



**Virginia Property/Casualty  
Filing Guidelines Handbook  
February 2021 Edition**  
[Bureau of Insurance](#)

**VIRGINIA PROPERTY/CASUALTY**  
**FILING GUIDELINES HANDBOOK**

## Contents

<b>Introduction .....</b>	<b>6</b>
<b>Section I - General filing requirements.....</b>	<b>7</b>
Links to regulatory resources.....	7
Glossary.....	7
Licensing required.....	7
Submissions.....	7
Submit filings by line or program of insurance .....	7
Filing Description required in SERFF submissions.....	8
New, replaced or withdrawn materials .....	8
Effective and implementation date requests .....	8
Forms lists .....	8
Objections on form or rate/rule submissions.....	8
Notification of an insurer’s decision to discontinue writing a line of insurance or program.....	8
Individual/specific risk submissions.....	9
Enabling rules.....	9
Me too submissions (i.e., submissions to use an affiliated company’s approved filings) .....	9
Interline (IL) submissions permitted.....	9
Resubmissions of disapproved submissions.....	10
Post-submission updates .....	10
<b>Section II - Filing requirements for rates and rules .....</b>	<b>10</b>
File-and-use rate regulation.....	10
Rate certification form – file-and-use rate/rule submissions.....	10
Prior approval rate regulation .....	11
Rate certification form – prior approval rate/rule submissions .....	11
Excess rates for specific risks (consent to rate) .....	11
Claims-made rates .....	12
Interpolation/extrapolation rules.....	12
Rounding rules .....	12
Installment payment plans, other fees charged by insurers .....	12
Ranges of rates and other non-specific rating formulas are not permitted.....	12

“Refer to company” references as a substitute for rates or rating factors .....	12
Retrospective Rating Plan – Tax multipliers .....	13
Provisions addressing return premium calculation (addressed in the coverage form or in the rules) ..	13
Rules/rates need to be filed for approved coverage forms.....	13
Tiered pricing plans.....	13
Using motor vehicle accidents in pricing of motor vehicle insurance .....	14
Permitted experience period .....	14
Use of not-at-fault accidents not permitted in personal auto rating .....	14
Underwriting guidelines.....	14
Credit/insurance scoring or credit-related pricing for insurance coverage.....	14
Rating plans (other than workers’ compensation) .....	15
Facultative reinsurance.....	15
Waiver of premium rules .....	15
Rules/rates exempt from filing requirements .....	15
Price optimization prohibited .....	16
Rate stabilization/capping .....	16
Birth-related neurological injury fund (Fund) – Chapter 50 of Title 38.2 of the Code .....	16
Credit property insurance and credit involuntary unemployment insurance (IUI) .....	17
Request for trade secret protection of a submission .....	17
Private flood rates and supplementary rate information.....	17
<b>Section III - Delegation of filing authority to an RSO (rules/rates) .....</b>	<b>18</b>
Insurers are permitted to delegate filing authorization to an RSO .....	18
Participating insurers allowed to authorize an RSO to “file on behalf of” .....	18
Participating insurers allowed to adopt RSO filings.....	18
Delay or non-adoption of an RSO’s submission (other than workers’ compensation) .....	18
RSO advisory filings (AFAF-1) .....	18
Insurer submissions to adopt an RSO’s loss costs (Loss Cost Adoption Form, PC-IRF) - other than workers’ compensation insurance.....	19
Estimated Loss Potentials .....	19
<b>Section IV – Filing requirements for coverage forms.....</b>	<b>19</b>
Applications.....	20
Appraisal conditions.....	20

Countersignature endorsements.....	20
Earthquake – notice of exclusion.....	20
Forms subject to filing requirements.....	20
Forms written in a language other than English.....	21
Endorsements .....	21
Manuscript coverage provisions permitted.....	21
Mold limitations or exclusions for ensuing loss are not permitted.....	21
Delegation of form filing responsibility to an RSO.....	21
Form filings.....	21
Property insurance form submissions/statutory fire policy .....	21
Minimum standards of content for policies written to insure owner-occupied dwellings .....	22
Ordinance or law (mandatory offer of coverage).....	22
Replacement cost loss settlement coverage .....	22
Functional replacement cost loss settlement coverage .....	22
Water/sewer back-up coverage (mandatory offer of coverage).....	22
Volunteer fire department service charges .....	22
Auto (motor vehicle) insurance form submissions.....	23
Personal auto coverage forms .....	23
Commercial auto coverage forms.....	23
Rating information statement required (personal auto insurance) .....	23
Rental reimbursement coverage (personal auto insurance) .....	23
Individual named insureds (commercial auto insurance).....	23
Lender-placed physical damage insurance coverage (collateral protection standard forms) .....	24
Named driver exclusions prohibited in contracts insuring motor vehicles, aircraft, and watercraft ("omnibus clause").....	24
Credit property and credit involuntary unemployment insurance .....	24
Uninsured private pleasure watercraft insurance (mandatory offer of coverage) .....	24
Liability insurance coverage forms/endorsements .....	24
Bankruptcy, insolvency, unsatisfied judgment provisions.....	24
Pollution exclusions - carbon monoxide .....	25
Post-judgment interest .....	25
Binding arbitration conditions prohibited .....	25

