

COMMONWEALTH OF VIRGINIA

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May 24, 2016

Administrative Letter 2016-04

To: All Insurers and Other Interested Parties

Re: Insurance-Related Legislation Enacted by the 2016 Virginia General Assembly

We have attached for your reference summaries of certain insurance-related statutes enacted or amended and re-enacted during the 2016 Session of the Virginia General Assembly. **The effective date of these statutes is July 1, 2016, except as otherwise indicated in this letter.** Each organization to which this letter is being sent should review the summaries carefully and see that notice of these laws is directed to the proper persons, **including appointed representatives**, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Copies of individual bills referred to in this letter may be obtained at <http://lis.virginia.gov/cgi-bin/legp604.exe?ses=161&typ=lnk&val=57> or via the links we have provided in the summary headings. You may enter the bill number (not the chapter number) on the Virginia General Assembly Home Page, and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia. All statutory references made in the letter are to Title 38.2 (Insurance) of the Code of Virginia unless otherwise noted. All references to the Commission refer to the State Corporation Commission.

Please note that this document is a **summary** of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments affecting insurance-related laws during the 2016 Session. Each person or organization is responsible for review of relevant statutes.

Sincerely,

A handwritten signature in cursive script that reads "Jacqueline K. Cunningham".

Jacqueline K. Cunningham
Commissioner of Insurance

Attachment

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Chapter 1 ([House Bill 58](#)) Effective 1/26/2016

§§ 38.2-3406.1, 38.2-3431, and 38.2-3551. Health benefit plans; large and small employers. Deletes provisions that changed the definition of a "large employer," for purposes of a group health plan or health insurance coverage, from an employer who employed an average of more than 50 employees to an employer who employed more than 100 employees during the preceding calendar year. The definition of "small employer" is correspondingly revised to include employers who employ an average of 50 or fewer employees.

Chapter 4 ([House Bill 31](#)) Effective 2/23/2016 and Chapter 71 ([Senate Bill 192](#)) Effective 3/1/2016

§§ 38.2-231, 38.2-2113, and 38.2-2208. Automobile, commercial liability, and homeowners insurance policies; notices. Restores certificate of mailing as a method insurers may use to demonstrate proof of mailing termination notices using the United States Postal Service, provided that certificates of bulk mailing are not permissible.

Chapter 55 ([House Bill 304](#)) Effective 2/29/2016

§ 38.2-2619 and 38.2-2622. Home service contract providers. Authorizes the Commission to deny an initial license application for a home service contract provider based on its review of the financial statements and any reports, certificates, or other documents filed with the Commission. The measure also changes the license renewal cycle and renewal fee payment schedule for home service contract providers from a biennial process to an annual process beginning July 1, 2017; revises the application fee from \$1,000 to \$500. Other provisions (i) clarify that the Virginia reserve requirement for such companies is determined by taking the gross consideration received for all home service contracts, less the claims paid, and then multiplying the remainder by 40 percent (ii) replace a reference to "premiums" with "provider fees" because home service contracts are not insurance; and (iii) amends the provision dealing with filing of audited financial statements to allow for statements prepared in accordance with generally accepted accounting principles.

Chapter 193 ([Senate Bill 209](#))

§ 38.2-405 and 38.2-403.1. State Corporation Commission; insurance assessments. Authorizes the Commission to recover omitted assessments pertaining to its regulation of insurers for the most recent three years. The measure also establishes a procedure for an aggrieved insurer to apply to the Commission for a correction of an assessment and for a refund.

Chapter 250 ([Senate Bill 210](#))

§§ 38.2-221.3, 38.2-514.1, and 38.2-1800. Automobile clubs. Repeals provisions relating to the licensure of automobile clubs by the Commission. Requirements are also deleted regarding the authority of insurance agents to negotiate automobile club contracts on behalf of licensed automobile clubs and the issuance of guaranteed arrest bond certificates by an automobile club or association.

Chapter 271 ([Senate Bill 562](#))

§ 38.2-3454.1. Health benefit plans; federal law changes. This measure authorizes a health carrier to sell, issue, offer for sale or renew any health benefit plan that would not otherwise be permitted to be sold, issued, or offered for sale, or required to be canceled, discontinued or terminated because the plan does not meet the requirements of the federal Patient Protection and Affordable Care Act to the extent the appropriate federal authority has suspended enforcement of the Act or the requirements of such Act are amended by any federal law.

Chapter 274 ([Senate Bill 640](#))

§ 38.2-3122. Insurance policies and annuity contracts; exemption from creditors' claims. Provides certain exemptions to the prohibition on execution, attachment, garnishment or other legal process in favor of a creditor regarding the cash surrender value or proceeds of any life insurance policy or annuity contract, the withdrawal value of an optional settlement or deposit with a life insurance company or any other benefit from such a policy.

Chapter 277 ([House Bill 324](#)) Effective 9/1/2016

§ 38.2-1906. Insurance rates; authority to limit decreases. Authorizes an insurer subject to the provisions of Chapter 19 to file rate or supplementary rate information for renewal and certain other policies to limit any rate decrease that would otherwise be applicable to the policies, provided that the insurer is also limiting any rate increase that would otherwise be applicable. This provision does not apply to workers' compensation or employers' liability policies.

