

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

July 1, 2016

Administrative Letter 2016-06

REVISED 5-25-18

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

RE: Mandatory Notices; Withdrawal of Administrative Letter 2015-06

This administrative letter compiles information provided in a previous administrative letter about notices required by a number of statutes when issuing motor vehicle insurance policies and provides guidance as to when and how such notices should be provided. **This letter also reflects the changes made to the statutes referenced below by Chapter 558 of the 2016 Acts of the Assembly (House Bill 307), which is effective January 1, 2017. Consequently, the following administrative letter is hereby withdrawn: 2015-06.**

The notices described in this letter are not subject to approval by the Bureau of Insurance, 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 except those exempted in [§ 38.2-300](#) of the Code of Virginia, and except as specifically noted in [subsection E of § 38.2-305](#) of the Code of Virginia.

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/co/index.aspx>.

Point Surcharge Notice

[Subsection A of § 38.2-1905](#) of the Code of Virginia requires insurers to provide notice in writing to a named insured anytime the insurer increases the premium or charges points as a result of a motor vehicle accident. Furthermore, such notice shall inform the named insured that he may appeal the decision of the insurer to the Commissioner if he believes the action of the insurer is without just cause. In addition, the notice shall include the requirement that the appeal be in writing and made within 60 days of the receipt of the notice of any premium increase adjustment or any point charge resulting from a motor vehicle accident.

Offer of Medical Expense and Income Loss Coverages

[Section 38.2-2202 A](#) of the Code of Virginia requires insurers issuing **new** policies in Virginia insuring the ownership, maintenance, or use of a motor vehicle offer at least \$2000 in coverage for medical expense benefits and at least \$100 per week in income loss benefits. This section requires that insurers include the IMPORTANT NOTICE provided in the statute with the policy. This notice is not required be provided on renewal policies. The notice must be in boldface type and read exactly as stated in the statute. However, insurers are not precluded from offering both higher and lower limits.

Notice that UM/UIM Limits May Be Reduced

[Section 38.2-2202 B](#) of the Code of Virginia requires insurers issuing new policies covering the liability arising out of the ownership, maintenance, or use of motor vehicles to provide notice that the named insured may reduce his uninsured/underinsured motorist limits to limits less than the liability limits on the policy. The notice must be in boldface type and read *exactly* as stated in the statute. Once any named insured has reduced the limits on the uninsured/underinsured motorist coverage below those on the liability coverage, the election is binding on all insureds.

Warning Concerning Cancellation of Motor Vehicle Liability Policy

[Section 38.2-2210](#) of the Code of Virginia requires that a specific notice be printed in boldface type on or attached to an application for motor vehicle insurance as defined in [§ 38.2-2212](#) of the Code of Virginia. The Bureau frequently finds that this notice is not provided on or with the application. Insurers should review their applications to ensure compliance with all the requirements of this section of the Code of Virginia. The notice required by this section shall be given to an applicant within 10 days of the date of the application in the event the applicant is not provided a written copy of the application and the coverage has been bound by the insurer.

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 [§ 38.2-2234 A i](#) 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 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, refusal to renew, or cancellation of, an increase in any charge for or refusal to apply a discount, 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, where the reason for any of these actions is the insured's credit information. If the insurer would have taken the same action(s) had the insured's credit information **not** been a factor, then **no** adverse action has occurred.

Offer of Rental Reimbursement Coverage

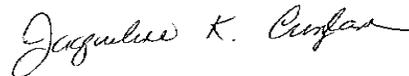
Section 38.2-2230 of the Code of Virginia requires that every insurer issuing a new or renewal policy of motor vehicle insurance, as defined in § 38.2-2212 of the Code of Virginia, which provides comprehensive or collision coverage, must offer, in writing, to the named insured the option of purchasing rental reimbursement coverage.

All insurers issuing motor vehicle insurance policies should review this letter and make the changes required by 2016 Acts of the Assembly c.558 (House Bill 307) by the effective date of the legislation, January 1, 2017.

Questions about this administrative letter should be directed to:

BOI Manager, P&C Market Conduct
(804) 371-9826
BureauofInsurance@scc.virginia.gov

Sincerely,



Jacqueline K. Cunningham
Commissioner of Insurance

REVISED 5-25-18: The definition of "adverse action" was amended to reflect decisions of the courts. Several technical corrections were also made.