Fraud notices.....	25
Forms exempt from filing requirements by AO .....	25
Miscellaneous casualty insurance.....	25
Claims-made form filings .....	26
<b>Section V – Workers’ compensation insurance submissions .....</b>	<b>27</b>
Workers’ compensation insurance coverage forms .....	27
Delayed effect rate filings (subject to § 38.2-1912).....	27
Delay or non-adoption of NCCI filings not allowed .....	27
Loss cost multipliers and rule filings – workers’ compensation insurance.....	27
Workers’ compensation drug-free workplace premium credits .....	27
Workers’ compensation small deductible plans.....	27
Workers’ compensation large deductible plans – filing instructions .....	28
Waiver of right of subrogation (workers’ compensation insurance).....	29
<b>Section VI – Requirements applicable to non-SERFF filings .....</b>	<b>29</b>
Cover letter, copies, group submissions, and return envelopes .....	29
Contact information.....	29
NAIC number(s).....	29
<b>Section VII – SERFF Filing Access .....</b>	<b>29</b>
<b>Section VIII – Statistical Agent Report Form .....</b>	<b>29</b>
<b>Section IX – Chapters in Title 38.2 of the Code - Applicable to Property/Casualty Insurance .....</b>	<b>30</b>
<b>Section X – Collateral Protection Insurance Coverage Forms.....</b>	<b>31</b>

## Introduction

This handbook is designed to assist regulated entities in preparing and submitting filings that comply with regulatory requirements. The handbook covers many of the most common regulatory requirements, but it is not all-inclusive.

This handbook has ten primary sections: (i) general filing requirements, (ii) filing requirements for rates and rules, (iii) delegation of filing authority to a rate service organization, (iv) filing requirements for coverage forms and endorsements, (v) workers' compensation insurance submissions, (vi) requirements applicable to non-SERFF submissions, (vii) SERFF Filing Access, (viii) statistical agent report form, (ix) Chapters in Title 38.2 of the Code applicable to property/casualty insurance, and (x) a list of collateral protection standard auto physical damage forms.

Additional resources are available on the Bureau's website. For example, administrative letters (ALs) and administrative orders (AOs) issued by the Bureau should also be carefully reviewed, along with the relevant provisions of Title 38.2 of the Code of Virginia and Title 14 of the Virginia Administrative Code. Filers should also review the SERFF General Instructions.

From time to time, new laws and revisions to existing laws occur and additional ALs, AOs, and regulations may be issued dealing with specific situations. Filers may subscribe to a notification service on the Bureau's [website](#) that will send an e-mail whenever a new AL or AO is added.

Any questions or comments regarding this handbook should be directed to:

**Virginia State Corporation Commission**

**Bureau of Insurance**

**Property and Casualty Division**

**Rates and Forms Sections**

**P. O. Box 1157**

**Richmond, Virginia 23218**

**Or:**

**1300 East Main Street**

**Richmond, Virginia 23219**

**(804) 371-9965**

**or**

**[BOIRRF@scc.virginia.gov](mailto:BOIRRF@scc.virginia.gov)**

## Section I - General filing requirements

### Links to regulatory resources

[Title 38.2 of the Code of Virginia](#) – Insurance laws

[Title 52 of the Code of Virginia](#) – State Police (Insurance Fraud)

[Title 65.2 of the Code of Virginia](#) – Workers' compensation insurance

Title 14 of the Virginia Administrative Code – Insurance regulations

Bureau's [website](#) – Access to administrative letters by topic; administrative orders; standard auto forms; and general rate/form filing information

[SERFF Filing Access](#) – Public search application for SERFF submissions

### Glossary

AO – Administrative Order

AL – Administrative Letter

Bureau – Bureau of Insurance

Code – Code of Virginia

NAIC – National Association of Insurance Commissioners

RSO – Rate service organization

SERFF – System for Electronic Rate and Form Filings

Submission and filing – synonyms that are used interchangeably

### Licensing required

Filings may only be submitted for the lines of insurance an insurer or rate service organization (RSO) is licensed-in Virginia.

*Contact the Property/Casualty Division if you have questions about the type of license needed for writing a specific type of property/casualty product or coverage. To add a class of insurance to an insurer's lines of authority, the insurer should contact the Financial Regulation Division by e-mailing [BureauofInsurance@scc.virginia.gov](mailto:BureauofInsurance@scc.virginia.gov) or calling 804-371-9869 for information or assistance in this process.*

### Submissions

Insurers are encouraged to use the NAIC's SERFF for the submission of new filings and revisions to existing filings.

### Submit filings by line or program of insurance

Submissions must be submitted separately for each line or program of insurance.

*There are exceptions to this requirement that are explained in the Interline section of this handbook.*

## **Filing Description required in SERFF submissions**

All SERFF submissions must contain a Filing Description under the General Information tab. Refer to the SERFF General Instructions for additional information.

