

# COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
TELEPHONE: (804) 371-9741  
TDD/VOICE: (804) 371-9206  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

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## Administrative Letter 2012-05

**To:** All Insurers and Other Interested Parties

**Re:** Legislation Enacted by the 2012 Virginia General Assembly

We have attached for your reference summaries of certain statutes enacted or amended and re-enacted during the 2012 Session of the Virginia General Assembly. **The effective date of these statutes is July 1, 2012, 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 may be obtained at <http://lis.virginia.gov/lis.htm> 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. The federal Patient Protection and Affordable Care Act is referred to as PPACA.

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 2012 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 3 ([House Bill 1106](#)) - Effective 2/7/2012**

The bill amends § 54.1-2900 in the Professions & Occupations title to provide the Board of Medicine the authority to license behavior analysts and assistant behavior analysts and to promulgate emergency regulations within 280 days of the enactment of this legislation [refer to **Chapter 876 of the 2011 Virginia Acts of Assembly ([House Bill 2467](#)) for more information concerning mandated coverage for autism spectrum disorder and associated treatments, including applied behavioral analysis].**

### **Chapter 156 ([Senate Bill 120](#))**

The bill amends § 38.2-4123 (Fraternal Benefit Societies) to make the requirements of the Risk-Based Capital Act (§§ 38.2-5500 et seq.) applicable to fraternal benefits societies. Several amendments are also made to the Risk-Based Capital Act to make trend test requirements consistent among life & health insurers, property & casualty insurers, and health organizations.

### **Chapter 208 ([Senate Bill 266](#)) and Chapter 303 ([House Bill 735](#))**

The bill amends Chapter 49 (Continuing Care Provider Registration and Disclosure) to require providers of community-based continuing care (CBCC) to be registered with the Commission as a continuing care provider and to file a statement with the Commission regarding its CBCC program.

### **Chapter 235 ([House Bill 523](#)) and Chapter 346 ([Senate Bill 369](#)) Effective 1/01/2013**

The bill adds a section to Chapter 21 (Fire Insurance Policies) to require insurers issuing new or renewal policies of fire insurance, or fire insurance in combination with other insurance coverages, which exclude coverage for damage caused by earthquake, to provide a written notice that explicitly states that “earthquake coverage is excluded unless purchased by endorsement.” This notice must state that information regarding such coverage is available from the insurer or the agent if earthquake coverage is otherwise available from the insurer.

### **Chapter 264 ([House Bill 127](#)) - Effective 10/01/2012**

The bill amends § 38.2-305 (Insurance Policy Provisions) to require property and casualty insurers to include on each declarations page a list of all policy forms and endorsements, including the form numbers and edition dates, that are applicable to the policy. Insurers that use unique identifier numbers for each form and do not use edition dates are only required to place the unique number on the declarations page.

**Chapter 273 ([House Bill 867](#)) and Chapter 277 ([Senate Bill 47](#))**

The bill amends § 38.2-515 and adds a new section to the Unfair Trade Practices chapter (§§ 38.2-500 et seq.) to govern the use of certificates of insurance (COI) in the Commonwealth. The bill prohibits any person from issuing or delivering any COI that attempts to confer any rights upon a third party beyond what the referenced policy of insurance expressly provides. It also prohibits any person from knowingly demanding or requiring the issuance of a COI from an insurer, insurance producer or policyholder, or knowingly preparing or issuing a COI that contains any false or misleading information concerning the policy of insurance referenced in the COI.

**Chapter 293 ([House Bill 133](#))**

The bill amends § 38.2-325 (Insurance Policy Provisions) to permit property and casualty insurers to post policy forms and endorsements that do not contain personally identifiable information on their public websites, in lieu of any other method of delivery.

**Chapter 294 ([House Bill 209](#)) - Effective 1/01/2013**

The bill amends and reenacts the Continuing Education (CE) article of the Insurance Agents chapter (Article 7 of Chapter 18, §§ 38.2-1866 et seq.) of this title relating to CE requirements for insurance agents. The bill provides a process by which an agent may correct errors and effect compliance with CE requirements; impacts credit hour requirements; eliminates certain monetary penalties; and changes the deadline for completing CE courses. The bill also eliminates certain requirements for a status report to agents and shortens the time for appeals to the Insurance Continuing Education Board.

**Chapter 371 ([House Bill 1202](#)) and Chapter 561 ([Senate Bill 140](#))**

The bill adds a section to the Fire Insurance Policies chapter (§§ 38.2-2100 et seq.) to require insurers writing fire policies, or fire policies in combination with other coverages, to provide coverage of at least \$250 for the cost of services provided by volunteer fire departments, which are not fully funded by real estate taxes or other property taxes.

