

**FORM D – INSTRUCTIONS FOR
PRIOR NOTICE AND APPLICATION FOR
APPROVAL OF CERTAIN TRANSACTIONS
PURSUANT TO § 38.2-1330 B OF THE CODE OF VIRGINIA.**
[Note: The following form and instructions pertain to rules regarding Insurance
Holding Companies at **14 VAC 5-260** of the Virginia Administrative Code
issued by the Virginia State Corporation Commission
for entities subject to regulation through the Bureau of Insurance.]

I. Regulation as to Use of Form D.

(1) Form D shall be used by an insurer to provide written notice to the Commission and to apply for the Commission's approval of transactions subject to § 38.2-1330 B of the Code of Virginia. The subject transactions are material transactions that involve the insurer and any person in its insurance holding company system.

"Material transaction" is defined in § 38.2-1322 of the Code of Virginia.

A transaction between "a domestic insurer and any person in its insurance holding company system" includes transactions described in § 38.2-1330 B of the Code of Virginia.

(2) All material transactions between a domestic insurer and any person in its insurance holding company system, except an anticipated change of control or the declaration or payment of any dividend or distribution to shareholders, shall be reported using Form D if such transaction involves:

- (i) Sales, purchases, exchanges, loans, extensions of credit, or investments, provided the transactions are equal to or exceed:
 - (a) With respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25% of surplus as regards policyholders as of the immediately preceding December 31; or
 - (b) With respect to life insurers, three percent of the insurer's admitted assets as of the immediately preceding December 31;
- (ii) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit, provided the transactions, are equal to or exceed:
 - (a) With respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25% of surplus as regards policyholders as of the immediately preceding December 31; or
 - (b) With respect to life insurers, three percent of the insurer's admitted assets as of the immediately preceding December 31;
- (iii) Reinsurance agreements or modifications thereto, including:
 - (a) All reinsurance pooling agreements; and

(b) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the immediately preceding December 31, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(iv) All management agreements, service contracts, tax allocation agreements, guarantees, and cost-sharing arrangements;

(v) Guarantees when made by a domestic insurer, provided, however, that a guarantee that is quantifiable as to amount is not subject to the notice requirements of this subdivision unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or 10% of surplus as regards policyholders as of the immediately preceding December 31. Further, all guarantees that are not quantifiable as to amount are subject to the notice requirements of this subdivision;

(vi) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. The Commission may exempt such a transaction by regulation; and

(vii) Any material transactions that the Commission determines may adversely affect the interests of the insurer's policyholders.

To the extent not already provided in this paragraph, the sum shall include for all affiliated companies other than domestic and foreign insurance company subsidiaries and health maintenance organization subsidiaries, (i) total net moneys or other considerations expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to capital or surplus of a subsidiary subsequent to its acquisition or formation.

(4) Form D shall not be used to give notice of or seek approval for any dividend or distribution to shareholders; notice of dividends and distributions to shareholders shall be given in the format of Form G.

(5) Form D shall not be used to give notice of or to seek approval for any change of control; such notice shall be given in the format of Form A, and where appropriate in the format of Form E.

(6) Material transactions not subject to reporting in the format of Forms A, D, E, or G shall be filed in the format of Form B as amendments to the registrant's registration statement.

(7) An insurer may amend a Form D filing during its pendency by filing amended information in the format of Form D and including on the top cover "Amendment No. to.... ." The form used for the amendment shall indicate the date of the amendment and not the date of the original filing.

(8) Information required by § 38.2-1329 of the Code of Virginia and filed in the format of Form D shall receive confidential treatment during the pendency of review by the Commission; however, this provision shall not restrict the ability of the Commission to share information with insurance departments in other states. Upon approval by the Commission and confirmation by the insurer that the transaction as approved has been consummated, information required by § 38.2-1329 of the Code of Virginia and filed in the format of Form D shall receive confidential treatment pursuant to § 38.2-1333 of the Code of Virginia.

II. Preparation of Application. This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the application. The application shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

III. Number of Copies; Signatures.

(1) The original and one hardcopy of each application, including exhibits and all other documents filed as a part thereof, shall be filed with the Commission by personal delivery or mail addressed to: State Corporation Commission - Bureau of Insurance, ATTN: Financial Regulation Division, P.O. Box 1157, Richmond, VA 23218 (Tyler Building - 6th Floor, 1300 East Main Street, 23219).

(2) At least one copy of each application filed with the Commission shall be signed in the manner prescribed by this form. Unsigned copies shall be conformed.

(3) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application.

IV. Requirements as to Printing and Language.

(1) Statements should be prepared on paper 8 1/2"x11" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size.

(2) All copies of any filed statements, papers or documents shall be clear, easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(3) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(4) Any amendments to the application that include the refiling of original documents in their entirety shall be "red-lined" or otherwise marked to reflect all changes made by the amendment.