The Filing Description is a brief summary of the submission. The summary should include a statement (i) describing whether the materials are new or revisions of existing materials to be used with previously filed or approved materials, and (ii) the specific program, product name, and the coverage form(s) being amended. If the Reference Title section is completed, it should match the Filing Description.

Filers may add or amend a Filing Description through a Post Submission Update.

A SERFF submission may be rejected if it does not include a Filing Description.

## **New, replaced or withdrawn materials**

All submissions that include forms, manual pages, or exception pages must specify whether they are new, replaced or withdrawn. All forms should be included under the Form Schedule and all rates/rules should be included under the Rate/Rule Schedule in SERFF. All submissions that include material (e.g., forms, rule or rate pages or exception pages) that is being replaced or withdrawn must specify the applicable SERFF tracking number(s) or, if pre-SERFF, the Bureau tracking number(s) of the currently filed or approved material for each replaced item.

*If an insurer withdraws premium bearing coverage forms or endorsements, the corresponding rules and rates should also be withdrawn.*

## **Effective and implementation date requests**

Filers often use the terms “upon approval” or “on approval” instead of proposing an effective date of implementation. This causes delays in the disposition of the submissions.

AL 2006-08 requires that filers propose an effective date for implementation of the materials. The method of implementation selected must be applied consistently for each entity named in the submission. The effective date and method of implementation must comply with § 38.2-317 of the Code for forms and § 38.2-1906 of the Code for rules/rates.

The implementation date for workers’ compensation submissions must always be based upon “policies effective” on or after the date specified.

## **Forms lists**

Insurers are not required to file a list of approved forms and endorsements, except for personal automobile or when an insurer assigns its own form numbers to the coverage forms and endorsements filed on its behalf by an RSO. A cross-reference list is required when an insurer assigns its own form numbers to forms filed by an RSO or to the personal auto standard forms.

## **Objections on form or rate/rule submissions**

If any corrections are necessary prior to approval or acceptance, the examiner will communicate them in an Objection Letter upon completion of the review. An expected response date will be specified in the Objection Letter.

## **Notification of an insurer’s decision to discontinue writing a line of insurance or program**

These notifications are encouraged because they are helpful for accurate record-keeping.



## Individual/specific risk submissions

Individual risk submissions are not acceptable in Virginia. An insurer must file rules and rates applicable to a class of insurance or risk as described in § 38.2-1904 of the Code, unless the class is exempt from filing requirements by statute or AO.

Insurers are permitted to file an excess rate for a specific risk, which is also often referred to as a consent to rate or an excess rate. Refer to the instructions applicable to filing an excess rate for a specific risk.

## Enabling rules

An enabling rule allows the use of material that has been otherwise filed by or on the insurer's behalf in conjunction with an independent program without having to file the same material again.

*Insurers are required to use the rules and forms on file for the specific program before using the materials allowed by the enabling rule.*

## Me too submissions (i.e., submissions to use an affiliated company's approved filings)

Under certain conditions, an insurer can file to use the materials of an affiliated insurer without submitting all the applicable forms, rules and rates. If an insurer's group has a program on file for some of its insurers and wants to add the same approved/filed material for another affiliated insurer, the Bureau will, under appropriate circumstances, allow the insurer to submit a Me too filing.

Requirements for a Me too submission:

- The submission must include an up-to-date forms list of all the forms and their edition dates that were filed for the other insurer or insurers within the group.
- The submission must include a certification in the SERFF Filing Description that the filer is using the same materials filed for the other insurer(s) up to and including the most recent SERFF Tracking Number(s) for the filed/approved materials.
- Except for rates, the materials to be used must be identical to what is currently on file for the other insurer or insurers within the group.
- The insurer requesting the Me too submission must submit a rate certification form, COF-1 (05/05).

## Interline (IL) submissions permitted

- An IL submission is a single submission that includes more than one line or program of insurance **when** the exact same materials apply to all types of insurance (TOIs) or programs referenced in the submission. The filer must include a complete list of the applicable TOIs, sub-TOIs, and/or programs. IL submissions are not permitted for materials with an associated premium consideration or charge(s). The one exception is for installment payment plans/premium payment plans and the fees associated with such plans.
- Examples of generally acceptable IL submissions:
  - Forms or endorsements such as common policy conditions, reciprocal provisions, mutual policy provisions, name change endorsements, and certain exclusions.
  - Certain types of supplementary rate information such as installment payment plans or rating plans.

## Resubmissions of disapproved submissions

The Bureau will reopen a disapproved submission for further consideration **IF** the filer submits the requested corrections within 90 days from the date of disapproval. The resubmission process begins with a request from the filer to re-open the submission. Resubmissions must include a new proposed implementation date. Refer to AL 2006-08. For resubmissions containing coverage forms or endorsements, the proposed effective date of implementation must comply with the 30-day prior filing requirements as outlined in § 38.2-317 of the Code.

