Virginia Property/Casualty Filing Guidelines Handbook

July 2022 Edition

Bureau of Insurance

New to Review

Page 15	Minimum financial responsibility limits (revised)
Page 20	Rebating (revised)
Page 25	Chapters 341/342 (revised)
Page 27	Personal auto standard forms (revised)
Page 30	Travel insurance (new)
Page 30	Pet insurance (new)

Contents

Introduction

This handbook is designed to assist regulated entities in preparing and submitting filings that comply with regulatory requirements. The handbook covers many of the most common regulatory requirements, but it is not all-inclusive.

This handbook has 10 primary sections.

- General filing requirements
- Rates and rules filing requirements
- Delegation of filing authority to an RSO
- Workers' compensation
- Collateral protection standard auto physical damage forms
- SERFF Filing Access
- Forms and endorsements filing requirements
- Requirements applicable to non-SERFF submissions
- Statistical agent report form
- P&C Chapters in Title 38.2 of the Code of Virginia

Filers should be familiar with:

- Administrative letters (ALs)
- Administrative orders (AOs)
- Title 38.2 of the Code of Virginia
- Title 52 of the Code of Virginia – State Police (Insurance Fraud)
- Title 65.2 of the Code of Virginia – Workers' compensation insurance
- Title 14 of the Virginia Administrative Code (VAC)
- SERFF General Instructions
- SERFF Filing Access – Public search application for SERFF submissions

Filers may subscribe to a notification service on the Bureau's website that will send an email whenever a new AL or AO is added.

Send any questions or comments about this handbook to

BOIRRF@scc.virginia.gov

Section I - General filing requirements

Links to regulatory resources

Title 38.2 of the Code of Virginia – Insurance laws

Title 52 of the Code of Virginia – State Police (Insurance Fraud)

Title 65.2 of the Code of Virginia – Workers' compensation insurance

Title 14 of the Virginia Administrative Code – Insurance regulations

Bureau's website – Access to administrative letters by topic; administrative orders; standard auto forms; and general rate/form filing information

SERFF Filing Access – Public search application for SERFF submissions

Glossary

AO – Administrative Order

AL – Administrative Letter

Bureau – Bureau of Insurance

Code – Code of Virginia

NAIC – National Association of Insurance Commissioners

RSO – Rate service organization

SERFF – System for Electronic Rate and Form Filings

Submission and filing – synonyms that are used interchangeably

VAC – Virginia Administrative Code

Licensing required

Filings may only be submitted for the lines of insurance an insurer or rate service organization (RSO) is licensed in Virginia.

Contact the Property/Casualty Division if you have questions about the type of license needed for writing a specific type of property/casualty product or coverage. To add a class of insurance to an insurer's lines of authority, the insurer should contact the Financial Regulation Division by e- mailing BureauofInsurance@scc.virginia.gov or calling 804-371-9869 for information or assistance in this process.

Submissions

Insurers are encouraged to use the NAIC's SERFF for the submission of new filings and revisionsto existing filings.

Submit filings by line or program of insurance

Submissions must be submitted separately for each line or program of insurance. There are exceptions to this requirement that are explained in the Interline section of this handbook.

Refer to the NAIC's Uniform Product Coding matrix for the assignment of Types of Insurance (TOI). Insurers often submit excess policies under incorrect TOIs. The TOI of the primary policy should match the TOI of the excess policy. For example, excess fire insurance should be submitted under TOI 01.0 Property; excess workers comp should be submitted under TOI 16.0 Workers Comp and excess crime should be submitted under TOI 26.0 Burglary and Theft. All other excess or umbrella liability insurance should be submitted under TOI 17.0, 17.1, or 17.2.

Filing Description required in SERFF submissions

All SERFF submissions must contain a Filing Description under the General Information tab. Refer to the SERFF General Instructions for additional information.

The Filing Description is a summary of the submission. *Reference to a filing memo is not sufficient.* The summary should include a statement (i) describing whether the materials are new or revisions of existing materials to be used with previously filed or approved materials, and (ii) the specific program, product name, and the coverage form(s) being amended. If the Reference Title section is completed, it should match the Filing Description.

Filers may add or amend a Filing Description through a Post Submission Update. A SERFF submission may be rejected if it does not include a Filing Description.

New, replaced, or withdrawn materials

All submissions that include forms, manual pages, or exception pages must specify whether they are new, replaced or withdrawn. All forms should be included under the Form Schedule and all rates/rules should be included under the Rate/Rule Schedule in SERFF. All submissions that include material (e.g., forms, rule or rate pages or exception pages) that is being replaced or withdrawn must specify the applicable SERFF tracking number(s) or, if pre-SERFF, the Bureau tracking number(s) of the currently filed or approved material for each replaced item.

If an insurer withdraws premium bearing coverage forms or endorsements, the corresponding rules and rates should also be withdrawn.

Effective and implementation date requests

Filers often use the terms “upon approval” or “on approval” instead of proposing an effective date of implementation. This causes delays in the disposition of the submissions.

AL 2006-08 requires that filers propose an effective date for implementation of the materials. The method of implementation selected must be applied consistently for each entity named in the submission. The effective date and method of implementation must comply with § 38.2-317 of the Code for forms and § 38.2-1906 of the Code for rules/rates.

The implementation date for workers’ compensation submissions must always be based upon "policies effective" on or after the date specified.

Forms lists

Insurers are, generally, not required to file a list of approved forms and endorsements. However, a forms list is required for personal auto or when an insurer assigns its own form numbers to the coverage forms and endorsements filed on its behalf by an RSO. A cross-reference list is required when an insurer assigns its own form numbers to forms filed by an RSO or to the personal auto standard forms. For personal auto, insurers should file an updated forms list when new standard forms are introduced, or standard forms are updated to ensure that the Bureau has record that the insurer has implemented the new form or forms.

A forms list is also required for “Me too” filings. Refer to the Me too submissions section below.

Objections on form or rate/rule submissions

If any corrections are necessary prior to approval or acceptance, the examiner will communicate them in an Objection Letter upon completion of the review. An expected response date will be specified in the Objection Letter.

Notification of an insurer’s decision to discontinue writing a line of insurance or program

These notifications are encouraged because they are helpful for accurate record-keeping.

Individual/specific risk submissions

Individual risk submissions are not acceptable in Virginia. An insurer must file rules and rates applicable to a class of insurance or risk as described in § 38.2-1904 of the Code unless the class is exempt from filing requirements by statute or AO.

Insurers are permitted to file an excess rate for a specific risk, which is also often referred to as a consent to rate or an excess rate. Refer to the excess rates for a specific risk section.

Enabling rules

An enabling rule allows the use of material that has been otherwise filed by or on the insurer's behalf in conjunction with an independent program without having to file the same material again.

Insurers are required to use the rules and forms on file for the specific program before using the materials allowed by the enabling rule.

Me too submissions (i.e., submissions to use an affiliated insurer's approved filings)

Under certain conditions, an insurer can file to use the materials of an affiliated insurer without submitting all the applicable forms, rules, and rates. If an insurer's group has a program on file for some of its insurers and wants to add the same approved/filed material for another affiliated insurer, the Bureau will, under appropriate circumstances, allow the insurer to submit a Me too filing.

Requirements for a Me too submission:

- The submission must include an up-to-date forms list of all the forms and their edition dates that were filed for the other insurer or insurers within the group.
- The submission must include a certification in the SERFF Filing Description that the filer is using the same materials filed for the other insurer(s) up to and including the most recent SERFF Tracking Number(s) for the filed/approved materials.
- Except for rates, the materials to be used must be identical to what is currently on file for the other insurer or insurers within the group.
- The insurer requesting the Me too submission must submit a rate certification form, COF-1 (05/05) when rates or supplementary rate information are included.

Interline (IL) submissions permitted

- An IL submission is a single submission that includes more than one line or program of insurance **when** the exact same materials apply to all types of insurance (TOIs) or programs referenced in the submission. The filer must include a complete list of the applicable TOIs, sub-TOIs, and/or programs. IL submissions are not permitted for materials with an associated premium consideration or charge(s). The one exception is for installment payment plans/premium payment plans and the fees associated with such plans.
- Examples of generally acceptable IL submissions:
    - Forms or endorsements such as common policy conditions, reciprocal provisions, mutual policy provisions, name change endorsements, and certain exclusions.
    - Certain types of supplementary rate information such as, installment payment plans or rating plans.

Resubmissions of disapproved submissions

The Bureau will reopen a disapproved submission for further consideration **IF** the filer submits the requested corrections within 90 days from the date of disapproval. The resubmission process begins with a request from the filer to re-open the submission. Resubmissions must include a new proposed implementation date. Refer to AL 2006-08. For resubmissions containing coverage forms or endorsements, the proposed effective date of implementation must comply with the filing requirements as outlined in § 38.2-317 of the Code.

