



BUREAU OF INSURANCE

August 24, 1999

ADMINISTRATIVE LETTER 1999 -9

TO: All companies seeking to be licensed as insurers in accordance with Chapter 10, 12, 41, or 46 of Title 38.2 of the Code of Virginia.

RE: Requirements for Foreign and Alien Insurance Companies Seeking Admission to Do Business in Virginia

Applications for admission to transact the business of insurance in this Commonwealth will be processed in accordance with provisions in Title 38.2 of the Code of Virginia. Satisfaction of all applicable statutes will be required. All references to a section, chapter or title shall be to the cited portion of the Code of Virginia.

The provisions of this administrative letter replace the provisions of Administrative Letter 1981-8.

To transact the business of insurance in Virginia, an insurance company which is domiciled outside the Commonwealth of Virginia must obtain both a:

1. License issued through the Bureau of Insurance in compliance with Title 38.2 of the Code of Virginia.
2. Certificate of Authority issued through the Clerk of the State Corporation Commission in compliance with Title 13.1 of the Code of Virginia. However, reciprocal insurers licensed under Chapter 12 of Title 38.2 shall instead file with the Bureau of Insurance a written power of attorney on a form prescribed by the Commission, appointing the Clerk of the Commission as agent of the reciprocal.

The applicant should make application with and be tentatively approved for licensing by the Bureau of Insurance before securing a Certificate of Authority.

QUALIFICATIONS

1. Section 38.2-1024 B 3 of the Code of Virginia requires that the applicant satisfy the Commission's minimum capital and surplus requirements. Prescribed minimums include the minimal dollar amounts specified in the statutes.
 - (a) Stock insurance companies must maintain capital and surplus at the minimum levels prescribed by § 38.2-1028.
 - (b) Non-assessable mutual insurers must maintain a surplus at the minimum levels prescribed by § 38.2-1030, or § 38.2-1029 if the company issues assessable policies.
 - (c) Non-assessable reciprocal insurers must maintain a surplus at the minimum levels prescribed by § 38.2-1213, or § 38.2-1206 if the company issues assessable policies.
 - (d) Alien insurance companies (stock and mutual) incorporated or organized outside the United States must maintain a trusteed surplus at the minimum levels prescribed by § 38.2-1031.

Because a licensed insurer will be impaired and subject to license suspension when its surplus falls below the statutory minimum, the applicant must have surplus above these minimums in order to obtain a license. Precise amounts of additional surplus will be determined by the Bureau through a risk-based assessment of the applicant's financial condition, operational performance, business plan, and means of financial support. The determinations shall consider class of insurance and also factors cited in § 38.2-1024 B 5. At minimum, an applicant must have additional surplus of not less than \$500,000.

2. Section 38.2-1024 B 4 of the Code of Virginia requires the applicant to furnish financial statements and any other reports, certificates or other documents the Commission considers necessary to secure a full and accurate knowledge of the applicant's affairs and financial condition. Section 38.2-1300 addresses the scope and preparation of acceptable financial statements.
3. Section 38.2-1024 B 5 of the Code of Virginia requires assurances that the applicant ". . . is solvent and its financial condition, method of operation, and manner of doing business are such as to satisfy the Commission that it can meet its obligations to all policyholders . . ." The following are essential for clear qualification as a qualified applicant.

- (a) Profitable operations as a direct writer for each of the three immediately preceding calendar years. For applicants that do not strictly comply with this standard, the Bureau, at its discretion, may give due consideration to such mitigating factors as the severity, cause(s), and timing of statutory losses, surplus strength of the applicant, financial strength of a parent insurer licensed in Virginia, etc.
- (b) Active engagement in business similar to that for which licensure in Virginia is requested.
- (c) A definitive plan of operations for Virginia, including plans to commence direct writings in Virginia within six months after licensure.
- (d) A proven management team with adequate insurance expertise and experience.

Acceptable submissions must reflect adherence to standards of accurate financial reporting and disclosure in conformity with annual and quarterly statement instructions, and accounting practices and procedures manuals adopted by the NAIC.

