

# COMMONWEALTH OF VIRGINIA



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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

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ADMINISTRATIVE LETTER  
1982-4

TO: All Companies Licensed to Transact Property and Casualty Insurance in Virginia; and All Premium Finance Companies Licensed in Virginia

RE: Cancellation of Motor Vehicle Liability Insurance Policies By Insurers for Nonpayment of Premium Installments; or At The Request of Premium Finance Companies Because of Nonpayment of Premium Loan Installments

ADMINISTRATIVE LETTER 1981-13, October 30, 1981, cited the decision of the Supreme Court of Virginia in American Interinsurance Exchange vs Virginia Mayton Lucy, Record No. 800220, September 11, 1981, as the basis of the requirement that an insurer cancelling a motor vehicle liability insurance policy at the request of a premium finance company would have to provide the insured with notice in writing not less than fifteen (15) days prior to the effective date of cancellation even though the premium finance company was exercising its right under a power-of-attorney executed by the insured.

The purpose of this Letter is to provide further information as to the kinds of insurance policies to which the decision applies and the method of calculating earned premiums.

1 - STATUTORY PROVISIONS - The Court's decision cited portions of Section 38.1-381.5 of the Code of Virginia, which relates to grounds and procedures for cancellation of nonrenewal of motor vehicle liability insurance, as its base.

### A - Applicability -

(1) This Section applies specifically to so-called "personal lines" motor vehicle liability insurance policies, i.e., such policies issued insuring as the named insured one individual, or husband and wife residents of the same household, under which the insured vehicle designated in the policy is either a motor vehicle of a private passenger or station wagon type not used as a public or livery conveyance (other than car pools) or rented to others, or, any other four wheel vehicle with a load capacity of 1500 pounds or less which is not used in the occupation, profession or business (other than farming) of the insured, or as a public or

livery conveyance rented to others, but SPECIFICALLY EXCLUDES ANY SUCH POLICY ISSUED THROUGH THE VIRGINIA AUTOMOBILE INSURANCE PLAN.

(2) This Section specifically excludes -  
any policy issued through the Virginia Automobile Insurance Plan;  
any policy insuring more than four vehicles;  
any policy covering the operation of a garage, sales agency, repair shop, service station, or public parking place;  
any policy providing insurance only on an excess basis; or  
any other contract providing insurance to such named insured even though such contract may incidentally provide insurance with respect to such motor vehicles.

B - Grounds for Cancellation -

Section 38.1-381.5(d)(2) of the Code of Virginia provides an insurer may cancel when "The named insured fails to discharge when due any of his obligations in connection with the payment of premium for the policy or any installment thereof, whether payable to the company or its agent either directly or indirectly under any premium finance plan or extension of credit."

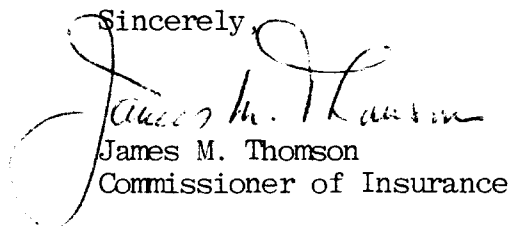
C - Cancellation Notice to Insured -

Section 38.1-381.5(e)(2) of the Code of Virginia provides that prior to such cancellation the insurer shall deliver or mail a notice to the insured which shall "State the date, which shall not be x x x x x x x x less than fifteen days from the date of mailing or delivery when the policy is being cancelled x x x x x x x x for the reason set forth in clause (2) of paragraph (d)."

2 - CALCULATION OF EARNED PREMIUM - The Court's decision did not address the method by which earned premium is to be calculated, but the decision did class such cancellations as cancellations by the insurer rather than by the insured, and, hence, earned premium should be calculated on that basis.

3 - INSURANCE OTHER THAN "PERSONAL LINES" MOTOR VEHICLE LIABILITY - Insurance policies other than "personal lines" motor vehicle liability are not affected by the Court's decision. Insurers should handle them as in the past with full compliance with existing insurance statutes and approved policy provisions.

Sincerely,

  
James M. Thomson  
Commissioner of Insurance

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