If the submission is disapproved a second time or submitted more than 90 days after disapproval, the filer must prepare a new submission, which must reference the disapproved SERFF tracking number. The new filing should also include a Filing Memorandum outlining the changes that were made to address the objections raised in the disapproved filing.

Post-submission updates

A post-submission update can be used to amend an effective date of implementation. Requests for a change to the effective date of implementation in a closed SERFF submission must be submitted before the previously acknowledged effective date of implementation.

A post-submission update can also be used to amend a Filing Description.

Terrorism risk insurance

AL 2020-07 contains the most current information available from the Bureau.

For the purposes of commercial property insurance, the standard fire policy does not require coverage for fire ensuing from a certified terrorist event if the insured has rejected certified terrorism coverage.

Section II - Filing requirements for rates and rules

File-and-use rate regulation

Chapter 19 of Title 38.2 of the Code applies to the regulation of rates and supplemental rate information for the lines of insurance for which competition has proven to be an effective regulator of rates. Rates regulated as "file and use" must be filed on or before the date they are used and must be used as stated in the submission.

Section 38.2-1906 of the Code does not permit a filer to request an effective date earlier than the date of receipt of the submission. For example, a filer submits a rule/rate filing on March 26, 2022 with an effective date of March 25, 2022.

Rate certification form – file-and-use rate/rule submissions

Insurers are required to include a rate certification form, COF-1 (05/05), with rate/rule submissions. The form is an attachment to AL 2005-01 and available on the Bureau's website. The COF-1 (05/05) is used to certify that the proposed rules and rates comply with the rate standards in subsections A and B of § 38.2-1904 of the Code.

Common mistakes or omissions include:

- ***Block 1, 2 or 3 is not checked***
- ***The form is not signed by a qualified individual***
- ***All insurers referenced in the submission are not listed on the COF-1 (05/05)***
- ***The filer uses a group name on the COF-1 (05/05). This is not acceptable; however, insurers may list all insurers on the same COF-1 (05/05)***
- ***The effective date shown on the COF-1 (05/05) is not the same as the effective date requested on the SERFF General Information tab***
- ***The filer uses an incorrect version of the rate certification form***

The rate certification form is **not** required for the following materials: (i) minimum premiums, (ii) installment payment plans, (iii) insufficient/non-sufficient fund check fees/returned check charges, (iv) rules for non-premium-bearing endorsements, (v) policy term rules, (vi) rounding rules, (vii) waiver-of-premium rules, (viii) submissions that request the withdrawal of a rule or rate, (ix) changing the block checked in item 1 of the loss cost adoption form (either future to current OR current to future) and no other changes are made, (x) non-adoption, adoption, or delay of an RSO's materials, and (xi) interpolation rules.

An interactive PDF of the COF-1 (05/05) is available in the SERFF General Instructions and under the Supporting Documentation tab.

Prior approval rate regulation

Pursuant to § 38.2-2001 of the Code, Chapter 20 of Title 38.2 of the Code applies to the rates applicable to the following:

(i) insurance written through the Virginia Worker's Compensation Insurance Plan,

(ii) coverage provided in the Virginia Automobile Insurance Plan,

(iii) coverage provided by the Virginia Property Insurance Association (see § 38.2-2703 of the Code)

(iv) home protection contracts, as defined in § 38.2-2600 of the Code,

(v) policies and certificates of credit involuntary unemployment insurance as defined in § 38.2-122.1 of the Code, and

(vi) policies and certificates of credit property insurance, as defined in § 38.2-122.2 of the Code.

Rate certification form – prior approval rate/rule submissions

Insurers are required to include a rate certification form, DR/COF (05/05) with all rate/rule submissions subject to the requirements of Chapter 20 of the Code. The form is an attachment to AL 2005-01 and available on the Bureau's website.

The DR/COF (05/05) is used to certify that the proposed rules and rates comply with §§ 38.2-2005 or 38.2-2006 of the Code. Filers are also required to send notice to the Division of Consumer Counsel of the Office of the Attorney General.

An interactive PDF version of the DR/COF (05/05) is available in the SERFF General Instructions and under the Supporting Documentation tab. ***A COF-1 (05/05) cannot be accepted in place of a DR/COF (05/05) for Chapter 20 filings.***

Excess rates for specific risks (consent to rate)

Insurers are permitted to submit an excess rate for a specific risk pursuant to §§ 38.2-1920 and 38.2-2013 of the Code.

An excess rate must be approved prior to use. The approval will specify the effective date and the expiration date of the excess rate. Excess rates are approved for only one policy year and must be applied on a prorated basis if approved after the effective date of the policy.

To request an excess rate, submit the appropriate excess rate application form (workers' compensation or all other). Interactive PDF versions of these forms are available on the Bureau's website.

The applicable excess rate application form requires the following:

1. The excess rate application must be completed, signed by the insured, dated, and submitted on or before the policy inception date. The filer must also submit supporting documentation providing all information needed for calculation of premium.
2. The Agency/Producer must be actively licensed in Virginia and appointed by the insurer.
3. The excess rate application must state the specific reason or reasons for the increased rate. The reason(s) for the excess rate must be related to the risk insured. "Losses" is not an acceptable reason.
4. A proposed excess rate may be presented as a percentage or final rate.
5. Further supporting documentation may be requested as needed.

Claims-made rates

Rates for commercial general liability insurance written on a claims-made basis are required to be filed unless exempt by AO.

Extended reporting period (ERP) rates are required to be filed unless exempt from filing requirements by an AO. *Commercial general liability ERP rates are exempt by AO 11888.*

Claims-made rates may include maturity step factors if the policy includes a retroactive date or similar limitation**.** However, insurers are not required to use maturity step factors. If an insurer uses maturity step factors, the step factors are required to be filed unless exempt from filing requirements by AO.

Interpolation/extrapolation rules

Interpolation and extrapolation rules are considered supplementary rate information as defined in §38.2-1901 of the Code. Insurers wishing to interpolate or extrapolate rates are required to file the interpolation or extrapolation formula and an example.

Rounding rules

Rounding rules are considered supplementary rate information as defined in § 38.2-1901 of the Code. Insurers filing rounding rules must be specific. For example, in a rounding rule that specifies to round to the nearest whole dollar, the rule must explain whether 50 cents will be rounded up or down.

Installment payment plans, other fees charged by insurers

Installment payment plans are considered supplementary rate information as defined in § 38.2-1901 of the Code and must be filed with the Bureau on or before the proposed effective date of implementation. Refer to AL 1993-6 and § 38.2-310 of the Code.

If an installment payment plan is applicable to more than one line of insurance or program, the installment payment plan may be submitted in an Interline submission.

Other fees charged by insurers, such as fees charged for late payments, dishonored checks, and reinstatements must also be filed with the Bureau pursuant to § 38.2-310 of the Code.

Insurers are not permitted to apply their filed installment payment plans to residual market policies.

Refund or retention of premium

Fees related to the underwriting and pricing of a risk are considered premium and may not be fully earned. This includes fees that are generally charged to all policyholders, such as policy initiation, membership, and other similar fees. These fees can be the basis for a non-pay cancellation and must be included in the calculation of the refund consistent with the cancellation condition of the policy.

Service charges relating to the acceptance of payments (such as reinstatement, NSF check, installment, and late fees) and the administrative charge for issuing SR-22s are not considered premium and may be fully earned. Since these charges are not considered premium, these fees cannot be used as the basis for a non-pay cancellation.

Ranges of rates and other non-specific rating formulas are not permitted

Sections 38.2-1904 C and 38.2-1906 of the Code require that specific rates be filed. Therefore, ranges of rates and other non-specific rating formulas are not permitted. Filers are generally allowed to use schedule rating plans to reflect the individual characteristics of the risk. Refer to the section on Rating Plans (other than workers' compensation) for more information.

"Refer to company" references as a substitute for rates or rating factors

AL 1985-11 addresses "refer to company" references and filing requirements. Insurers are not permitted to use this type of reference as a substitute for filing rates or supplementary rate information. Rates developed pursuant to such rules must be filed with the Bureau prior to use.

Insurers may comply with AL-1985-11 by either: (1) adding a rule stating that any rate that is developed under a "refer to company" reference will be filed with the Bureau on or before its use or (2) replace all "refer to company" references with actual rates.

If an RSO's materials filed on the insurer's behalf include "refer to company" references, insurers are required to file the appropriate rate(s) prior to use.

Provisions addressing return premium calculation (addressed in the coverage form or in the rules)

Section 38.2-305 of the Code requires that all policy provisions be contained in the policy, including the method of calculating return premium. Return premium calculations must be specific. For example, if an insurer uses short rate return premium calculation method, 90% of pro-rata would be an acceptable description.