If the submission is disapproved a second time or submitted more than 90 days after disapproval, the filer must prepare a new submission, which must reference the disapproved SERFF tracking number. The new filing should also include a Filing Memorandum outlining the changes that were made to address the objections raised in the disapproved filing.

## Post-submission updates

A post submission update can be used to amend an effective date of implementation. Requests for a change to the effective date of implementation in a closed SERFF submission must be submitted before the previously acknowledged effective date of implementation.

A post-submission update can also be used to amend a Filing Description.

## Section II - Filing requirements for rates and rules

### File-and-use rate regulation

Chapter 19 of Title 38.2 of the Code applies to the regulation of rates and supplemental rate information for the lines of insurance for which competition has proven to be an effective regulator of rates. Rates regulated as "file and use" must be filed on or before the date they are used and must be used as stated in the submission.

Section 38.2-1906 of the Code does not permit a filer to request an effective date earlier than date of receipt of the submission. For example, a filer submits a rule/rate filing on March **26**, 2020 with an effective date of March **25**, 2020.

### Rate certification form – file-and-use rate/rule submissions

Insurers are required to include a rate certification form, COF-1 (05/05), with rate/rule submissions. The form is an attachment to AL 2005-01 and available on the Bureau's [website](#). The COF-1 (05/05) is used to certify that the proposed rules and rates comply with the rate standards in subsections A and B of § 38.2-1904 of the Code.

#### **Common mistakes or omissions include:**

- **Block 1, 2 or 3 is not checked**
- **The form is not signed by a qualified individual**
- **All insurers referenced in the submission are not listed on the COF-1 (05/05)**
- **The filer uses a group name on the COF-1 (05/05). This is not acceptable; however, insurers may list all insurers on the same COF-1 (05/05)**
- **The effective date shown on the COF-1 (05/05) is not the same as the effective date requested in the SERFF General Information tab**
- **The filer uses an incorrect version of the rate certification form**

The rate certification form is **not** required for the following materials: (i) minimum premiums, (ii) installment payment plans, (iii) insufficient/non-sufficient fund check fees/returned check charges, (iv) rules for non-premium-bearing endorsements, (v) policy term rules, (vi) rounding rules, (vii) waiver-of-premium rules, (viii) submissions that request the withdrawal of a rule or rate, (ix)

changing the block checked in item 1 of the loss cost adoption form (either future to current OR current to future) and no other changes are made, (x) non-adoption, adoption, or delay of an RSO's materials, and (xi) interpolation rules.

An interactive PDF of the COF-1 (05/05) is available in the SERFF General Instructions and under the Supporting Documentation tab.

### **Prior approval rate regulation**

Pursuant to § 38.2-2001 of the Code, Chapter 20 of Title 38.2 of the Code applies to the rates applicable to the following:

- (i) insurance written through the Virginia Worker's Compensation Insurance Plan,
- (ii) coverage provided in the Virginia Automobile Insurance Plan,
- (iii) coverage provided by the Virginia Property Insurance Association (see § 38.2-2703 of the Code)
- (iv) home protection contracts, as defined in § 38.2-2600 of the Code,
- (v) policies and certificates of credit involuntary unemployment insurance as defined in § 38.2-122.1 of the Code, and
- (vi) policies and certificates of credit property insurance, as defined in § 38.2-122.2 of the Code.

### **Rate certification form – prior approval rate/rule submissions**

Insurers are required to include a rate certification form, DR/COF (05/05) with all rate/rule submissions subject to the requirements of Chapter 20 of the Code. The form is an attachment to AL 2005-01 and available on the Bureau's [website](#). The DR/COF (05/05) is used to certify that the proposed rules and rates comply with §§ 38.2-2005 or 38.2-2006 of the Code. Filers are also required to send notice to the Division of Consumer Counsel of the Office of the Attorney General.

An interactive PDF version of the DR/COF (05/05) is available in the SERFF General Instructions and under the Supporting Documentation tab. ***A COF-1 (05/05) cannot be accepted in place of a DR/COF (05/05) for Chapter 20 filings.***

### **Excess rates for specific risks (consent to rate)**

Insurers are permitted to submit an excess rate for a specific risk pursuant to §§ 38.2-1920 and 38.2-2013 of the Code.

An excess rate must be approved prior to use. The approval will specify the effective date and the expiration date of the excess rate. Excess rates are approved for only one policy year and must be applied on a prorated basis if approved after the effective date of the policy.

To request an excess rate, submit the appropriate excess rate application form (workers' compensation or all other). Interactive PDF versions of these forms are available on the Bureau's [website](#).

The applicable excess rate application form requires the following:

1. The excess rate application must be completed, signed by the insured, dated and submitted on or before the policy inception date. The filer must also submit supporting documentation providing all information needed for calculation of premium.
2. The Agency/Producer must be actively licensed in Virginia and appointed by the insurer.
3. The excess rate application must state the specific reason or reasons for the increased rate. The reason(s) for the excess rate must be related to the risk insured. "Losses" is not an acceptable reason.
4. A proposed excess rate may be presented as a percentage or final rate.
5. Further supporting documentation may be requested as needed.

