an insurer who cancels a policy under the new provisions send a cancellation notice to the insured and any mortgagee or lienholder within 10 work days of receipt of the written request for cancellation and the insurer

must comply with any other applicable statutory or policy requirement regarding cancellations. The agent will have a lien on any return premium for the policy to the extent of the amount owed. The bill also removes the restriction that an extension of credit be for a period of less than 12 months.

House Bill 1715 (Effective January 1, 1986*)

Licensing of Insurance Agents. This bill amends sections of Chapter 7.1 that prescribe the licensing procedure for insurance agents and adds sections that prescribe the procedure for appointment of agents. The bill eliminates the present need for multiple licenses from different companies after receiving a certificate of qualification. Instead the applicant will receive a "license" after completing the requirements of the type of license he is applying for. The agent will then be "appointed" by each individual company within 15 days of the receipt by the insurer of an application for insurance from the agent. The insurer must mail an appointment form to the Commission within the same 15 day period. If the agent does not receive a copy of the form from the Commission within 30 days he must discontinue solicitation for that insurer until the form is received. The bill also eliminates the Life and Health General Certificate of Authority, which would be redundant in light of the foregoing changes.

*The amendments to subsection A of § 38.1-327.36 which relate to the termination of an inactive agent's license are effective April 3, 1985.

FINANCIAL REGULATION

House Bill 1308

Hedging Transactions. This bill amends § 38.1-271.31 relating to hedging transactions but it does not expand the investment authority of an insurer. The change is designed to parallel language in the Internal Revenue Code in order to reduce the possibility of an adverse tax ruling.

House Bill 1609

Requirements of Alien Insurers. This bill amends § 38.1-95 to allow an alien stock or mutual insurer to directly qualify in Virginia to do business without first having to qualify in another state. Such an insurer would still have to meet all of the existing requirements of a foreign or alien insurer to qualify to do business in Virginia.

Senate Bill 735

International Development Banks. This bill amends § 38.1-217.21 to allow a domestic insurer to invest in the debt securities of an international development bank of which the United States is a member and whose obligations are included in the three highest grades of a national rating agency which is recognized by the Commission.

NONINSURANCE ENTITIES

Senate Bill 410

Continuing Care Retirement Communities. This bill adds a new chapter numbered 31 (§ 38.1-955 et seq.) to provide for regulation of continuing care retirement facilities.

Generally, these facilities contract to provide board, lodging and health care services in consideration for a substantial entrance fee and monthly payments. The resident of a facility is entitled to live as independently as his health permits. When a resident can no longer live in his own apartment he is placed in the facility's nursing facility.

The bill is modeled after the concepts used in securities regulation. The bill's primary focus is registration and disclosure. The disclosure statement and standard contracts must be filed with the Commission prior to use and must address a number of areas to be in compliance with the law. The bill also gives the Commission limited investigative, injunctive and penal powers to aid in the enforcement of the provisions of the bill.