Rules/rates need to be filed for approved coverage forms

A rule and rate must be filed for every premium-bearing coverage form or endorsement, unless exempt from filing requirements by statute or AO. Refer to § 38.2-1906 of the Code. See the section titled "Rules/rates exempt from filing requirements" below.

Territory and protection class rating

Territory assignments used in rating must be filed. Manual pages must clearly define the territory assignments.

- If zip codes are used as territories, a rule must be included for determining how new zip codes not contemplated by the filed zip codes will be accommodated.
- For property insurance, if an insurer is using public protection classifications in rating, these must be included in the manual pages or filed on behalf of the insurer by an RSO.
- If census blocks are used for territory assignments, the census blocks must be clearly defined in the submission.
- If territory assignments are based on latitude and longitude, all combinations of latitude and longitude used must be filed.

Tiered pricing plans

Tiered pricing programs, where different rates are charged for the same coverage written by the same insurer, are permitted. However, certain requirements must be met to comply with §§ 38.2-1904 and 38.2-1906 of the Code. If an insurer intends to use tiered rating:

- The insurer is required to file eligibility criteria applicable to new and renewal policies for each tier. The eligibility criteria determine how a particular risk is rated (i.e., which tier will apply).
- Eligibility criteria may not overlap; that is, no risk should be able to meet the eligibility criteria for more than one rating tier.
- Underwriting guidelines differ from tier eligibility. Underwriting guidelines are the insurer's way to determine risk acceptability. Tier eligibility must be specific and is used to determine pricing.

In addition to filing tier eligibility criteria, insurers are required to re-evaluate the tier criteria for each risk at least once every three years.

For personal auto insurance: Regarding convictions of violations or at-fault accidents used in personal auto insurance, insurers must re-evaluate at every renewal to ensure compliance with §38.2-1904 D of the Code. In addition, insurers must re-evaluate as frequently as required to ensure compliance with § 38.2-2234 of the Code. The filed rule must reflect the re-evaluation requirements.

Using motor vehicle accidents in pricing of motor vehicle insurance:

Permitted experience period

For personal auto insurance: § 38.2-1904 D of the Code establishes a 36-month experience period limitation for using motor vehicle accidents or convictions of violations in pricing.

For commercial auto insurance: AL 2006-15 indicates that the 36-month experience period set forth in § 38.2-1904 D of the Code does not apply to experience rating plans or other types of rating plans that are based on accidents and/or convictions used with commercial auto insurance. This AL also indicates that § 38.2-1905 of the Code is not applicable to experience rating plans or other types of rating plans that are based on accidents and/or convictions used for commercial auto insurance.

Use of not-at-fault accidents not permitted in personal auto rating

Insurers are not permitted to use "not at fault" accidents (which also includes medical expense and income loss benefits claims and uninsured motorist claims) for renewals. Such a practice could result in an increase in premium for an accident not caused wholly or partially by the insured, which would be a violation of § 38.2-1905 A of the Code.

Minimum financial responsibility limits for motor vehicle insurance

The minimum financial responsibility (FR) limits for motor vehicle insurance policies increased effective January 1, 2022, and will increase again on January 1, 2025. (Refer to § 46.2-472 of the Code.)

The minimum FR limits are $30,000 per person/$60,000 per occurrence for bodily injury and $20,000 for property damage. The minimum FR limits for combined single limits are $80,000. Insurers should refer to AL 2021-03 for filing instructions.

There are exceptions for school buses as outlined in § 22.1-190 of the Code and self-insured taxi cabs as outlined in § 46.2-2057 of the Code.

Non-binary gender

Effective July 1, 2020, § 46.2-323 of the Code allows individuals to choose a non-binary (gender-neutral) designation for their driver privilege cards. Insurers must ensure that their filed manual rules and rates for motor vehicle insurance policies accommodate an individual that chooses the non-binary gender designation. Also, § 38.2-2213 of the Code prohibits insurers from refusing to issue coverage based on gender identity.

Underwriting guidelines

Insurers are not required to file their underwriting guidelines. Underwriting guidelines are the criteria insurers use to determine whether to write a risk—or for risk selection. In contrast, once the insurer has made the decision to write the risk, any criteria used in pricing is supplemental rate information and must be filed.

If, however, an insurer elects to file its underwriting guidelines or refuses to remove them from the required materials, the Bureau considers the information to be supplementary rating information and no underwriting discretion will be allowed.

Credit/insurance scoring or credit-related pricing for insurance coverage

Insurance credit scoring models used for purposes other than risk selection must be filed. Refer to AL 2002-06.

The use of credit-related information in rating is permitted. However, any use of credit-related information must comply with the rate standards in § 38.2-1904 of the Code and must be filed pursuant to § 38.2-1906 of the Code.

If an insurer uses credit-related information as a separate or final rating variable, the insurer must provide the score ranges and the associated rate differential(s) for each range or band of scores.

If an insurer uses credit-related information as part of a tiered rating program, the insurer must provide the score ranges and the associated rate differential(s) for each tier.

Use of information from third party vendors' credit scoring models cannot be used unless permission has been granted for the insurer to file the model publicly.

For personal residential and personal auto insurance

- § 38.2-2126 of the Code outlines the requirements for using credit/insurance scores with property coverage written to insure an owner-occupied dwelling or the personal property of a tenant's residential property risk.

- § 38.2-2234 of the Code outlines the requirements for using credit/insurance scoring with personal auto insurance.

Rating plans (applicable to types of insurance other than workers' compensation)

Rating plans (e.g., schedule rating plans, individual risk premium modification plans, expense modification plans, experience rating plans, and retrospective rating plans) are considered supplementary rate information (as defined in § 38.2-1901 of the Code) and subject to the filing requirements of § 38.2-1906 of the Code. AL 2006-15 provides additional information regarding the filing requirements, including a sample schedule rating plan.

- Rating plan filings may be filed as Interline or separately by TOI (type of insurance).
- Insurers are not required to file (i) the maximum debit/credit used for the schedule rating plan, (ii) a rule requiring documentation (although insurers are expected to retain internal documentation), or (iii) how the debits and credits are tallied/applied/combined.
- Schedule rating plans may **not** include the use of loss history or loss experience.
- Experience rating plans must produce a specific credit, debit, or unity modification. Ranges of credits or debits are **not** permitted.

Please note that even if using an RSO's rating plan, there may still be information that is required to be filed. For example:

- If using ISO's loss rated basis composite rating plan, the insurer must file the Expected Loss Ratio (ELR) for each specific line included in the plan. Insurers should refer to the RSO circular provided in conjunction with the rating plan for instructions.
- If using ISO's retrospective rating plan, the insurer must file the ELR and tax multiplier for each specific line included in the plan. The ELR for hospital, general liability and auto liability should include allocated loss adjustment expenses. For auto physical damage and crime, allocated loss adjustment expenses should not be included. Insurers should refer to the RSO circular provided in conjunction with the rating plan for instructions.

Commission reduction plans

If an insurer wishes to use a commission reduction plan as permitted by § 38.2-1904 E of the Code, it must be filed as part of the insurer's manual of rules and rates on or before the date the insurer uses it. Each available reduction level must be specified along with any corresponding premium reduction. The plan should specify whether the commission level applies to new or renewal business or both.

Facultative reinsurance

AL 2006-15 permits insurers to file rating plans to pass along no more than 100% of the cost of facultative reinsurance, including expenses, to policyholders. The amount (e.g., the percentage of the cost) that will be passed along to the policyholder must be filed.

Waiver of premium rules

AL 1983-12 allows insurers to file waiver of premium rules and establishes the requirements, which are (i) the waiver cannot apply to only return premiums and (ii) the return premium rule must stipulate that the return premium will be granted if requested by the insured. The insurer must notify the insured that a return premium is available.

Rules/rates exempt from filing requirements

Certain types of insurance and coverages are exempt from filing requirements. Some exemptions have been established in statute and others by AO. Exempt lines are subject to all other applicable statutes and regulatory requirements.

Submissions that contain only exempt rules or rates will be returned to the filer. In addition, insurers

will be asked to withdraw exempt rules or rates from manual pages that also contain rules or rates that are subject to filing requirements. If an insurer chooses to file exempt rules and rates, the rules and rates must be used as filed.

Dividend plans are not considered supplementary rate information and are not subject to filing requirements.

Exemptions for certain classes of insurance by AO: Refer to the Bureau's website for the list of current exemptions.

- Because municipal bond insurance is considered surety, it is exempt from filing requirements.