## Claims-made rates

Rates for commercial general liability insurance written on a claims-made basis are required to be filed unless exempt by AO.

Extended reporting period (ERP) rates are required to be filed unless exempt from filing requirements by an AO. *Commercial general liability ERP rates are exempt by AO 11888.*

Claims-made rates may include maturity step factors if the policy includes a retroactive date or similar limitation. However, insurers are not required to use maturity step factors. If an insurer used maturity step factors, the step factors are required to be filed unless exempt from filing requirements by AO.

## Interpolation/extrapolation rules

Interpolation and extrapolation rules are considered supplementary rate information as defined in § 38.2-1901 of the Code. Insurers wishing to interpolate or extrapolate rates are required to file the interpolation or extrapolation formula and an example.

## Rounding rules

Rounding rules are considered supplementary rate information as defined in § 38.2-1901 of the Code. Insurers filing rounding rules must be specific. For example, in a rounding rule that specifies to round to the nearest whole dollar, the rule must explain whether 50 cents will be rounded up or down.

## Installment payment plans, other fees charged by insurers

Installment payment plans are considered supplementary rate information as defined in § 38.2-1901 of the Code and must be filed with the Bureau on or before the proposed effective date of implementation. Refer to AL 1993-6 and § 38.2-310 of the Code.

If an installment payment plan is applicable to more than one line of insurance or program, the installment payment plan may be submitted in an Interline submission.

Other fees charged by insurers, such as late fees, dishonored check fees and reinstatement fees must also be filed with the Bureau pursuant to § 38.2-310 of the Code.

*Insurers are not permitted to apply their filed installment payment plans to residual market policies.*

## Ranges of rates and other non-specific rating formulas are not permitted

§§ 38.2-1904 C. and 38.2-1906 of the Code require that specific rates be filed. Therefore, ranges of rates and other non-specific rating formulas are not permitted. Filers are generally allowed to use schedule rating plans to reflect the individual characteristics of the risk. Refer to the section on Rating Plans (other than workers' compensation) for more information.

## "Refer to company" references as a substitute for rates or rating factors

AL 1985-11 addresses "refer to company" references and filing requirements. Insurers are not permitted to use this type of reference as a substitute for filing rates or supplementary rate information. Rates developed pursuant to such rules must be filed with the Bureau prior to use.

Insurers may comply with AL-1985-11 by either: (1) adding a rule stating that any rate that is developed under a "refer to company" reference will be filed with the Bureau on or before its use or (2) replace all "refer to company" references with actual rates.

If an RSO's materials filed on the insurer's behalf include "refer to company" references, insurers are required to file the appropriate rate(s) prior to use.

## **Retrospective Rating Plan – Tax multipliers**

When a submission of a retrospective rating plan includes a tax multiplier calculation, the tax multiplier must be filed. In this context, the tax multiplier is considered supplementary rate information (as defined in § 38.2-1901 of the Code). A tax multiplier does not have to be the same for each program or line of business.

*Insurers using an RSO's rating plan must independently file expected loss ratios and/or tax multipliers for use with such rating plans. Insurers should refer to the RSO circular provided in conjunction with the rating plan for instructions.*

## **Provisions addressing return premium calculation (addressed in the coverage form or in the rules)**

Section 38.2-305 of the Code requires that all policy provisions be contained in the policy, including the method of calculating return premium. Return premium calculations must be specific. For example, if an insurer uses short rate return premium calculation method, 90% of pro-rata would be an acceptable description.

## **Rules/rates need to be filed for approved coverage forms**

A rule and rate must be filed for every premium-bearing coverage form or endorsement, unless exempt from filing requirements by statute or AO. Refer to § 38.2-1906 of the Code. See the section titled "Rules/rates exempt from filing requirements" below.

## **Tiered pricing plans**

Tiered pricing programs, where different rates are charged for the same coverage written by the same insurer, are permitted. However, certain requirements must be met in order to comply with §§ 38.2-1904 and 38.2-1906 of the Code.

If an insurer intends to use tiered rating:

- The insurer is required to file eligibility criteria applicable to new and renewal policies for each tier. The eligibility criteria determine how a particular risk is rated (i.e., which tier will apply).
- Eligibility criteria may not overlap; that is, no risk should be able to meet the eligibility criteria for more than one rating tier.
- Underwriting guidelines differ from tier eligibility. Underwriting guidelines are the insurer's way to determine risk acceptability. Tier eligibility must be specific and is used to determine pricing.

In addition to filing tier eligibility criteria, insurers are required to re-evaluate the tier criteria for each risk at least once every three years.

**For personal auto insurance:** With regard to convictions of violations or at-fault accidents used in personal auto insurance, insurers must re-evaluate at every renewal to ensure compliance with § 38.2-1904 D of the Code. In addition, insurers must re-evaluate as frequently as required to ensure compliance with § 38.2-2234 of the Code. The filed rule must reflect the re-evaluation requirements.

