

COMMONWEALTH OF VIRGINIA



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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

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1977-4

TO THE PRESIDENT OF THE INSURER ADDRESSED

Dear Sir:

The 1977 session of the Virginia General Assembly was productive from an insurance point of view. A large number of bills and resolutions were passed affecting many aspects of the insurance business. Attached is a summary of those bills and resolutions that most directly affect insurance. Unless otherwise noted all of the new laws go into effect on July 1, 1977.

Several of the new laws summarized in the attachment require specific actions by the Bureau of Insurance and the affected insurance companies. On these laws, the Bureau will send a detailed letter of instruction and a copy of the specific law. You will begin receiving these letters in a few weeks.

Please let me know if you have any questions concerning the new Virginia insurance laws or resolutions.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John G. Day".

John G. Day
Commissioner of Insurance

JGD/dbh

Attachment

1977 INSURANCE LEGISLATION

General

1. Chapter 317 (H 1647) requires that insurance companies whose annual assessment for the maintenance of the Bureau of Insurance is expected to exceed \$5000 must pay their assessment on a quarterly basis. It also makes the statutory payment date for the maintenance assessment the same as the payment date for the premium license tax.

2. Chapter 529 (H 1691) amends and adds to the Virginia Unfair Trade Practices Act by expanding the present Act to make it virtually identical with the NAIC Model Bill. The major changes concern (1) unfair claims settlement practices and (2) favored agents or insurers and coercion of debtors. With respect to unfair claims settlement practices, the Commission can impose penalties if the practice(s) occur with such frequency as to constitute a business practice.

3. Chapter 248 (S 727) makes a change in the premium license tax law as applied to mutual assessment fire insurance companies.

Financial Condition

4. Chapter 414 (H 1626) amends and adds to the Virginia Insurance Holding Company Act. Prior approval by the Commission is required for (1) any acquisition of a domestic insurance company and (2) large financial transactions between a domestic insurance company and its holding company or affiliates of the holding company. It places restrictions on the type of non-insurance activities that subsidiaries of insurance companies can engage in. The penalties for violating provisions of the Insurance Holding Company Act are increased substantially.

5. Chapter 321 (H 1685) amends § 38.1-174 of the Code of Virginia and changes the requirement that the Bureau of Insurance examine each insurance company at least every three years to at least every five years.

6. Chapter 322 (H 1692) raises substantially the present capital and surplus requirements for licensing new insurance companies in Virginia. Stock insurance companies will have to have at least \$1,000,000 in capital and \$1,000,000 in surplus. Mutual and reciprocal insurance companies may be licensed with \$800,000 in surplus if they issue assessable policies. To issue non-assessable policies, they must have \$2,000,000 in surplus. There is a grandfather clause which makes

the increased capital and surplus requirements inapplicable to insurance companies presently licensed in Virginia.

7. Chapter 58 (H 2102) provides an alternative means for reciprocal insurers to comply with § 38.1-32 concerning the maximum exposure to loss on a single risk. It also provides that the Commission may reduce or eliminate the assessment provision in policies issued by reciprocal insurers if the Commission determines that the reciprocal's surplus is reasonable in relation to its liabilities and adequate to its financial needs.

Property and Casualty

8. Chapter 112 (H 699) provides that the insured has the option of purchasing either or both of the optional automobile Medical Expense and Loss of Income coverages. In addition, coverage applies to the named insured, and the resident spouse and relatives, while occupying or through being struck by a motor vehicle.

9. Chapter 255 (H 1522) provides that the State Corporation Commission may establish guidelines for the filing of simplified and readable Fire Insurance Policy forms and Automobile Insurance Policy forms. Such readable policy forms may deviate in language, but not in substance or

10. Chapter 621 (H 1631) provides that if a court of proper jurisdiction finds that an insurance company or others unreasonably (not in good faith) failed to pay a claim of \$150 or less in excess of any applicable deductible, the court may award double damages and reasonable attorney fees.

11. Chapter 415 (H 1634) provides that an insurance company shall not use information to produce rates for individual risks which the Division of Motor Vehicles would be prohibited from furnishing such insurer pursuant to § 46.1-31(B)(2). Such prohibition provides that accident and conviction reports furnished by the D.M.V. shall not report any conviction or accident after forty months from the date of such conviction or accident unless the Commissioner (of D.M.V.) or court used said conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after forty months from the date that the driver's license or driving privilege has been reinstated.

12. Chapter 530 (H 1697) requires insurance companies writing fire

insurance only, or fire insurance in combination with other coverages on owner-occupied dwellings and appurtenant structures which contain a replacement cost provision under the provisions of Chapter 6.2 of Title 38.1 to give each applicant for such insurance a statement as to the manner in which losses under such policy will be paid when the insured does, or does not, maintain insurance equal to at least 80% of the replacement cost of the owner-occupied dwelling and appurtenant structures.

13. Chapter 78 (H 1721) provides that motor vehicle liability insurance policies applicable to a motor vehicle afforded a person other than the named insured and his employees in the course of their employment, which are loaned or leased to such other person as a convenience during the repairing or servicing by such business of a motor vehicle for such other person, or leased to such other person for a period of six months or more, shall not be applicable if there is other valid and collectible insurance applicable to the same loss covering such other person under a policy with limits at least equal to the financial responsibility requirements specified in § 46.1-504.