Exemptions by statute:

- Aircraft hull and aircraft liability rates are exempt from filing requirements. Refer to § 38.2-1902 of the Code.
- Certain rates used in writing large commercial risks are exempt from filing requirements. Refer to § 38.2-1903.1 of the Code.

Price optimization prohibited

Price optimization is, generally, described as the practice of gathering and analyzing data related to characteristics specific to a particular policyholder to predict behaviors unrelated to risk of loss or expenses, such as how much of a premium increase an individual policyholder will tolerate before shopping for coverage with other carriers.

Setting rates or modifying filed rates based on characteristics unrelated to expected losses or expenses (i.e., price optimization as described above) violates § 38.2-1904 of the Code and is not permitted in Virginia. Section 38.2-1904 of the Code requires that differences in rates charged to risks with similar risk characteristics and the same coverage must be based on differences between expected losses or expenses. Refer to AL 2016-03.

Rate stabilization/capping

Section 38.2-1906 F of the Code allows insurers to cap both rate increases and rate decreases. Chapter 345 of Title 14 of the VAC (Chapter 345) establishes uniform filing standards. A rate stabilization plan must include documentation sufficient to detail the application of the rate stabilization plan and to ensure that stabilized premiums will reach their actuarially appropriate level within the time specified.

Key points of Chapter 345 are:

- Any "capping" of rates, loss cost multipliers, deviations or tier movement requires a rate stabilization plan.
- A rate stabilization plan should not exceed five years.
- A rate stabilization plan may cap both increases and decreases, but not decreases only.
- A rate stabilization plan must apply to a specified book of renewal business. Generic rules are not permissible.
- No more than one rate stabilization plan may apply to any policy at one time.
- A transition rule is considered "capping" or stabilization of rates for a period of time.
- The Rate Stabilization Plan Certification (Form 345-A) must be submitted with all new and updated rate stabilization plans.

The most common objections noted in submissions are:

(i) A filer submits a generic rate stabilization rule as a placeholder for any potential merger,

acquisition, or agency book transfer.

(ii) The rate stabilization rule is unclear about how it works and does not specify the source of the renewals subject to the rate stabilization plan, which is required by Chapter 345.

(iii) A filer does not include a starting or ending date for a new rate stabilization plan.

(iv) The filer does not include the Form 345-A.

Birth-related neurological injury fund assessment (Fund)

Premium credits: Insurers writing medical professional liability coverage for participating medical professionals such as nurses, physicians or midwives, or participating hospitals, as defined in § 38.2-5001 of the Code must file premium credits for participation in the Fund. The credit requirements are outlined in § 38.2-5020.1 of the Code.

Assessment recovery: Section 38.2-5020 E.3 of the Code allows liability insurance carriers to recover their initial and annual assessments through a surcharge on future policies or rate increases effective prospectively, or a combination of the two. If an insurer decides to recover the assessment, a rule must be filed.

Credit property insurance and credit involuntary unemployment insurance (IUI)

Chapter 20 grants the Bureau prior approval rate authority for the charges associated with the policies, endorsements, and certificates used to write these coverages. The Bureau's regulatory authority for the rates charged extends to certificates issued or delivered to Virginia residents—even if the certificate is generated from a master or group policy issued or delivered in another state (see § 38.2-2006.1 of the Code). The rates charged for credit property and credit IUI insurance coverage are subject to the filing requirements of § 38.2-2003 of the Code, including the 50% loss ratio standard described in subsection E of this statute.

Section 38.2-233 of the Code sets forth requirements for consumer disclosures and readability standards.

Refer to AL 2000-8 for details.

Request for trade secret protection of a submission

Section 38.2-1907 of the Code permits insurers and RSOs to request confidentiality of rates and supplementary rate information, provided that such information constitutes a trade secret pursuant to § 59.1-336 of the Code. The information must belong to and be the proprietary material of the insurer or the RSO. A filing can be held confidential IF the filer requests trade secret protection and the appropriate documentation is provided.

AL 2010-07 provides information regarding the process of filing trade secret protected materials and includes a form titled, "Request for Trade Secret Protection, TSP-1." In addition to completing the TSP-1, the following information must be provided:

1. What steps have been taken by the insurer/RSO to protect its information internally?
2. How many people have access to this trade secret information?
3. Do producers or anyone outside of the insurer/RSO (other than Bureau staff) have access to this information?
4. Have any of the contents of this filing been made public or filed as a public record in Virginia or in any other state by this insurer/RSO or by any other insurer/RSO?

AL 2010-07 addresses challenges to trade secret protection made by a member of the public. Insurers should not file public information in the same filing as the trade secret material.

- Filings with requests for trade secret protection should contain only the materials to be protected, and the filing should be clearly designated as "confidential" in SERFF.

- The insurer should also provide a cross-reference to a companion public-access submission (e.g., cite the SERFF Tracking Number).

Private flood rates and supplementary rate information

AO 12077 exempts private flood insurance rates from filing requirements until December 31, 2025, unless the order is withdrawn prior to that date. However, any insurer writing private flood insurance in Virginia must file a properly completed Virginia Rate Certification Applicable to Private Flood Insurance, Flood COF-1 (3/19) to certify that the rates are not in conflict or inconsistent with the rate standards in § 38.2-1904 of the Code.

The AO defines private flood insurance as coverage written by an admitted insurer that is not written or reinsured through the National Flood Insurance Program. Private flood insurance includes coverage offered as (i) a primary standalone, first dollar flood insurance policy; (ii) primary flood insurance coverage provided by endorsement or included as a covered cause of loss; and (iii) excess flood insurance coverage. Private flood insurance coverage does not include coverage for losses caused by or resulting from water which backs up through sewers or drains.

Refer to Section IV for form filing requirements, which apply to private flood insurance.

Rebating/Unlawful rebating

Section 38.2-509 of the Code is the specific code section that prohibits rebating as an inducement to purchase insurance.

Insurers can avoid unlawful rebating by including such benefits in a filed rating plan (§ 38.2-509. A.2 of the Code) or by specifying them in the contract (see § 38.2-509.A.3 of the Code). The insurer needs to include an explanation of the benefits that may be included.

Section III - Delegation of filing authority to an RSO

Rules and supplementary rate information

Insurers are permitted to delegate filing authorization to an RSO

An insurer is permitted to delegate filing authority to an RSO by § 38.2-1908 of the Code. In other words, an insurer may authorize an RSO to file rules and other supplementary rate information on its behalf. The Bureau does not have access to announcements or circulars issued by RSOs; therefore, all RSO materials must be cited using the RSO's reference filing number(s). Several ALs have been issued to provide guidance:

AL 2018-07	Participating Insurers Allowed to either Adopt RSO Filings or Authorize an RSO to "File on Behalf of"
AL 2011-07	RSOs - Advisory Filings
AL 2010-05	Prospective Loss Cost Filing Requirements for Workers' Compensation
AL 2006-16	Prospective Loss Cost Filing Requirements - Other than Workers' Compensation

Participating insurers allowed to authorize an RSO to "file on behalf of"

Section 38.2-1908 of the Code permits participating insurers to authorize an RSO to file materials on their behalf. An insurer is also permitted to file exceptions to an RSO's materials that are filed on their behalf.

The exceptions need to be filed on or before their implementation date. The exceptions should also track the rule numbering, etc. of the RSO's filed materials.

Participating insurers allowed to adopt RSO filings

Participating insurers (as defined in AL 2018-07) are allowed the option to adopt materials filed by an RSO as an alternative to authorizing an RSO to file materials on their behalf.

Insurers must provide the Bureau with the reference filing number(s) assigned to the RSO's forms, rules and loss costs they intend to use.

Delay or non-adoption of an RSO's submission (other than workers'compensation)

If an insurer has authorized an RSO to file rules and supplementary rate information on its behalf and the insurer decides to delay adoption of the material or decides to not use the revision, the insurer must notify the Bureau on or before the effective date of the RSO's reference filing.

The RSO's reference number is required for all delays of implementation or non-adoptions.

RSO advisory filings (AFAF-1)

AL 2011-07 permits RSOs to submit advisory filings. An advisory filing is a submission that the RSO does not file on behalf of any insurers. For a participating insurer to use an RSO's advisory filing, the insurer must take specific actions, which are outlined in AL 2011-07.

The AFAF-1 form is to be used ONLY for adopting an RSO's **advisory** filings other than loss costs.

Refer to the items in this handbook that pertain to adoptions of loss costs.