## **Using motor vehicle accidents in pricing of motor vehicle insurance**

### **Permitted experience period**

For personal auto insurance: Section 38.2-1904 D of the Code establishes a 36-month experience period limitation for using motor vehicle accidents or convictions of violations in pricing.

For commercial auto insurance: AL 2006-15 indicates that the 36-month experience period set forth in § 38.2-1904 D of the Code does not apply to experience rating plans or other types of rating plans that are based on accidents and/or convictions used with commercial auto insurance. This AL also indicates that § 38.2-1905 of the Code is not applicable to experience rating plans or other types of rating plans that are based on accidents and/or convictions used for commercial auto insurance.

### **Use of not-at-fault accidents not permitted in personal auto rating**

Insurers are not permitted to use “not at fault” accidents (which also includes medical expense and income loss benefits claims and uninsured motorist claims) for renewals. Such a practice could result in an increase in premium for an accident not caused wholly or partially by the insured (a violation of § 38.2-1905 A of the Code).

### **Underwriting guidelines**

Insurers are not required to file their underwriting guidelines. Underwriting guidelines are the criteria insurers use to determine whether to write a risk—or for risk selection. In contrast, once the insurer has made the decision to write the risk, any criteria used in pricing is supplemental rate information and must be filed.

If, however, an insurer elects to file its underwriting guidelines or refuses to remove them from the required materials, the Bureau considers the information to be supplementary rating information and no underwriting discretion will be allowed.

### **Credit/insurance scoring or credit-related pricing for insurance coverage**

Insurance credit scoring models used for purposes other than risk selection must be filed. Refer to AL 2002-06.

The use of credit-related information in rating is permitted. However, any use of credit-related information must comply with the rate standards in § 38.2-1904 of the Code and must be filed pursuant to § 38.2-1906 of the Code.

If an insurer uses credit-related information as a separate or final rating variable, the insurer must provide the score ranges and the associated rate differential(s) for each range or band of scores.

If an insurer uses credit-related information as part of a tiered rating program, the insurer must provide the score ranges and the associated rate differential(s) for each tier.

Use of information from third party vendors’ credit scoring models cannot be used unless permission has been granted for the insurer to file the model publicly.

For personal residential and personal auto insurance

- § 38.2-2126 of the Code outlines the requirements for using credit/insurance scores with property coverage written to insure an owner-occupied dwelling or the personal property of a tenant’s residential property risk.
- § 38.2-2234 of the Code outlines the requirements for using credit/insurance scoring with personal auto insurance.



## **Rating plans (other than workers' compensation)**

Rating plans (e.g., schedule rating plans, individual risk premium modification plans, expense modification plans, and experience rating plans) are considered supplementary rate information (as defined in § 38.2-1901 of the Code) and subject to the filing requirements of § 38.2-1906 of the Code. AL 2006-15 provides additional information regarding the filing requirements, including a sample schedule rating plan.

As described in AL 2006-15, insurers are not required to file (i) the maximum debit/credit used for the schedule rating plan, (ii) a rule requiring documentation (although insurers are expected to retain internal documentation), or (iii) how the debits and credits are tallied/applied/combined.

A schedule rating plan may **not** include the use of loss history or loss experience. Further, if information from a financial rating/scoring bureau is used as part of a schedule rating plan, the financial rating/scoring model must be filed.

Insurers using an RSO's rating plan must independently file expected loss ratios and/or tax multipliers for use with such rating plans. Insurers should refer to the RSO circular provided in conjunction with the rating plan for instructions.

## **Facultative reinsurance**

AL 2006-15 permits insurers to file rating plans to pass along no more than 100% of the cost of facultative reinsurance, including expenses, to policyholders. The amount (e.g., the percentage of the cost) that will be passed along to the policyholder must be filed.

## **Waiver of premium rules**

AL 1983-12 allows insurers to file waiver of premium rules and establishes the requirements, which are (i) the waiver cannot apply to only return premiums and (ii) the return premium rule must stipulate that the return premium will be granted if requested by the insured. The insurer must notify the insured that a return premium is available.

## **Rules/rates exempt from filing requirements**

Certain types of insurance and coverages are exempt from filing requirements. Some exemptions have been established in statute and others by AO. Exempt lines are subject to all other applicable statutes and regulatory requirements.

Submissions that contain only exempt rules or rates will be returned to the filer. In addition, insurers will be asked to withdraw exempt rules or rates from manual pages that also contain rules or rates that are subject to filing requirements. If an insurer files exempt rules and rates, the rules and rates must be used as filed.

*Dividend plans are not considered supplementary rate information and are **not** subject to filing requirements.*

Exemptions for certain classes of insurance by AO: Refer to the Bureau's website for the list of current exemptions.

### Exemptions by statute:

- Aircraft hull and aircraft liability rates are exempt from filing requirements. Refer to § 38.2-1902 of the Code.
- Certain rates used in writing large commercial risks are exempt from filing requirements. Refer to § 38.2-1903.1 of the Code.

## **Price optimization prohibited**

Price optimization is, generally, described as the practice of gathering and analyzing data related to characteristics specific to a particular policyholder to predict behaviors unrelated to risk of loss or expenses, such as how much of a premium increase an individual policyholder will tolerate before shopping for coverage with other carriers.