Chapter 285 ([House Bill 844](#))

§§ 38.2-1868.1, 38.2-1869, and 38.2-1870. Insurance agents; continuing education program. Allows insurance agents who have completed all continuing education course or exemption requirements by December 31 but have failed to demonstrate proof of compliance by failing to pay the filing fee, an additional period of time until the close of business on January 31, to complete the filing with the payment of a late filing penalty of \$100. The measure also (i) removes the restriction that the Insurance Continuing Education Board's waiver of requirements pertaining to the number of course credits required for good cause be based on emergency situations and (ii) deletes the condition that requests for waivers of course credit requirements be submitted no later than 90 calendar days prior to the end of the biennium for which the waiver is requested.

Chapter 286 ([House Bill 870](#)) and ([Senate Bill 193](#))

§ 38.2-510. Unfair claim settlement practices; appraisal of automobile repair costs. Allows the initial appraisal of the cost of repairing a motor vehicle loss to be based upon personal inspection or digital imagery of the damage. It further allows the initial appraisal of the damage to be final, and prevents the insurer from requiring the claimant to utilize imagery as a condition of appraising the damage.

Chapter 475 ([House Bill 820](#))

§§ 38.2-325, 38.2-4214, and 38.2-4319. Insurance notices; electronic delivery. Provides that any evidence of coverage or other forms required to be given to policyholders, subscribers, and enrollees that do not contain personally identifiable information may be delivered electronically or posted on the health carrier's publicly available website, provided that such forms are readily downloaded and printed.

Chapter 508 ([House Bill 851](#))

§ 38.2-325. Insurance notices; electronic delivery. Repeals a clause that would have sunset on December 31, 2016 that (i) makes the notification to an insurer of any change of the electronic address for the named insured the sole responsibility of the named insured and (ii) states that giving notice of change of the named insured's electronic address to the agent of record shall not be deemed to be notice to the insurer unless it is specifically identified as a change and receipt has been accepted by the agent of record.

Chapter 552 ([House Bill 393](#))

§§ 38.2-1820, 38.2-1825, 38.2-1826, 38.2-1838, 38.2-1841, 38.2-1845.2, 38.2-1857.2, 38.2-1865.1, and 38.2-1865.5. Insurance agencies; designated licensed producers. Requires that an insurance agency's designated licensed producer responsible for the agency's compliance with insurance laws and regulations be an employee, officer or director of the agency. Business entities acting as an insurance producer are required within 30 calendar days to report (i) the removal of the designated licensed producer responsible for the business entity's compliance with insurance laws, rules, and regulations and (ii) the name of the new designated licensed producer. The Commission is authorized to terminate an insurance agency's license for failing to maintain such a designated licensed producer.

Chapter 556 ([House Bill 16](#)) Effective 1/1/2017

§ 38.2-3407.17. Insurance; payment for services by dentists and oral surgeons. Requires that reimbursements payable or paid by a dental plan for covered services be reasonable and not provide nominal reimbursement in order to claim that services are covered services under the applicable dental plan. The measure applies to contracts between a dental plan and a dentist or oral surgeon for the provision of health care to patients that is entered into, amended, extended, or renewed on or after January 1, 2017.

Chapter 558 ([House Bill 307](#)) Effective 1/1/2017

§§ 38.2-1905, 38.2-2118, 38.2-2119, 38.2-2120, 38.2-2202, and 38.2-2210. Insurance notices. Clarifies and updates provisions regarding notices from insurance companies to applicants and policyholders. The measure amends the requirement that insurers give insureds notice when increasing the premium on their policies due to accidents to clarify that insurers are required to inform insureds that they have 60 days to seek a review by the Bureau of Insurance of the application of a surcharge. The notice requirements regarding uninsured motorist coverage (UM/UIM) are updated to allow the practice under which insurers give applicants the opportunity to request UM/UIM limits equal to their liability limits or to request lower UM/UIM limits, as long as the lower limits are at least \$25,000/\$50,000/\$20,000. Other changes clarify which notices are required to be given on new business policies only rather than on new and renewal business policies.

Chapter 570 ([House Bill 87](#))

§ 30-343. Health Insurance Reform Commission. Specifies that if applicable federal rules require an agency of the Commonwealth to identify any state-mandated benefits that are in addition to the essential health benefits without identifying a specific agency that is responsible for making such identification, the Bureau of Insurance shall be the applicable agency.

Chapter 619 ([Senate Bill 204](#))

§§ 38.2-1825, 55-525.14, 55-525.16, 55-525.17, 55-525.24, 55-525.25, 55-525.26, and 55-525.30. Real estate settlement agents. Adds to provisions relating to real estate settlement agents a new term, "closing disclosure," defined as the combined mortgage loan disclosure statement of final loan terms and closing costs prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. § 2601 et seq.), and Consumer Financial Protection Bureau Regulation X (12 C.F.R. Part 1024), and Regulation Z (12 U.S.C. § 1026), to comply with changes made by the federal Consumer Financial Protection Bureau to the real estate closing process. The bill also makes the settlement agent's registration fee nonrefundable.