Insurer submissions to adopt an RSO's loss costs (Loss Cost Adoption Form, PC-IRF) – Other than workers' compensation

Insurers are required to take specific actions to use an RSO's loss costs. AL 2006-16 contains the instructions related to adopting an RSO's loss costs. For example:

- Use adoption form PC IRF and the associated cover form

- Refer to the appropriate loss costs reference filing number
- Specify the applicable line of insurance or type of insurance

Interactive PDF versions of the PC IRF form and cover form are available in SERFF under the Supporting Documentation tab. The PC-IRF form has two options available to an insurer:

- Check box 1 if the insurer elects to have its filed multiplier apply to future RSO loss cost submissions, or
- Check box 2 if the insurer elects to have its filed multiplier apply to ONLY the cited RSO loss cost submission (referred to as "current only").

Insurers must file final rates for homeowners and personal auto insurance programs.

Estimated Loss Potentials

ISO's Commercial General Liability Estimated Loss Potentials (ELPs) are exempt from filing requirements by AO 11888. Therefore, insurers should not submit loss cost adoption forms or submit filings to adopt or delay implementation of these materials.

Policy forms and endorsements

Insurers may elect to delegate form filing responsibility to an RSO.

If an insurer is not going to adopt or if the insurer is delaying adoption, § 38.2-317 H of the Code requires an insurer to notify the Bureau prior to the RSO effective date.

If an insurer makes amendments to any forms filed on its behalf by an RSO, the amended form must be filed with the Bureau in accordance § 38.2-317 of the Code.

If an insurer intends to use an insurer-developed form instead of or in addition to a form filed on its behalf by an RSO, the insurer-developed form(s) must be filed with the Bureau in accordance with § 38.2-317 of the Code.

If the change is clerical, such as adding an insurer's name or logo or changing the form number, the insurer is not required to submit the form for the Bureau's review or approval.

Section IV – Form filing requirements

Pursuant to § 38.2-317 of the Code, all forms, and endorsements of the kind to which Chapter 19 of Title 38.2 of the Code applies must be received by the Bureau prior to the proposed effective date. Section 38.2-317 of the Code applies to the types of coverage stated in § 38.2-1902 of the Code.

Policy forms and endorsements must comply with all applicable statutes and may not include any provision that is misleading, unclear, or ambiguous. All policy forms must include form numbers and edition dates as required by § 38.2-305 of the Code. All policy forms and endorsements must be printed in 8 point or larger type as required by § 38.2-311 of the Code.

Section 38.2-317 B of the Code outlines the Bureau's authority to disapprove or withdraw approval of policy forms and endorsements.

Form filing requirements do not apply to:

- Statutory fire insurance policies - The statutory 172-line fire policy and the standard fire insuring agreement are prescribed by §§ 38.2-2104 and 38.2-2105 of the Code.
- Standard auto policy forms and endorsements - Standard automobile forms and endorsements are promulgated by the Bureau in accordance with § 38.2-2218 of the Code. The standard auto forms are made available for use by all insurers and not required to be filed.
- Surety pursuant to § 38.2-1902 of the Code.
- Aircraft hulls and aircraft liability pursuant to § 38.2-1902 of the Code.
- Forms specifically exempted from filing requirements by AO.
- Forms for insuring large commercial risks pursuant to § 38.2-1903.1 of the Code.
- Forms subject to § 38.2-317 F of the Code.

Policy form or endorsement filings will be reviewed and either approved or disapproved within 30 days of the receipt of the filing. In order to provide a complete review, the Bureau may need to extend the review period for an additional 30 days. The filer will be notified if the Bureau extends the review period.

Applications

Applications are not subject to filing requirements. Section 38.2-305 of the Code requires that all coverages, terms, exclusions, and conditions of the policy be contained in the policy forms and/or endorsements submitted for review and approval.

Even if an application is made a part of the policy, the application is not a policy form or endorsement under the provisions § 38.2-317 of the Code.

In addition, if an insurer elects to include rates or rating rules in an application, it is the insurer's responsibility to file any applicable rates or rules in a rule/rate submission under the provisions of § 38.2-1906 of the Code.

Refer to the Fraud section of this handbook for the fraud notice requirements in applications.

Statements in applications are representations, not warranties, and may not be used to bar recovery unless the statement was material to the risk and proven untrue. Refer to § 38.2-309 of the Code.

Appraisal conditions

The Bureau provided guidance (letter dated August 29, 2014 and AL 2017-03) about binding appraisal conditions in policy forms and endorsements.

In summary, the following are acceptable:

1. The appraisal condition in § 38.2-2105 of the Code and the appraisal conditions in Chapter 340 of the VAC (i.e., minimum standards of content for owner-occupied property policies 14 VAC 5-340-10 et seq) include the following statement: "An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss." Insurers are permitted to use this or similar wording.
2. An appraisal condition can specifically state that it is binding on the INSURER.
3. An appraisal condition can state that it is binding on both the INSURER and the INSURED.
4. An appraisal condition can state that it is not binding on the INSURED; however, the condition may not state that it is not binding on the INSURER.

Countersignature endorsements

If an insurer requires a countersignature for the policy to be valid, the Bureau considers this to be a change in conditions and the endorsement must be submitted for approval.

Earthquake – notice of exclusion

Refer to § 38.2-2129 of the Code for earthquake exclusion notice requirements. These notices are not subject to filing requirements.

Forms subject to filing requirements

All terms and conditions of coverage must be included in the insurance contract for compliance with § 38.2-305 of the Code.

Typically, change endorsements, notices, disclosures, schedules, certificates of insurance, declarations, and blank endorsements for making clerical changes do not contain coverage terms or conditions and are not subject to filing requirements.

Forms written in a language other than English

Insurers are permitted to submit coverage forms that are written in a language other than English. The following is required with such submissions:

- An English-language version must be provided.
- An affidavit from the translator is required.
- A certification must be provided confirming that the non-English language form is the same as the English-language counterpart.

Endorsements

Endorsements must track with the policies they modify. In addition:

- If multiple forms are submitted with the same title, a rule must be filed to indicate how each form will be used.
- Words or phrases that are entered in bold font or quotations must be defined in the form or endorsement.

Manuscript coverage provisions permitted

Insurers may manuscript broadenings of coverage provided it meets the requirements of

Administrative Order 11936; however, form wording commonly used (i.e., four or more times a year) must be filed for approval pursuant to § 38.2-317 of the Code. Insurers may not manuscript any restrictions of coverage. All restrictions of coverage must be filed and approved pursuant to

§ 38.2-317 of the Code.

Mold limitations or exclusions for ensuing loss are not permitted

For policies subject to §§ 38.2-2104 and 38.2-2105 of the Code, insurers must provide coverage for mold (including fungus, wet rot, etc.) ensuing from a fire or lightning loss and are not permitted to use sub-limits for ensuing mold loss.

For policies subject to Chapters 341 and 342 of Title 14 of the VAC (minimum standards for owner-occupied properties), insurers must provide coverage for mold (including fungus, wet rot, etc.) except as permitted by the exclusions contained in the minimum standards.

Form filings

Insurers must file all independently developed forms and endorsements for the Bureau's review and approval prior to the proposed effective date pursuant to § 38.2-317 of the Code. If the endorsement does not specify the policy form it amends (by title or form number), that information must be submitted within the SERFF filing description.

Property insurance form submissions/statutory fire policy

Insurers filing readable property insurance forms that provide fire insurance coverage are required by § 38.2-2107 of the Code to file forms that are in no respect less favorable to the insured than the statutory fire policy. Such forms are subject to the filing provisions of § 38.2-317 of the Code.

Minimum standards of content for policies written to insure owner-occupied dwellings

Chapter 340 of Title 14 of the VAC was repealed and replaced by Chapters 341 and 342 of the VAC (14 VAC 5-341-10 et seq./14 VAC 5-342-10 et seq.) effective January 1, 2022.

Chapters 341 and 342 outline the minimum standards of content for policies insuring personal lines owner-occupied dwellings (other than owner-occupied farm, mobile home, or lender-placed policies).

Insurers must submit all amended forms, rules and rates by December 31, 2022 to comply with Chapters 341 and 342. Any policy issued with an effective date on or after July 1, 2023 must comply with the new regulations.

Insurers developing independent policy forms and endorsements must carefully examine the provisions of Chapters 341 and 342 to ensure compliance with the minimum standards. Form filings must include a certification of compliance with the provisions of Chapter 341 or 342. Instead of completing a certification form, an insurer may file a statement such as, “[Filer] certifies that all coverage forms and endorsements in this submission comply with the provisions of Chapter 341 of Title 14 of the VAC” for dwelling property programs or “[Filer] certifies that all coverage forms and endorsements in this submission comply with the provisions of Chapter 342 of Title 14 of the VAC” for homeowners programs.

Ordinance or law (mandatory offer of coverage)

Insurers are required by § 38.2-2124 of the Code to offer optional ordinance or law coverage as an additional limit of insurance on all property policies. This statute does not allow limitations or exclusions, such as excluding coverage for testing for pollution. Refer to the statute for additional details.