Setting rates or modifying filed rates based on characteristics unrelated to expected losses or expenses (i.e., price optimization as described above) violates § 38.2-1904 of the Code and is not permitted in Virginia. Section 38.2-1904 of the Code requires that differences in rates charged to risks with similar risk characteristics and the same coverage must be based on differences between expected losses or expenses. Refer to AL 2016-03.

## **Rate stabilization/capping**

Section 38.2-1906.F of the Code allows insurers to cap both rate increases and rate decreases. Chapter 345 of Title 14 of the Virginia Administrative Code (Chapter 345) establishes uniform filing standards. A rate stabilization plan must include documentation sufficient to detail the application of the rate stabilization plan and to ensure that stabilized premiums will reach their actuarially appropriate level within the time specified.

Key points of Chapter 345 are:

- Any "capping" of rates, loss cost multipliers, deviations or tier movement requires a rate stabilization plan.
- A rate stabilization plan should not exceed five years.
- A rate stabilization plan may cap both increases and decreases, but not decreases only.
- A rate stabilization plan must apply to a specified book of renewal business. Generic rules are not permissible.
- No more than one rate stabilization plan may apply to any policy at one time.
- A transition rule is considered "capping" or stabilization of rates for a period of time.
- The Rate Stabilization Plan Certification (Form 345-A) must be submitted with all new and updated rate stabilization plans.

The most common objections noted in submissions are:

- (i) A filer submits a generic rate stabilization rule as a placeholder for any potential merger, acquisition or agency book transfer.
- (ii) The rate stabilization rule is unclear about how it works and does not specify the source of the renewals subject to the rate stabilization plan, which is required by Chapter 345.
- (iii) A filer does not include a starting or ending date for a new rate stabilization plan.
- (iv) The filer does not include the Form 345-A.

## **Birth-related neurological injury fund (Fund) – Chapter 50 of Title 38.2 of the Code**

Insurers writing medical professional liability coverage for participating medical professionals such as nurses, physicians or midwives, or participating hospitals, as defined in § 38.2-5001 of the Code must file premium credits for participation in the Fund. The credit requirements are outlined in § 38.2-5020.1 of the Code.

§ 38.2-5020 E.3 of the Code allows liability insurance carriers to recover their initial and annual assessments through a surcharge on future policies or rate increase effective prospectively, or a combination of the two. If an insurer decides to recover the assessment, a rule must be filed.



## **Credit property insurance and credit involuntary unemployment insurance (IUI)**

Chapter 20 grants the Bureau prior approval rate authority for the charges associated with the policies, endorsements, and certificates used to write these coverages. The Bureau's regulatory authority for the rates charged extends to certificates issued or delivered to Virginia residents—even if the certificate is generated from a master or group policy issued or delivered in another state (see § 38.2-2006.1 of the Code). The rates charged for credit property and credit IUI insurance coverage are subject to the filing requirements of § 38.2-2003 of the Code, including the 50% loss ratio standard described in subsection E of this statute.

§ 38.2-233 of the Code sets forth requirements for consumer disclosures and readability standards.

Refer to AL 2000-8 for details.

## **Request for trade secret protection of a submission**

§ 38.2-1907 of the Code permits insurers and RSOs to request confidentiality of rates and supplementary rate information, provided that such information constitutes a trade secret pursuant to § 59.1-336 of the Code. The information must belong to and be the proprietary material of the insurer or the RSO. A filing can be held confidential IF the filer requests trade secret protection and the appropriate documentation is provided.

AL 2010-07 provides information regarding the process of filing trade secret protected materials and includes a form titled, "Request for Trade Secret Protection, TSP-1." In addition to completing the TSP-1, the following information must be provided:

1. What steps have been taken by the insurer/RSO to protect its information internally?
2. How many people have access to this trade secret information?
3. Do producers or anyone outside of the insurer/RSO (other than Bureau staff) have access to this information?
4. Have any of the contents of this filing been made public or filed as a public record in Virginia or in any other state by this insurer/RSO or by any other insurer/RSO?

AL 2010-07 addresses challenges to trade secret protection made by a member of the public.

Insurers should not file public information in the same filing as the trade secret material.

- Filings with requests for trade secret protection should contain only the materials to be protected, and the filing should be clearly designated as "confidential" in SERFF.
- The insurer should also provide a cross-reference to a companion public-access submission (e.g., cite the SERFF Tracking Number).

## **Private flood rates and supplementary rate information**

AO 12077 exempts private flood insurance rates from filing requirements until December 31, 2025 unless the order is withdrawn prior to that date. However, any insurer writing private flood insurance in Virginia must file a properly completed Virginia Rate Certification Applicable to Private Flood Insurance, Flood COF-1 (3/19) to certify that the rates are not in conflict or inconsistent with the rate standards in § 38.2-1904 of the Code.

