



Letter
Withdrawn
By Administrative
Letter 2016-06

March 17, 2015

Administrative Letter 2015-06

TO: All Insurers Licensed to Write Motor Vehicle Policies and Interested Parties

RE: Mandatory Notices; Withdrawal of Administrative Letters 1977-13; 1991-09; and 1994-07

Over the years, many statutes have been added to Title 38.2 of the Code of Virginia requiring certain insurers to provide notices to applicants and insureds to make them aware of the additional coverages available for their protection or to make them aware of certain rights they may have under their policies. This administrative letter compiles information provided in previous administrative letters about notices required by a number of these statutes when issuing motor vehicle insurance policies and provides guidance as to when and how such notices should be provided. **Consequently, the following administrative letters are hereby withdrawn: 1977-13; 1991-09; and 1994-07.**

The notices identified in this letter are not subject to approval by the Bureau of Insurance (Bureau), and **should not be filed** with the Bureau. Unless otherwise specified in the statute, insurers have flexibility as to the manner in which the notice is provided. For example, when the statute requires a notice to be given on a new policy, a stuffer may be used at the time a policy is mailed to an insured, or the notice may be prominently displayed on the application. However, the notice must not be ambiguous or obscure and must be given not later than when the new policy is delivered.¹

Important Information to Policyholders Notice

Subsection B of § 38.2-305 of the Code of Virginia requires that a specific notice be provided with each new or renewal insurance policy, contract, certificate, or evidence of coverage issued to a policyholder, covered person, or enrollee. This notice must read substantially the same as the notice in the Code. Examiners frequently find that this notice is not given when policies are renewed or when a renewal certificate is issued. Insurers should ensure that this notice is given when required. This notice applies to all classes of insurance

¹ Additional information may be found in the *Common Problems Found During Examinations Identified by the Property and Casualty Market Conduct and Consumer Services Sections* that is located at <http://scc.virginia.gov/boi/laws.aspx>.

except those exempted in [§ 38.2-305](#) of the Code of Virginia, and except as specifically noted in [subsection E of § 38.2-305](#) of the Code of Virginia.

Offer of Medical Expense and Income Loss Coverages

[Section 38.2-2202](#) of the Code of Virginia requires insurers (issuing policies in Virginia covering the ownership, maintenance, or use of a motor vehicle) to offer at least \$2000 in coverage for medical expense benefits and at least \$100 per week in income loss benefits. However, this does not preclude the offering of both higher and lower limits. In addition, if policies are renewed at medical expense limits lower than those offered during the preceding policy term, an adverse underwriting decision notice must be provided to the insured. No such notice is required if the insured requests lower limits in writing.

[Subsection A of § 38.2-2202](#) of the Code of Virginia requires that insurers issuing original premium notices for insurance covering liability arising from the ownership, maintenance, or use of any motor vehicle include the IMPORTANT NOTICE provided in the statute with the premium notices. The notice can be on the front of the premium notice or can be enclosed with the premium notice. This notice does not have to be provided on renewal policies. The notice must be in boldface type and read exactly as stated in the statute. The Bureau often finds that this notice is not given when new policies are issued or that the notice is not worded as required by the statute. Insurers *must* offer a limit of \$2,000 in the notice and may offer higher and lower limits.

Notice that UM/UIM Limits May Be Reduced

[Subsection B of § 38.2-2202](#) of the Code of Virginia requires insurers issuing original premium notices or new policies covering the ownership, maintenance, or use of a motor vehicles to provide notice that insureds may reduce their uninsured/underinsured motorist limits to limits less than the liability limits on the policy, within 20 days of the mailing of a new policy or original premium notice. The notice can be on the front of the premium notice or can be enclosed with the premium notice. It must be in boldface type and read *exactly* as stated in the statute. Once the 20 days has lapsed, no insurer is required to provide this notice on any subsequent premium notice, renewal policy, extension certificate, or other written evidence of coverage continuation.

Warning Concerning Cancellation of Motor Vehicle Liability Policy

[Section 38.2-2210](#) of the Code of Virginia requires that a specific notice be printed on or attached to the first page of an automobile application form in boldface type. The Bureau frequently finds that this notice is not provided or is provided somewhere other than the first page of the application. Insurers should review their applications to ensure compliance with all of the requirements of this section of the Code. This requirement only applies to applications for liability insurance on motor vehicles as defined in [§ 38.2-2212](#) of the Code of Virginia.

Insurance Credit Score Disclosure Notice

Any insurer issuing or delivering a policy of motor vehicle insurance, as defined in [§ 38.2-2212](#), that uses credit information contained in a consumer report for underwriting, tier placement, or rating an applicant or insured shall disclose, on the insurance application, at the

time the application is taken, or at renewal if no previous notice has been given, the information required by [Subdivision A 1 of § 38.2-2234](#) of the Code of Virginia.

Insurance Credit Score Adverse Action Notice

[Subdivision A 2 of § 38.2-2234](#) of the Code of Virginia requires insurers that take adverse actions, based in whole or in part, upon credit information to provide notice to applicants or insureds (on policies of motor vehicle insurance, as defined in [§ 38.2-2212](#) of the Code of Virginia) that the adverse action was based in whole or in part on credit. The notice must also either provide a statement of the primary factors or characteristics that were used as the basis for the adverse action, or notify the applicant or insured that he may request such information. For the purposes of [§ 38.2-2234](#) of the Code of Virginia, an adverse action is defined as a denial, nonrenewal or cancellation of, an increase in any charge for or refusal to apply a discount, or placement in a less favorable tier, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with underwriting, tier placement, or rating. Adverse action includes, but is not limited to, circumstances where the applicant or insured (i) did not receive the insurer's most favorable rate, (ii) was not placed in the insurer's best tier, and (iii) when there are multiple insurers available within a group of insurers, the applicant or insured did not receive coverage with the group's most favorably priced insurer. In the case of renewals, the circumstances listed in (i), (ii), and (iii) are not adverse actions if, due to the insured's credit information, the insured is not receiving a less favorable rate, or placed in a less favorable tier or company than during the policy period immediately preceding the renewal policy.

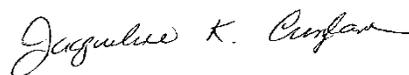
Offer of Rental Reimbursement Coverage

[Section 38.2-2230](#) of the Code of Virginia requires that every insurer issuing a new or renewal policy of motor vehicle insurance, as defined in [§ 38.2-2212](#) of the Code of Virginia, which provides comprehensive or collision coverage, must offer, in writing, to the named insured the option of purchasing rental reimbursement coverage. This notice must be given by insurers writing motor vehicle policies insuring as the named insured one individual or a husband and wife who are residents of the same household and the vehicle is a private passenger type vehicle. Commercial policies endorsed to provide coverage for individuals must also provide this notice if the vehicle is a private passenger type vehicle.

Questions about this administrative letter should be directed to:

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Sincerely,



Jacqueline K. Cunningham
Commissioner of Insurance