Application submissions must include a full report of examination duly authenticated by the insurance supervisory official of the applicant's state of domicile or of entry. Acceptable reports of examination must be relevant for the applicant's current operations. Reports with balance sheet date more than three years prior to the date of the current NAIC annual statement may be viewed as immaterial for the purposes of the Bureau's analysis, and may result in refusal of a license. Similarly, reports of companies which have undergone significant changes in operations or growth since their most recent examination may be viewed as immaterial.

Companies with Insufficient Operating Experience (Not Applicable to Alien Applicants)

It is the Bureau's policy that each applicant represents a legitimate separate entity and should be judged on its individual operating history and current financial condition. A company with insufficient operating experience that is controlled substantially by an insurance company licensed and in good standing in Virginia may be considered for licensure, provided the applicant maintains adequate levels of surplus and posts the appropriate security deposits in accordance with § 38.2-1045 of the Code of Virginia. The affiliate must provide:

- (a) Proof of licensing in Virginia for at least three years;
- (b) Proof of profitable operations for each of the three immediately preceding calendar years;
- (c) A history of satisfactory treatment of Virginia policyholders; and
- (d) A capital and surplus guaranty on behalf of the applicant. The guaranty must be in writing and approved in accordance with a resolution by the affiliate's Board of Directors. It must include the specific agreement of the affiliate to maintain the applicant's capital and surplus at not less than the minimum levels specified in §§ 38.2-1028 through 38.2-1030 together with such additional surplus as the Bureau requires. The guaranty must provide that it becomes effective upon the issuance of the license and remains in effect until the applicant has recorded at least three years of profitable operations as a direct writer on a statutory basis.

Fraternal Benefit Societies – Companies Subject to Chapter 41 of Title 38.2

Pursuant to § 38.2-4129 6 of the Code of Virginia, the Bureau requires applicants seeking licensure as a foreign or alien fraternal benefit society to comply with the standards and policies addressed in this administrative letter for insurers seeking admission under Chapters 10, 12 or 46 of Title 38.2.

APPLICATION PROCEDURE

A company interested in applying for admission to Virginia should request licensing instructions and materials from, and submit applications for admission to, the following office:

**Company Licensing and Regulatory Compliance
Financial Regulation Division, Bureau of Insurance
State Corporation Commission
P. O. Box 1157
Richmond, Virginia 23218**

The Bureau may choose not to accept applications with missing or deficient documentation. Once accepted, applications with incomplete subsequent submissions or improperly executed documents are subject to denial. The Bureau will make a determination based on an analysis of the required items as well as any other information requested.

It is the intention of the Bureau to act on all applications within a reasonable time frame. During the review process, failure by an applicant company to respond adequately to written inquiries and solicitations within 30 days will be considered grounds for denial.

If the application is approved, the Bureau will send the company a letter of tentative approval, outlining the remaining requirements for admission. These requirements typically consist of the submission of documents to three areas: (1) the Clerk of the State Corporation Commission; (2) the financial institution designated by the Treasurer of Virginia as custodian for deposits required by Title 38.2 of the Code of Virginia (except for fraternal benefit societies licensed under Chapter 41 of Title 38.2 of the Code of Virginia); and (3) the Company Licensing and Regulatory Compliance Section of the Bureau. Generally, an applicant is expected to complete these remaining requirements within 60 days following the date of approval. Failure to do so may result in denial of the application.

The Bureau has an annual closing date of October 1 for accepting applications. Applications will again be accepted after January 1 when applicants may submit the appropriate NAIC annual statement for the most recently completed calendar period.

Questions regarding the contents of this letter should be directed to:

**Company Licensing and Regulatory Compliance
Financial Regulation Division, Bureau of Insurance
State Corporation Commission
P. O. Box 1157
Richmond, Virginia 23218
(804) 371-9616**

Sincerely,

Alfred W. Gross
Commissioner of Insurance