Ordinance or law must be offered up to the building limit for both demolition and increased costs of construction. Other limits may also be offered. Refer to AL 2016-05 for details.

Insurers are permitted to offer ordinance or law coverage with and without coverage for pollution exposures. However, insurers must offer ordinance or law coverage with pollution exposures covered before making the coverage available with pollution exposures excluded.

Replacement cost loss settlement coverage

Pursuant to § 38.2-2119 B of the Code, property insurance policies that provide replacement cost coverage must permit the insured to make a claim for the actual cash value of the property without prejudicing the insured's right to later make a claim for the difference between the actual cash value and the full replacement cost of the property.

Such claims must be accepted if made within six months of the later of (i) the last date the insured received payment for the actual cash value, or (ii) the date of entry of a final order declaring the right of the insured to full replacement cost coverage.

Functional replacement cost loss settlement coverage

Refer to § 38.2-2119 C of the Code for requirements when providing, at the insured's option, loss settlement on a functional replacement cost basis.

Water/sewer back-up coverage (mandatory offer of coverage)

Section 38.2-2120 of the Code requires insurers that issue or deliver homeowners policies in Virginia to offer as an option a provision for insuring against loss caused by or resulting from water which backs up through sewers or drains. Coverage for water back up must be offered up to the policy limits and the amount is an additional limit of insurance.

Volunteer fire department service charges

Property insurance policies must provide at least $250 of coverage for the costs of services by volunteer fire departments that are not fully funded by real estate taxes or other property taxes. This coverage cannot be restricted by provisions requiring the coverage to be assumed by contract or agreement prior to the loss or required by local ordinance. See § 38.2-2130 of the Code and AL 2012-06.

This is in addition to any other fire department service charges covered by the policy.

Reciprocal provisions or mutual policy conditions

Reciprocal provisions and mutual policy conditions must be filed and approved.

Limiting time to bring action (policies not subject to § 38.2-2105 of the Code)

No provision shall limit the time to bring action to less than one year after a loss occurs or a cause of action accrues. Refer to § 38.2-314 of the Code.

Note: For policies that are subject to § 38.2-2105 of the Code, a suit or action must commence within two years from inception of the loss.

Auto (motor vehicle) insurance form submissions

§ 38.2-2218 of the Code gives the Bureau the authority to establish standard policy forms and endorsements for writing motor vehicle insurance. Insurers writing motor vehicle insurance in Virginia must use the standard forms in the precise language adopted by the Bureau pursuant to

§ 38.2-2220 of the Code.

The only exception to using a standard form is outlined in § 38.2-2223 of the Code. This statute allows the Bureau to approve endorsements containing additional provisions, other than those in the standard form, or coverages more favorable than those in the standard form. Any such endorsements are subject to § 38.2-317 of the Code.

Fellow employee exclusions not permitted in auto policies

Insurers are not permitted to exclude coverage for an employee of the insured in any controversy

arising between employees even though one employee shall be awarded compensation under the Workers Compensation Act (Title 65.2 of the Code). Refer to § 38.2-2207 of the Code.

Unregistered motor vehicles under farm liability policies

Insurers may provide coverage for unregistered motor vehicles, trailers, or semi-trailers under farm liability policies without such policies being required to comply with the statutes pertaining to motor vehicle insurance in Chapter 22 of Title 38.2 of the Code. Insurers will need to make specific filings to add this coverage to a farm liability policy.

Personal auto coverage forms

Insurers are required to use the Bureau-mandated auto insurance coverage forms and endorsements in writing personal motor vehicle insurance in Virginia. Therefore, it is not necessary for the insurer to file standard automobile forms for review or approval. No insurer shall use any form covering substantially the same provision contained in an approved standard form unless it is in the precise language of the standard form.

Refer to AO 12113 for the 2018 standard auto forms, which became mandatory January 1, 2022.

The 2005 personal auto policy and endorsements were withdrawn effective January 1, 2022 and can no longer be used.

Refer to the Bureau's website for a list of the personal auto standard forms.

Commercial auto coverage forms

AO 12048 details the three standard forms that are required when writing commercial motor vehicle insurance in Virginia. They are:

- CA 22 46 Virginia Medical Expense and Income Loss Benefits Endorsement
- CA 2121 Uninsured Motorists Endorsement (Virginia)
- CA 31 27 Virginia Split Uninsured Motorists Coverage Limits

Refer to the Bureau's website for copies of the standard forms.

Driver's license changed to driving privileges, termination of certain commercial auto policies

Insurers that write private passenger type automobiles under a commercial auto policy must comply with the provisions of § 38.2-2212 of the Code when terminating a policy. Effective January 1, 2021, § 38.2-2212.D.1 of the Code was amended to reference suspension or revocation of "driving privileges" in lieu of "driver's license". Any references to "driver's license" in policy forms or endorsements should be amended to reference "driving privileges".

Rating information statement required (personal auto insurance)

Section 38.2-2214 of the Code requires insurers to prepare and submit a statement defining rate classifications. These forms summarize the factors used to develop the policy premium. Rate classification statements must be filed for approval.

Rental reimbursement coverage (personal auto insurance)

Every insurer issuing a new or renewal policy of personal auto insurance must offer rental reimbursement coverage as required by § 38.2-2230 of the Code. Refer to standard form PP 13 52 Transportation Expenses – Virginia for this coverage.

Individual named insureds (commercial auto insurance)

Commercial automobile policies endorsed to provide coverage for individual named insureds may also be subject to § 38.2-2230 of the Code. Refer to AL 2016-06 for additional details.

Lender-placed physical damage insurance coverage (collateral protection standard forms)

A list of these standard forms for writing lender-placed physical damage insurance is included in Section X. The forms (collateral protection) are available upon request by contacting the Property/Casualty Division.

Named driver exclusions prohibited in contracts insuring motor vehicles, aircraft, and watercraft ("omnibus clause")

Section 38.2-2204 of the Code (Omnibus clause) requires all policies covering liability for bodily injury or property damage arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure watercraft issued upon, or to the owner of, such motor vehicle, aircraft,or watercraft to provide coverage to all permissive users of, and any persons responsible for the use of, the motor vehicle, aircraft, or private pleasure watercraft. This statute prohibits the use of named driver exclusions in automobile insurance policies.

Exception for Commercial Auto – An exception to the Omnibus clause applies to a commercial auto policy written to a named insured in the business of selling, leasing, repairing, servicing, storing, or parking motor vehicles. Special provisions apply to motor vehicles that are used for demonstration purposes by a prospective purchaser, loaned or leased to another as a temporary substitute while such person's vehicle is being repaired or serviced, or leased to another for a period of six months or more. Please refer to § 38.2 -2205 of the Code for details.

The Omnibus clause does not apply to commercial umbrella or commercial excess policies.

Exception for Personal Umbrella or Personal Excess - Named driver exclusions are permitted in personal umbrella or excess policies if the insurer adheres to the requirements in subsection B of § 38.2-2204 of the Code. This statute requires that the exclusion be requested in writing by the first named insured and acknowledged in writing by the excluded driver.

Credit property and credit involuntary unemployment insurance

For credit property insurance and credit involuntary unemployment insurance, the Bureau has extra-territorial form approval authority, which includes certificates issued or delivered to Virginia residents—even if the certificate is generated from a master or group policy issued or delivered in another state. Chapter 3 establishes the filing requirement for forms.

Refer to § 38.2-233 of the Code (form and disclosure notices requirements); § 38.2-317 C of the Code (prior approval); § 38.2-317 I of the Code (extra territorial form authority); § 38.2- 312 of the Code (binding arbitration prohibited).

Uninsured private pleasure watercraft insurance (mandatory offer of coverage)

Insurers must offer uninsured private pleasure watercraft insurance coverage in accordance with

§ 38.2-2232 of the Code. Uninsured private pleasure watercraft insurance coverage must include bodily injury and property damage coverage. Insurers must offer limits of liability for uninsured private pleasure watercraft coverage that are equal to the limits of liability insurance coverage provided by the policy.

Policies that are of an excess or umbrella type or which provide liability coverage incidental to a policy not related to a specifically insured private pleasure watercraft are not required to offer uninsured private pleasure watercraft coverage.

Liability insurance coverage forms/endorsements:

Bankruptcy, insolvency, unsatisfied judgment provisions

Section 38.2-2200 of the Code requires all policies insuring against liability for personal injury or property damage to contain provisions stating that:

(1) Insolvency or bankruptcy of the insured, or the insolvency of the insured's estate, shall not relieve the insurer of any of its obligations under the policy, and

(2) Any party who has obtained a judgment against the insured, which is returned unsatisfied, may bring an action against the insurer to recover damages insured by the policy.

