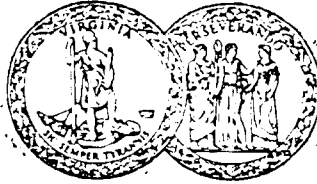


JAMES W. NEWMAN, JR.
COMMISSIONER OF INSURANCE

W. G. FLOURNOY
FIRST DEPUTY COMMISSIONER

COMMONWEALTH OF VIRGINIA



BOX 1157
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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

October 22, 1981

Administrative Letter 1981-16

MEMORANDUM

TO: All Insurance Companies Licensed for Property and Casualty Insurance in Virginia, and to All Surplus Lines Brokers Licensed in Virginia

RE: Adverse Underwriting Decision Notice

The Virginia Insurance Code has contained a requirement regarding adverse underwriting decision (AUD) notices for three years. This appears now as Section 38.1-52.14 of the Code of Virginia.

During the 1981 Session, the Virginia General Assembly enacted the Insurance Information and Privacy Protection Act (Section 38.1-57.2 et seq.), which takes effect on January 1, 1982. We wrote to you previously about this in Administrative Letter 1981-4 dated May 13, 1981.

Section 38.1-57.13 establishes requirements regarding AUD notices very similar to but not the same as the requirements contained in the current AUD law. It will be necessary for all AUD notices now being used in Virginia to be modified for use on and after January 1, 1982 so that they comply with the new requirements.

There are three changes that must be made in AUD notices. First, present law gives individuals sixty days to request information after getting an AUD notice. The new law extends this to ninety business days. Second, the new law requires that AUD notices contain a summary of the individual's rights regarding correction, amendment, and deletion of information in the files regarding the adverse underwriting decision in addition to a summary of the individual's rights to see and copy the information. Finally, Paragraph D of Section 38.1-57.11 makes it clear that it will no longer be possible to charge for copies of personal information provided to an individual in connection with an adverse underwriting decision. However, a reasonable charge can be made to cover the costs incurred in providing a copy of recorded personal information in situations other than adverse underwriting decisions.

Attached to this letter is a prototype AUD notice setting forth the kinds of information that should be contained in AUD notices on and after January 1, 1982, except for the placement of a risk with a residual market or unauthorized insurer. AUD notices containing wording identical or substantially similar to the wording in the


prototype are deemed to be approved for use in Virginia and need not be filed. This in no way prevents an AUD notice from containing more information about rights provided under Virginia law or about the procedures used by the insurance institution, agent, or insurance-support organization to comply with the law.

With respect to a risk placed with a residual market or an unauthorized insurer (the Virginia Automobile Insurance Plan, the Virginia Property Insurance Association, or the Surplus Lines Insurance market), a standard form to be promulgated by the Bureau of Insurance must be used on and after January 1, 1982. Such forms will be available from: Automobile Insurance Plans Service Office, 733 Third Avenue, New York, New York 10017.

As regards the required notification with respect to the non-renewal or cancellation of automobile, fire and homeowners policies pursuant to Sections 38.1-381.5 and 38.1-371.2, any previously approved forms amended to include wording identical or substantially similar to that set forth in the second, third, and fourth paragraphs of the prototype AUD notice are deemed to be approved for use in Virginia, on and after January 1, 1982, and need not be filed. Expanded information about rights provided under Virginia law or about the procedures used by the entity to comply with the law, may be provided.

Each company is hereby directed to give a copy of this letter including the prototype AUD notice to each of its licensed Virginia agents.

Sincerely,


William G. Flournoy
Interim Commissioner of Insurance

WGF:dj
Attachment

Prototype AUD Notice

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Dear XXX XXXX

In connection with your application for or policy of _____,
we have found it necessary to take the following action: _____.

The reasons for this action are as follows: (The reason for the action may be given here or in lieu of this sentence the following sentence may be substituted: "You have a right to obtain the specific reason(s) for this decision by submitting a written request to the company.")

You have the right to know the specific items of information that support the reasons given for this decision and the identity of the source of that information. You also have the right to see and obtain copies of documents relating to this decision.

If you ask us to correct, amend, or delete any information about you in our files and if we refuse to do so, you have the right to give us a concise statement of what you believe is the correct information. We will put your statement in our file so that anyone reviewing your file will see it.

If you would like additional information concerning this action, state law requires that you submit a written request within ninety (90) business days of the date this notice was mailed to you. Please send your request to:

(Show the name and address of the person
or department to contact for additional information.)

(Form No.)
(Edition Date)