**Chapter 413 ([House Bill 313](#))**

The bill amends and reenacts § 38.2-1815 (Insurance Agents) to add language requiring the Commission to review annually the results of the life and annuities licensing examinations and revise the content of the examinations to further the goal of achieving a pass rate in accordance with the 2011 NAIC State Licensing Handbook or any successor publication adopted by the NAIC. The Commission shall also report to the General Assembly on its findings and any related changes it has implemented regarding the life and annuities licensing examination.

#### **Chapter 447 ([House Bill 871](#))**

The bill amends and reenacts § 38.2-1800 (Insurance Agents) to change the definition of “limited burial insurance authority” from the authority to sell, solicit, or negotiate burial insurance society memberships to burial insurance society memberships or group insurance certificates where the memberships or certificates are used solely to fund preneed funeral contracts. The bill also removes the \$10,000 cap on burial insurance society memberships or group life insurance certificates that are used solely to fund preneed funeral contracts.

#### **Chapter 476 ([Senate Bill 387](#)) and Chapter 507 ([House Bill 552](#))**

The bill revises a number of sections in various titles, including §§ 38.2-3323 (Life Insurance Policies) and 38.2-3409 (Accident and Sickness Insurance Provisions) in this title, to replace the term “mental retardation” with the term “intellectual disability” when referring to a child’s inability to maintain self-sustaining employment.

#### **Chapter 539 ([House Bill 1139](#)) - Effective 1/01/2013**

The bill amends the Reinsurance Article of the Reports, Reserves and Examinations chapter (Article 3.1 of Chapter 13, §§ 38.2-1316.1 et seq.) setting forth the requirements for certified reinsurers; assignment of ratings; reduction in collateral; qualified jurisdictions; management of concentration risk; and diversification of reinsurance programs. These requirements will become effective six months after the effective date of the legislation (1/01/2013).

#### **Chapter 584 ([Senate Bill 532](#))**

The bill amends and reenacts provisions of the Assessment for Administration of Insurance Laws chapter (§§ 38.2-400 et seq.) to revise the provisions for collecting the assessment on insurers for the maintenance of the Bureau of Insurance. New language provides for a penalty of \$50 for each day the annual maintenance assessment report is filed past its due date.

#### **Chapter 589 ([Senate Bill 591](#))**

The bill amends § 38.2-3420 (Accident and Sickness Insurance Provisions) to increase the number of Virginia residents who may be covered employees of a bank-sponsored multiple employer welfare arrangement (MEWA) from 50 to 500, and adds a new subdivision to require that the bank-sponsored MEWA be subject to solvency examination authority and reserve adequacy requirements in its domiciliary contiguous state.

**Chapter 634 ([House Bill 1273](#)) and Chapter 641 ([Senate Bill 450](#))**

The bill adds a new section to the General Provisions Article in the Accident and Sickness Insurance Provisions chapter (Article 1 of Chapter 34 §§ 38.2-3400 et seq.) and also amends §§ 38.2-4214 (Health Services Plans) and 38.2-4319 (Health Maintenance Organizations) to make the new provision applicable to health services plans and HMOs. The bill requires a policy, contract, or plan, or certificate or evidence of coverage, which includes coverage for cancer chemotherapy drugs administered orally and intravenously or by injection, to provide that the criteria for establishing cost sharing applicable to orally administered cancer chemotherapy drugs and cancer chemotherapy drugs administered intravenously or by injection is consistently applied within the same plan.

**Chapter 673 ([Senate Bill 646](#))**

The bill amends § 38.2-102 (General Provisions) to revise part of the definition of life insurance to include additional benefits incidental to a loss in the event of death, dismemberment or loss by accident or accidental means.

**Chapter 734 ([House Bill 872](#)) and Chapter 735 ([Senate Bill 520](#)) – Effective 1/01/2013**

The bill adds a new article to the Insurance Agents chapter (§§ 38.2-1800 et seq.), which provides for the licensing and regulation of public adjusters by the State Corporation Commission. Public adjusting is defined as investigating, negotiating, adjusting or providing advice to an insured in relation to first party claims arising under insurance contracts that insure real or personal property of an insured for the purpose of effecting the settlement of a claim on behalf of the insured. In addition to standards of conduct, the provisions address the fees that public adjusters may charge as well as the provisions which must be contained in a public adjuster's written contract with the insured.