14. Chapter 327 (H 1810) concerns the reporting of medical malpractice claims data to the Commissioner of Insurance, and provides that (1) claims closed without payment must also be reported, (2) the Commissioner of Insurance shall forward a copy of each report to the appropriate licensing board for the health care provider, (3) all such reports are not subject to the Virginia Freedom of Information Act, and (4) civil immunity prevails for persons furnishing information in complying with the required reporting.

15. Chapter 154 (H 1883) provides that any policy issued by the Virginia Medical Malpractice Insurance Joint Underwriting Association which is terminated during the term of the policy shall be entitled to a pro-rata refund of the amount contributed to the Stabilization Reserve Fund.

16. Chapter 55 (H 1898) provides that in the case of a contract of insurance transacted through or under a plan approved by the Commission pursuant to the provisions of § 38.1-264 (presently the Virginia Automobile Insurance Plan), an authentication by the insurer in a form approved by the Commission shall be deemed as meeting the counter-signature requirement.

17. Chapter 181 (S 691) adds age to the factors which cannot be used by an insurer to refuse to issue a policy of automobile insurance, and

adds the proviso that nothing shall prohibit any insurer from setting rates for such insurance in accordance with relevant actuarial data.

18. Chapter 188 (S 804) provides that any insurer issuing policies of automobile insurance shall provide the named insured at the time of issuance or renewal with a statement defining the rate classifications of the insured.

Life, Accident, and Sickness

19. Chapter 325 (H 1707) clarifies the Commission's power to withdraw approval previously given to life insurance, annuity, and accident and sickness policy forms which have been found to be misleading or deceptive or to lend themselves to misrepresentation; do not comply with the requirements of the laws of this State; or are contrary to the public policy of this State.

20. Chapter 603 (H 1942) makes certain outpatient coverages available in addition to the present inpatient coverages for mental, emotional or nervous disorders in a mental or general hospital. Outpatient benefits which must be offered are in accordance with general industry practices. Alcoholism and Drug addiction are specifically included in the definition of mental disorders.

21. Chapter 264 (H 2110) requires the payment of interest by the insurer on life insurance policy proceeds from the date of death to the date of payment.

22. Chapter 606 (S 489) amends the presently mandated coverage for mental, emotional or nervous disorders to specifically exclude coverage for alcoholism and drug addiction, and adds a section which requires that companies offer coverage for alcoholism and drug addiction to all applicants for insurance. Coverages required to be offered are different from general industry practices. The law is effective July 1, 1978.

23. Chapter 174 (S 607) provides a 10-day period from the date of delivery of an individual life insurance policy, including industrial life insurance, within which period the policyowner may surrender the policy to the insurer with written request for its cancellation whereupon the insurer shall refund any premium paid therefor.

24. Chapter 607 (S 648) authorizes prepaid hospital/medical/surgical plans to make payments directly to subscribers for expenses incurred by them as a result of covered services rendered by a nonparticipating hospital or physician.

Agents Licensing and Examination

25. Chapter 313 (H 1394) requires that persons seeking to solicit, negotiate or effect contracts of insurance on behalf of reciprocal or interinsurance exchanges must obtain licenses as do agents of other insurers.

26. Chapter 318 (H 1650) extends the authority of surplus lines brokers and nonresident brokers to transact title insurance, ocean marine insurance, and insurance on the rolling stock of railroads or other risks incidental to the ownership, maintenance or operation thereof.

27. Chapter 51 (H 1681) establishes a uniform license fee of \$30 for a nonresident brokers license and removes the provision requiring retaliation against other states.

Miscellaneous

28. Chapter 426 (S 626) prohibits lending institutions, bank holding company, or any subsidiaries, affiliates, officers, or employees thereof from directly or indirectly being licensed to sell insurance in any county, city, or town with a population exceeding 5,000 persons. Certain lines of insurance and all lending institutions, affiliates, employees, etc. licensed to sell insurance as of January 1, 1977 are exempted.

Resolutions

29. House Joint Resolution 189 expresses the concern of the General Assembly on the high cost of health insurance for state employees and directs that steps be taken to improve the methods used for contracting for health insurance.

30. House Joint Resolution 239 authorizes a joint subcommittee composed of members of the House and Senate Courts of Justice Committees to study products liability insurance problems in Virginia.

31. House Joint Resolution 247 sets up a joint subcommittee composed of members of the House Commerce, Insurance and Banking Committee, and the Senate Commerce and Labor Committee to study the insurance problems of handicapped persons including why handicapped persons have difficulty obtaining or keeping insurance and why they are arbitrarily placed in the assigned risk plan.

32. House Joint Restitution 251 sets up a joint subcommittee composed of members of the House Commerce, Insurance and Banking

Committee and the Senate Commerce and Labor Committee to review all insurance purchased by the State.

33. House Joint Resolution 259 asks the Commissioner of Insurance to actively "encourage health care insurers of Virginia to offer plans that would indemnify insured for preventative health care costs."

34. House Joint Resolution 272 authorizes the Virginia Advisory Legislative Council to study the composition of the standard fire policy with particular focus on loss reporting and time limitations.

35. Senate Joint Resolution 88 appoints a special committee of Transportation and State Police people to study the feasibility of self-insuring State automobiles.

36. Senate Joint Resolution 121 requests the Division of Personnel to study the feasibility of obtaining coverage for alcoholism and drug addiction in the State employees group health insurance policy.