



Summary of Certain 2014 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, 2014 (except as otherwise indicated):

General Changes:

- ✓ **New Self-Assessment Requirements.** SB 88 amends the Code of Virginia and adds a new article (§38.2-1334.3 to §38.2-1334.10) requiring insurance companies and groups to file an “Own Risk and Solvency Assessment” (ORSA). An ORSA is an internal assessment conducted by an insurer of the material risks associated with its current business plan and the capital available to support that plan. An ORSA must be filed by all insurers domiciled in Virginia (unless exempted) at least annually or when there are significant changes to the risk profile of the insurer. Effective January 1, 2015.
- ✓ **Insurance Holding Companies.** HB109 amends various sections of the Code of Virginia to expand the State Corporation Commission’s (SCC) authority to examine the financial condition of an insurer. The bill requires the ultimate controlling person of an insurance holding company system to file a confidential Enterprise Risk assessment; requires the parent company looking to divest its interest in an insurance company to provide notice to the domestic regulator beforehand; requires the insurer’s board of directors to make statements about internal control and governance in the annual holding company registration statement; subjects the cost-sharing services agreements between affiliated entities to minimum reporting requirements that eliminate the potential for capital to flow out of the insurer; provides regulators with authority to participate in supervisory colleges; and adds confidentiality protections for information shared. All provisions are effective July 1, 2014 with the exception of amendments to Article 5 of Chapter 13 (§38.2-1322 et seq.), which basically define enterprise risk and modify previous definitions. Article 5 changes are effective on January 1, 2015.
- ✓ **Public Adjuster Licenses.** Amendments to §38.2-1845.5 and §38.2-1845.8 require non-resident public adjusters to maintain a bond in favor of the Commonwealth worth \$50,000

with a surety licensed by the Commission. Additionally, no public adjuster license can be renewed unless the applicant meets all initial requirements for licensure, including the surety bond.

- ✓ **Standard Valuation Act.** HB631 adds a new Article 10 (Standard Valuation Act) to Chapter 13 of Title 38.2 in order to require insurers to use a principle-based reserve basis for life, annuity, and accident and health contracts, as well as to use a Valuation Manual from the National Association of Insurance Commissioners (NAIC). Effective January 1, 2015.
- ✓ **Association Names.** Amendments to §38.2-2803 and §28.2-2903 change the names of the Alliance of American Insurers to the Property Casualty Insurers Association of America, and the National Association of Independent Insurers to the National Association of Mutual Insurance Companies as a result of mergers.

Property and Casualty:

- ✓ **New Driving Course Option.** Amendments to §38.2-2217 (Liability Insurance Policies) and parts of Title 46.2 establish mature driver crash prevention courses as an option for the court in adjudicating defendants. Individuals required to take this course by the court do not qualify for reductions in their insurance rates, but individuals who do so voluntary will qualify for a reduction for a three-year period. Effective January 1, 2015.

Life and Health:

- ✓ **Insurer Insolvencies and Refund of Surplus Funds.** Amendments to §38.2-1611.1 and §38.2-1705 designate the Department of Taxation as the agency in charge of the collection of any refunds of surplus funds from member insurers of the Life, Accident, and Sickness Insurance Guaranty association after insurer insolvency. This was previously handled by the State Corporation Commission.
- ✓ **Variable Annuity Death Benefit.** Amendment to §38.2-3115 clarifies that insurers are required to pay interest on death benefit claims for variable annuities beginning on the day they receive a completed claim form instead of the date of death on the claim form as previously required.
- ✓ **Notification of Formulary Changes to Prescription Drugs.** Amendment adding a Subsection C to §38.2-3407.9.01 requires that insurers, companies, or HMO's that use a formulary for prescription drug benefits give at least 30 days prior written notice to every

group and individual policy/contract holder when making a change to the formulary that moves a prescription drug to a higher-cost sharing level.

- ✓ **Required Pediatric Oral Care Under the ACA.** Amendment to §38.2-3451 specifies that the ACA requirement for minimum essential pediatric oral health benefits will be satisfied for health plans in the small group and individual markets so long as the health carrier has obtained reasonable assurance. Reasonable assurance is obtained by the carrier by ensuring that at least one qualified dental plan (Refer to §38.2-3455) both offers the minimum care required by the ACA and is available for purchase to the small group/individual, as well as ensuring that the health carrier prominently discloses that the health benefit plan provided does not include the minimum ACA pediatric oral health benefits.
- ✓ **Carrier Contracts with Intermediaries and Participating Pharmacy Providers (PPP).** HB108 adds §38.2-3407.15:1 to the Code of Virginia, which provides that any contract between a carrier and its intermediary (where the intermediary has the right or obligation to audit PPPs), and any provider contract between a carrier and a PPP where the carrier has the right or obligation to audit PPPs must contain provisions which prohibit the carrier or intermediary (in the absence of fraud), from recouping amounts arising from certain methods. Applied to contracts entered, amended, extended, or renewed on or after January 1, 2015.
- ✓ **ACA Terminology Update.** HB765 and SB360 both update the Code of Virginia to include the new CHIP program under Medicaid as well as the change of CHAMPUS to TRICARE.
- ✓ **Repeal of Group to Individual Conversion Policy.** HB1005 repeals previous provisions on converting group coverage to individual coverage.
- ✓ **Blanket Insurance Addition.** HB1166 amends §38.2-3521.1 and §38.2-3521.2 to add blanket accident and sickness policies as a new type of group insurance in Virginia. A blanket policy is sold to a master policyholder and provides coverage for specific circumstances or classes of people.
- ✓ **Notification of Premium and Deductible Increases.** Amendment to §38.2-3407.14 requiring that all health insurers, including HMOs and corporations, providing accident or sickness contracts provide written notice of any increases in premiums or deductibles at least 75 days prior to renewal. Previously the requirement was 60 days, or if the premium was to increase by more than 35%.

- ✓ **Regulation of Navigators.** Adds and amends sections to Article 7 of Accident and Sickness Chapter of the code to require navigators operating in Virginia after September 1, 2014 to be registered with the Commission as well as obtain certification by the U.S. Department of Health & Human Services (HHS). Navigators must submit an application in a form made by the commission, pay an application fee, and provide a criminal record history. Registered navigators must also report to the Commission any action taken by the HHS, felony conviction, or actions by governmental agencies towards the navigator in Virginia.

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 2014. 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.