V. Additional Information and Exhibits.

(1) In addition to the information expressly required to be included in the application there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2) The applicant may file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

VI. Information Unknown or Not Available. Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(1) The applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

VII. Incorporation by Reference.

(1) Information required by any item of this application may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in a statement filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934 or disclosure and information contained in any financial statement, annual report, proxy statement, any other document filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of this application, provided such information substantially satisfies the requirements of this application and copies of all documents containing such information are attached as exhibits to this application. Excerpts of documents may be filed as exhibits if the documents are extensive.

(3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular

place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(4) Documents incorporated by reference which are currently on file with the Commission, and which were filed within three years, need not be attached as exhibits unless the Commission specifically requests otherwise. Please include the original date of filing with the Commission. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

VIII. Summaries or Outlines of Documents. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commission, which was filed within three years, and may be qualified in its entirety by such reference. Please include the original date of filing with the Commission.

IX. Omission of Substantially Identical Documents. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing need file a copy of only one of such documents with a schedule identifying the omitted documents and setting forth the material details in which cited documents differ from filed documents. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

X. Extension of Time for Furnishing Information. If it is impractical to furnish any required information, document or report at the time it is required to be filed, the applicant may file with the Commission as a separate document an application (i) identifying the information, document or report in question, (ii) stating why the filing thereof at the time required is impractical, and (iii) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commission, within 30 days after receipt thereof enters an order denying the request.

XI. Approval of Form D Filings. Pursuant to § 38.2-1330 of the Code of Virginia, failure of the Commission to act within 30 days after notification by the insurer shall constitute approval of the transaction.

**PRIOR NOTICE AND APPLICATION FOR APPROVAL
OF CERTAIN TRANSACTIONS**

filed with the

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Bureau of Insurance**

DATE: _____

By

Name of Registrant NAIC No. Dom. State

On Behalf of the Following Insurance Companies

Name NAIC No. Dom. State

Name NAIC No. Dom. State

Name NAIC No. Dom. State

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence concerning this statement should be addressed:

FORM D

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.

- (d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the party's business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under subsection B 1 of § 38.2-1330 of the Code of Virginia.
- (b) A statement as to which sub-classification in the definition of "material transaction" found in § 38.2-1322 of the Code of Virginia most accurately describes the subject transaction.
- (c) A statement of the nature of the transaction.
- (d) A statement of how the transaction meets the "fair and reasonable" standard of § 38.2-1330 A 1 of the Code of Virginia.
- (e) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES, OR INVESTMENTS

If the transaction is a sale, purchase, exchange, loan, extension of credit, guarantee, or investment: furnish a brief description of the amount and source of funds, securities, property, or other consideration for the transaction. Also state whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee: furnish also a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement: state also the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate: furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described in § 38.2-1330 B 3 b, or a reinsurance pooling agreement or modification thereto as described in § 38.2-1330 B 3 a of the Code of Virginia, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS

(a) For management and service contracts furnish: (i) a brief description of the managerial responsibilities, or services to be performed and (ii) a brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

(b) For cost-sharing arrangements, furnish: (i) a brief description of the purpose of the agreement, (ii) a description of the period of time during which the agreement is to be in effect, (iii) a brief description of each party's expenses or costs covered by the agreement, (iv) a brief description of the accounting basis to be used in calculating each party's costs under the agreement, (v) a brief statement as to the effect of the transaction upon the insurer's policyholder surplus, (vi) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable, and (vii) a statement regarding compliance with the *NAIC Accounting Practices and Procedure Manual* regarding expense allocation.

ITEM 7. CONTRACTS, AGREEMENTS AND OTHER DOCUMENTATION

At the request of the Commission, the applicant shall provide also a copy of the contract, agreement or other document establishing the terms of the transaction for which prior approval is being requested.

ITEM 8. SIGNATURE AND OATH

Signature and oath shall be in the following form:

SIGNATURE

Pursuant to the requirements of § 38.2-1330 B of the Code of Virginia and 14 VAC 5-260 of the Virginia Administrative Code, _____(name of applicant) has caused this application to be duly signed on its behalf in the City/County of _____ and State of _____ on the ___ day of _____, 20__.

(SEAL)

By: _____
Name of Applicant

(Name) (Title)

Attest:

Title: _____

OATH

The undersigned deposes and says that (s)he has duly executed the attached application dated

_____, 20___, for and on behalf of _____;

(name of applicant company)

that (s)he is the _____ of such company; and that (s)he has the

(title of officer)

authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his(her) knowledge, information and belief.

(Signature)

(Type or print name beneath signature)

Subscribed and sworn to before me this _____ day of _____, 20___.

(SEAL)

Notary Public in and for the
City/County of _____
State of _____

My commission expires on the _____ day of _____, 20___.