Pollution exclusions - carbon monoxide

For pollution exclusions in liability insurance to apply to carbon monoxide from residential or commercial heating systems, the form must explicitly state that pollution includes carbon monoxide from a residential or commercial heating system. Refer to § 38.2-235 of the Code.

Post-judgment interest (other than homeowners insurance)

Post-judgment interest (interest that accrues after the entry of a judgment) is extra contractual and is not required to be covered by the policy. If this coverage is provided, post-judgment interest must be paid in addition to the policy limits of liability. Deductibles or self-insured retentions cannot apply to post-judgment interest.

Binding arbitration conditions prohibited

Arbitration decisions may not be binding. Refer to § 38.2-312 of the Code and AL 2017-03.

Fraud notices

Section 52-40 of Title 52 of the Code requires all insurance applications and all claim forms to contain a statement (permanently affixed to, or included as part of, the application or claim form) that states in substance that:

> "It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."

Insurers using wording that differs from the language of the statute should consult with their legal department and/or the Virginia State Police Insurance Fraud Investigation Unit. Claim forms and applications are not subject to form filing requirements and should not be submitted.

Forms exempt from filing requirements by AO

The Bureau's website contains a list of the AOs that exempt certain policy forms and endorsements from filing requirements pursuant to § 38.2-317 F of the Code.

Miscellaneous casualty insurance

Policies of miscellaneous casualty insurance are defined in § 38.2-111 B of the Code.

Most miscellaneous casualty insurance policies are subject to § 38.2-2200 of the Code (pertaining to insolvency, bankruptcy, and unsatisfied judgments). However, miscellaneous casualty insurance policies covering loss, damage, or expense arising out of injury to the economic interests of any person are not subject to this statute.

If miscellaneous casualty insurance is written on a claims-made basis, the requirements of Chapter 335 of Title 14 of the VAC apply. See 14 VAC 5-335-10 et seq.for the minimum standards for claims-made liability insurance coverage.

Umbrella/excess statement of maintenance of underlying insurance

An umbrella or excess policy must include a statement explaining how coverage will apply if the required underlying insurance is not maintained.

Medical professional liability policy terminations

Ninety (90) days' notice to the first named insured is required if cancellation or non-renewal is for reasons other than non-payment of premium. Refer to § 38.2-231 E 3 of the Code.

Travel Insurance

Travel Insurance is included within the definition of marine insurance (§ 38.2-126) and is further defined in § 38.2-1887 of the Code. Travel insurance "may include appropriate provisions obligating the insurer to pay medical, hospital, surgical, and funeral expenses arising out of the death, dismemberment, sickness, or injury of any person, and death and dismemberment benefits in the event of death or dismemberment, if the death, dismemberment, sickness, or injury is caused by or is incidental to a cause of loss insured under the policy". Thus, property and casualty travel insurance policies that cover personal risks incident to travel may include incidental accident and sickness insurance. However, if the accident and sickness insurance is the PRIMARY coverage, the policy or certificate must be filed with the Life and Health division.

Pet Insurance

Pet insurance programs provide accident and sickness coverage for domestic animals—generally dogs and cats. Insurers must be licensed for animal insurance as defined in § 38.2-116 of the Code to write pet insurance—even as an endorsement attached to another policy. If an insurer attaches an endorsement for veterinary expenses associated with a pet injury to another type of insurance, the insurer must be licensed for animal insurance. For example, if an insurer wishes to cover injuries to a pet in an automobile accident under an automobile policy, the insurer must be licensed for animal insurance.

Claims-made form filings

Rules governing claims made liability insurance policies are outlined in Chapter 335 of the VAC (14 VAC 5-335-10 et seq.). The following chart highlights some important items to note.

Section Reference:	Items to Note:
14VAC5-335-20	The claims-made regulation does **not** apply to incidental claims made coverage (endorsements that amend an occurrence liability contract).
14 VAC 5-335-23	Claims-made notice requirements. Notices do not need to be submitted for review or approval.
14 VAC 5-335-30	An Extended Reporting Period (ERP) must be offered to the named insured upon: 1. Cancellation or nonrenewal of claims-made coverage by either the insurer or the insured 2. Advancement of any applicable retroactive date 3. Renewal of the policy on other than a claims made basis
14 VAC 5-335-40	An unlimited ERP with unimpaired limits of liability equal to the limits of the policy being extended must be offered for medical professional liability insurance coverage. A minimum of a one-year ERP must be offered for all other claims-made liability coverage. Insurers can offer reinstatement of limits at their discretion for other lines of business. The insured must be allowed at least 30 days after the termination of coverage in which to purchase the ERP. Once the minimum requirement has been met, higher or lower limits may also be offered. If the aggregate limit is reinstated, insurers are required to offer **unimpaired** limits. Insurers should refer to the definition of unimpaired limits in Chapter 335.
14 VAC 5-335-45	Requirement to provide loss information if the aggregate limit is reinstated.
14 VAC 5-335-50	Once in effect, the ERP cannot be cancelled by the insurer without the consent of the insured except for nonpayment of premium or fraud. The insured always has the right to cancel an ERP. The ERP coverage can apply as excess over other coverage, but the insurer cannot void coverage if other insurance applies.
14 VAC 5-335-60	To the extent that policy limits apply separately to each named insured, each named insured shall be separately entitled to purchase an ERP.

Section V – Workers' compensation insurance submissions

Filings that include independent rates or supplementary rate information for workers' compensation insurance [i.e., rates and/or rating rules that deviate from the approved National Council of Compensation Insurers (NCCI) loss costs or supplementary rating information] are subject to the 60-day delayed-effect provisions of § 38.2-1912 of the Code pursuant to § 38.2-1906 E of the Code.

Workers' compensation insurance coverage forms

The Virginia Workers' Compensation Commission (WCC) is responsible for form review and approval for workers' compensation insurance pursuant to § 65.2-813 of the Code. Therefore, the Bureau does not approve coverage forms applicable to workers' compensation and employers' liability insurance.

Delayed effect rate filings (subject to § 38.2-1912)

Currently only independent workers' compensation rates or rating rules that deviate from, or do not rely upon, NCCI loss costs or supplementary rate information are subject to the delayed-effect provisions of § 38.2-1912 of the Code.

Delay or non-adoption of NCCI filings not allowed

Insurers must adopt all NCCI filings for use with all new and renewal policies effective on or after the effective date in the approving order. Insurers are not permitted to delay the implementation date of an NCCI loss cost filing or an approved item filing.

Loss cost multipliers and rule filings – workers' compensation insurance

AL 2010-05 contains Form WCLC-VA and instructions for filing expense (or loss cost) multipliers applicable to current NCCI loss costs. Each NCCI loss costs filing supersedes the previous NCCI loss costs, and all insurers must use the approved NCCI loss costs on their effective date or file independent rates (which are subject to the delayed-effect provisions of § 38.2-1912 of the Code). Multipliers filed by insurers will remain in effect and apply to each subsequent NCCI loss costs filing on the filing's effective date unless and until the insurer files a revised form WCLC-VA. Form WCLC-VA is available in interactive PDF format in SERFF and on the Bureau's website. The WCLC-VA form also includes instructions for filing rate-related rules for workers' compensation insurance.

Workers' compensation loss cost adoption submissions must include the Rate/Loss Cost Certification Form, COF-1 (05/05), which is attached to AL 2005-01. The COF-1 (05/05) is also available in interactive PDF format in SERFF and on the Bureau's website.

Workers' compensation drug-free workplace premium credits

§ 65.2-813.2 of the Code requires that insurers provide premium discounts of up to 5% for drug-free workplace programs. Every insurer providing workers' compensation coverage must file a rule outlining the specific credits available and the eligibility criteria. Insurers should not submit drug-free credit application forms, either with or in lieu of a rule.

Workers' compensation small deductible plans

Filers should review the requirements outlined in the NCCI Basic Manual for the Benefits Deductible Coverage Program (Small Deductible Plan).

Workers' compensation large deductible plans – filing instructions

1. Values for expense provisions, underwriting profit provision, premium discounts, and charges for assigned risk overburden should be consistent with the values in the filed manual rates. In the case where values are not consistent, insurers must provide support for the proposed values used in the large deductible rating plan.
2. Insurers must calculate their own Retrospective Expected Loss Ratio (RELR) based on the underwriting expense provisions, underwriting profit provision, and charges for assigned

risk overburden used to develop their filed loss cost multiplier. In the case where the RELR is to be based on provisions and charges not consistent with the same values in the filed manual rates, insurers must provide support for the proposed values.

3. NCCI files Excess Loss Pure Premium Factors (ELPPFs). The deductible rating formula must accommodate the currently filed and approved NCCI ELPPFs. In the case where the ELPPFs filed with the large deductible rating plan are not consistent with the NCCI filed values, insurers must provide support for the proposed values.

