

SUMMARY OF CERTAIN 2012 VIRGINIA INSURANCE LAW AMENDMENTS

The Virginia General Assembly has enacted amendments or additions to several portions of the Code of Virginia related to insurance. The following is a brief summary of some of the amendments that may be of interest which went into effect July 1, 2012 (except as otherwise indicated):

General Changes:

- **Risk-Based Capital Act.** Amendment to § 38.2-4123, applying the Risk-Based Capital Act (§§ 38.2-5500 et seq.) to fraternal benefits societies. Other provisions make trend test requirements consistent among life and health, property and casualty and health organizations.
- **Certificates of Insurance.** Amendment to § 38.2-515 adds a new section to the Unfair Trade Practices Chapter (§§ 38.2-500 et seq.) prohibiting any person from issuing or delivering any certificate of insurance that attempts to confer rights upon a third party beyond what the referenced insurance policy expressly provides. Persons are prohibited from knowingly demanding or requiring the issuance of a certificate of insurance from an insurer, insurance producer or policyholder that contains any false or misleading information concerning the policy. It also prohibits any person from knowingly preparing or issuing a certificate of insurance containing any false or misleading information concerning the policy of insurance referenced in the certificate.
- **Maintenance Assessment.** The Assessment for Administration of Insurance Laws chapter (§§ 38.2-400 et seq.) was amended to revise the collection for maintenance of the Bureau of Insurance. The Commission shall assess each company annually for its just share of expenses, and each company shall pay this amount to the Commission on or before March 1 of each year. Each company failing to file an assessment report on or before March 1 shall be subject to a penalty of \$50 for each day after the report is due.
- **Reinsurance Credits.** Amendment to Reinsurance Article of the Reports, Reserves and Examinations chapter (Article 3.1 of Chapter 13, §§ 38.2-1316.1 et seq.) setting forth requirements for certified reinsurers; assignment of ratings; reduction in collateral; qualified jurisdictions; management of concentration risk; and diversification of reinsurance programs. Effective January 1, 2013

Agents:

- **Continuing Education.** Amendment and reenacting of Insurance Agents Chapter (Article 7 of Chapter 18, §§ 38.2-1866 et seq.) streamlining the continuing education process for insurance agents. The bill provides the process for an agent to correct errors and effect compliance with CE requirements; impacts credit hour requirements, eliminates certain monetary penalties, and changes the deadline for completing CE courses. Additionally, the bill eliminates requirements for status reports to agents and shortens the time for appeals to the Insurance Continuing Education Board. Effective January 1, 2013

- **Public Adjusters.** New article to Insurance Agents chapter (§§ 38.2-1800 et seq.) providing for licensing and regulation of public adjusters by the State Corporation Commission, including the standards of conduct and fees public adjusters may charge and the required provisions of a public adjuster’s written contract. Public adjusting is defined as investigating, negotiating, adjusting, or providing advice to an insured relating to first party claims under an insurance contract insuring real or personal property for the purpose of effecting settlement of a claim on behalf of the insured. Effective January 1, 2013.
- **Limited Burial Insurance Authority.** Amendment and reenacting of § 38.2-1800 (Chapter 18 Insurance Agents) changing the definition of “limited burial insurance authority” to be the authority to sell, solicit, or negotiate burial insurance society membership where the certificates of membership are used solely to fund preneed funeral contracts. Also eliminates the \$10,000 limits.

Property & Casualty:

- **Notice Regarding Earthquake Exclusion.** Amendment to Chapter 21 requiring any insurer, issuing or delivering a new or renewal policy of fire insurance or fire insurance in combination with other insurance coverage excluding coverage for earthquake damage, to provide written notice stating earthquake coverage is excluded unless purchased by endorsement. Additionally, if such coverage is available from the insurer, the notice must state that information regarding earthquake insurance is available from the insurer or insurance agent. This law applies to policies issued or renewed on or after January 1, 2013, and relate to all fire policies and fire policies in combination with other coverages, including, but not limited to, mobile home, dwelling fire, homeowner, renter, commercial fire and commercial package policies.
- **Forms and Endorsements.** Amendment to § 38.2-305 requiring property and casualty insurance policies to contain a list of all policy forms and endorsements, applicable to the policy, displaying the respective form numbers and edition dates. Insurers that use unique identifier numbers for forms instead of edition dates are only required to place unique numbers. Effective October 1, 2012.
- **Posting of Forms on Insurer’s Website.** Amendment to § 38.2-325 permits property and casualty insurers to post policy forms and endorsements on their public websites in lieu of any other method of delivery, so long as they do not contain personally identifiable information.
- **Fire Insurance Policies.** The Fire Insurance Policies chapter (§§ 38.2-2100 et seq.) was amended to add section § 38.2-2129 to require insurers writing fire policies, or fire policies issued or renewed on or after July 1, 2012, to provide coverage of at least \$250 for the cost of a volunteer fire department that is not fully funded by property taxes. Policies to which the law applies include all fire policies and fire policies in combination with other coverages, including, but not limited to, mobile home, dwelling fire, homeowner, renter, commercial fire and commercial package policies.

Life and Health

- **Multiple Employer Welfare Arrangements.** Amendment to § 38.2-3420 increases the maximum number of Virginia residents who may receive accident and sickness benefits as employees of a bank-sponsored multiple employer welfare arrangement from 50 to 500. The exemption applies if the bank-sponsored MEWA is subject to solvency examination authority and reserve adequacy requirements in its domiciliary contiguous state.
- **Parity of Coverage for Oral Chemotherapy Medications.** Amendments to §§ 38.2-4214 and 38.2-4319 and new section added to the General Provisions Article in the Accident and Sickness Insurance Provisions chapter (Article 1 of Chapter 34 §§ 38.2-3400 et seq.) provide that health insurers, health care subscription plans, and health maintenance organizations shall make the criteria for establishing cost sharing consistent within the same plan for orally administered cancer chemotherapy drugs and cancer chemotherapy drugs that are administered intravenously or by injection.
- **Life and Accident and Sickness Insurance Benefits.** Amendment to § 38.2-102 revises part of the definition of life insurance to provide additional benefits under a life or accident and sickness policy incidental to a loss in the event of death, dismemberment, or loss by accident or accidental means.
- **Licensing examination.** Amendment and reenacting of § 38.2-1815 requiring the Commission to annually review results of life and annuities licensing examinations and revise the content of the examinations to further the goal of achieving a pass rate. The Commission shall report to the General Assembly any findings and related changes implemented regarding the life and annuities licensing examination. Life and Health

Please note this is just a summary of certain legislative changes. It is not a complete list or interpretation of the insurance related legislative amendments in Virginia in 2012. If you have any questions or would like additional information, please contact Scott Sorkin or Richard Bland at ssorkin@blandsorkin.com or rbland@blandsorkin.com.