4. The Bureau considers the following elements when reviewing a workers' compensation large deductible filing:

   a) Completeness

   b) Soundness of actuarial rate making methodologies (particular values proposed in the filing are addressed in items c and d below).

   c) Regarding the loss and loss adjustment expense (allocated and unallocated) provisions of the filing.

      i) Consistency of proposed loss and loss adjustment expense rating factors with approved Virginia rating factors from NCCI filings.

      ii) Support for proposed loss and loss adjustment expense rating factors, which are deviations from, approved Virginia rating factors from NCCI filings.

   d) Regarding the expense and underwriting profit provisions of the filing.

      i) Consistency of proposed expense and underwriting profit provisions in the deductible program filing with the expense and underwriting profit provisions in the Insurers' loss cost multiplier filing.

      ii) Support for proposed expense and underwriting profit provisions, which are not consistent with the expense, and underwriting profit provisions in the loss cost multiplier filing.

   e) Reference to judgment rating or ranges of factors is not permissible in Virginia. Specific values/factors must be filed.

5. A copy of the forms sent to the Workers' Compensation Commission must be filed for informational purposes with the deductible plan. This is necessary to determine consistency between the filed plan and proposed forms.

Some large deductible plans may be exempt from filing requirements pursuant to § 38.2-1903 of the Code.

Waiver of right of subrogation (workers' compensation insurance)

NCCI does not file a premium charge for *waiver of our right to recover* (i.e., waiver of subrogation) on behalf of its member insurers in the voluntary market.

If an insurer elects to file a specific waiver of subrogation rule that includes a premium charge equal to or less than the NCCI assigned risk plan premium charge of 5% of the manual premium developed for the work for which the waiver is provided, the filing will be accepted without supporting actuarial data. However, the filing will be subject to 60-days delayed effect as required by § 38.2-1912 of the Code. If the insurer elects to charge a higher premium, the insurer will be required to submit actuarial support. Similarly, if an insurer elects to file a rating rule for a blanket waiver of subrogation, a premium charge equal to or less than 5% of the manual premium for the policy will be accepted without actuarial support.

Section VI – Requirements applicable to non-SERFF filings

Filings submitted outside of SERFF must comply with all requirements of this handbook. For example, an effective date is required, any rate or form certifications are required, etc.

Cover letter, copies, group submissions, and return envelopes

All paper filings must include a cover letter on the insurer's or third-party filer's letterhead, or a completed NAIC transmittal form. Paper filings must also include a complete copy of the filing for each insurer to which the filing applies, and group filings must be sorted and collated by insurers. These requirements also apply to responses and re-submissions. All paper filings must include an extra copy of the cover letter or an e-mail address for acknowledgment.

Contact information

The review of a filing can often be expedited if the filer includes a telephone number, fax number, and e-mail address.

NAIC number(s)

AL 1983-7 requires that every rule, rate, and/or form filing include the individual NAIC number of each insurer for which the filing is being submitted. This information can be provided in a cover letter submitted with the filing.

Section VII – SERFF Filing Access

SERFF Filing Access (SFA) is an NAIC-sponsored application available for searching SERFF submissions. The link to SFA is available on the Bureau's website.

Section VIII – Statistical Report Form VA-SRF-2

Insurers are expected to designate a statistical agent for each line of insurance (LOI) the insurer is licensed to write in Virginia and submit that information to the Bureau. The VA-SRF-2 form is used for this purpose and available on the Bureau's website.

Completing and updating the VA-SRF-2 ensures compliance with § 38.2-1919 of the Code.

When to submit the VA-SRF-2

Below are examples of actions that require an insurer to file a VA-SRF-2:

An insurer:

- is newly licensed in Virginia as a property and casualty insurer
- amends its license to add or remove one or more LOIs
- changes its legal name
- is involved in an acquisition or merger
- begins writing a line of insurance that it was not previously writing
- changes the statistical agent to whom an LOI will be reported

Instructions for completing the VA-SRF-2

Insurers are required to place a check mark in the form for every LOI the insurer is licensed to write in Virginia, regardless of whether the insurer is currently writing that line. A selection must be made in the dropdown box beside each licensed LOI.

If the insurer is not currently writing an LOI that it is licensed to write, the insurer should still indicate to which statistical agent it intends to report its statistical data to address the insurer writing that line in the future.

Insurers are permitted to keep statistical data in-house for LOIs that are not supported by a statistical agent. Examples are credit, credit property, credit involuntary unemployment, home protection, legal services, title, and mortgage guaranty insurance. Insurers should use the "Comments" section of the form to explain how the information will be stored (e.g., Excel, Access, internal database, etc.) and in what format the information can be provided to the Bureau (e.g., pdf, docx, xlsx, csv, etc.).

Use the "Comments" section to clarify information. For example, use this section of the form to explain the following: (i) the statistics for one LOI are reported under another LOI or (ii) how statistics are reported if the insurer writes two programs for one LOI and the statistical data is reported differently for each program.

Where to send a completed VA-SRF-2 form

Insurers should email completed VA-SRF-2 forms to: BOIRRF@scc.virginia.gov

Section IX – Relevant Chapters in Title 38.2

Chapters	Description
Chapter 1 General Provisions	Defines and classifies the various lines of insurance.
Chapter 2 Provisions of a General Nature	Contains § 38.2-231, Notice of Cancellation of or Refusal to Renew Certain Commercial Insurance Policies. Addresses disclosures for credit property and credit involuntary unemployment insurance.
Chapter 3 Provisions Relating to Insurance Policies and Contracts	Outlines provisions relating to the content of policies and authority for form approval and/or disapproval.
Chapter 5 Unfair Trade Practices	Outlines provisions relating to unfair trade practices including rebating, unfair discrimination, unfair claim settlement practices and permitted content of certificates of insurance.
Chapter 6 Insurance Information and Privacy Protection	Contains provisions relating to information and privacy protection, insurance information data security, adverse underwriting decisions, and the protection of the Fair Credit Reporting Act.
Chapter 19 Regulation of Rates Generally	Outlines the way(s) insurance rates are regulated in Virginia, sets forth rate standards, the authority of RSOs, and the procedure for disapproval of rates and exemption from filing requirements.
Chapter 20 Regulation of Rates for Certain Types of Insurance	Describes the regulation of rates for certain types of insurance that are subject to prior approval.
Chapter 21 Fire Insurance Policies	Applies to contracts or policies of fireinsurance and contracts or policies of fire insurance in combination with other insurance coverages.
Chapter 22 Liability Insurance Policies	Applies to contracts or policies of liability insurance, including motor vehicle insurance.
Chapter 23 Legal Services Insurance	Outlines requirements for Legal Services Insurance.
Chapter 24 Fidelity and Surety Insurance	Outlines requirements for insurers providing fidelity and surety insurance.
Chapter 25 Mutual Assessment Property/Casualty Insurers	Outlines classes of insurance which may be written by such insurers and sets forth other applicable requirements.
Chapter 26 Home Protection Insurers	Outlines regulation of Home Protection insurers.
Chapter 50 Birth-Related Neurological Injury Compensation Act	§ 38.2-5020.1 requires credits applicable to medical malpractice premiums for certain participating physicians and hospitals.

Section X – Collateral Protection Insurance Coverage Forms

Form Number	Edition Date	Title of Endorsement
CPPD-VA 1	11/79	Master Policy Declarations
CPPD-VA 2	11/79	Master Policy – Collateral Protection Physical Damage
CPPD-VA 3	11/79	Individual Policy Certificate Declarations
CPPD-VA 4	11/79	Individual Policy Certificate
CPPD-VA 5	11/79	Blanket Policy Declarations
CPPD-VA 6	11/79	Blanket Policy - Collateral Protection Physical Damage
CPPD-VA 11	11/79	Automatic Protection
CPPD-VA 12	11/79	Errors and Omissions
CPPD-VA 13	11/79	Conversion, Secretion, Embezzlement
CPPD-VA 14	11/79	Mechanics Lien Reimbursement
CPPD-VA 15	11/79	Repossession and Return Expense Reimbursement
CPPD-VA 16	11/79	Repossession Storage Expense Reimbursement
CPPD-VA 17	11/79	Repossessed Property
CPPD-VA 18	11/79	Instrument Non-filing
CPPD-VA 19	11/79	Instrument Non-filing Errors and Omissions
CPPD-VA 20	11/79	Assumption of Coverage
CPPD-VA 21	11/79	Holder in Due Course
CPPD-VA 22	11/79	Blanket Waiver
CPPD-VA 23	11/79	Specific Waiver
CPPD-VA 24	11/79	Worldwide

These forms are available upon request.