The AO defines private flood insurance as coverage written by an admitted insurer that is not written or reinsured through the National Flood Insurance Program. Private flood insurance includes coverage offered as (i) a primary standalone, first dollar flood insurance policy; (ii) primary flood insurance coverage provided by endorsement or included as a covered cause of

loss; and (iii) excess flood insurance coverage. Private flood insurance coverage does not include coverage for losses caused by or resulting from water which backs up through sewers or drains.

*Refer to Section IV for form filing requirements, which apply to private flood insurance.*

## **Section III - Delegation of filing authority to an RSO (rules/rates)**

### **Insurers are permitted to delegate filing authorization to an RSO**

An insurer is permitted to delegate filing authority to an RSO by § 38.2-1908 of the Code. In other words, an insurer may authorize an RSO to file rules and other supplementary rate information on its behalf. The Bureau does not have access to announcements or circulars issued by RSOs; therefore, all RSO materials must be cited using the RSO's reference filing number(s). Several ALs have been issued to provide guidance:

AL 2018-07	Participating Insurers Allowed to either Adopt RSO Filings or Authorize an RSO to "File on Behalf of"
AL 2011-07	RSOs - Advisory Filings
AL 2010-05	Prospective Loss Cost Filing Requirements for Workers' Compensation
AL 2006-16	Prospective Loss Cost Filing Requirements - Other than Workers' Compensation

### **Participating insurers allowed to authorize an RSO to "file on behalf of"**

Section § 38.2-1908 of the Code permits participating insurers to authorize an RSO to file materials on their behalf. An insurer is also permitted to file exceptions to a RSO's materials that are filed on their behalf.

The exceptions need to be filed on or before their implementation date. The exceptions should also track the rule numbering, etc. of the RSO's filed materials.

### **Participating insurers allowed to adopt RSO filings**

Participating insurers (as defined in AL 2018-07) are allowed the option to adopt materials filed by an RSO as an alternative to authorizing an RSO to file materials on their behalf.

Insurers must provide the Bureau with the reference filing number(s) assigned to the RSO's forms, rules and loss costs they intend to use.

### **Delay or non-adoption of an RSO's submission (other than workers' compensation)**

If an insurer has authorized an RSO to file rules and supplementary rate information on its behalf and the insurer decides to delay adoption of the material or decides to not use the revision, the insurer must notify the Bureau on or before the effective date of the RSO's reference filing.

The RSO's reference number is required for all delays of implementation or non-adoptions.

### **RSO advisory filings (AFAF-1)**

AL 2011-07 permits RSOs to submit advisory filings. An advisory filing is a submission that the RSO does not file on behalf of any insurers. For a participating insurer to use an RSO's advisory filing, the insurer must take specific actions, which are outlined in AL 2011-07.

The AFAF-1 form is to be used ONLY for adopting RSOs **advisory** filings other than loss costs.

*Refer to the items in this handbook that pertain to adoptions of loss costs.*

## **Insurer submissions to adopt an RSO's loss costs (Loss Cost Adoption Form, PC-IRF) - other than workers' compensation insurance**

Insurers are required to take specific actions in order to use an RSO's loss costs. AL 2006-16 contains the instructions related to adopting an RSO's loss costs. For example:

- Use adoption form PC IRF and the associated cover form
- Refer to the appropriate loss costs reference filing number
- Specify the applicable line of insurance or type

Interactive PDF versions of the PC IRF form and cover form are available within SERFF.

The PC-IRF form has two options available to an insurer:

- Check box 1 if the insurer elects to have its filed multiplier apply to future RSO loss cost submissions, or
- Check box 2 if an insurer elects to have its filed multiplier apply to ONLY the cited RSO loss cost submission (referred to as "current only").

*Insurers must file final rates for homeowners and personal auto insurance programs.*

### **Estimated Loss Potentials**

ISO's Commercial General Liability Estimated Loss Potentials (ELPs) are exempt from filing requirements by AO 11888. Therefore, insurers should not submit loss cost adoption forms or submit filings to adopt or delay implementation of these materials.

## **Section IV – Filing requirements for coverage forms**

Pursuant to § 38.2-317 of the Code, all forms and endorsements of the kind to which Chapter 19 of Title 38.2 of the Code applies must be received by the Bureau at least 30 days prior to the proposed effective date. Section 38.2-317 of the Code applies to the types of coverage stated in § 38.2-1902 of the Code.

Section 38.2-317 B of the Code outlines the Bureau's authority to disapprove or withdraw approval of policy forms and endorsements.

Form filing requirements do not apply to:

- Statutory fire insurance policies - The statutory 172-line fire policy and the standard fire insuring agreement are prescribed by §§ 38.2-2104 and 38.2-2105 of the Code.
- Standard auto policy forms and endorsements - Standard automobile forms and endorsements are promulgated by the Bureau in accordance with § 38.2-2218 of the Code. The standard auto forms are made available for use by all insurers and not required to be filed.
- Surety pursuant to § 38.2-1902 of the Code.
- Aircraft hulls and aircraft liability pursuant to § 38.2-1902 of the Code.
- Forms specifically exempted from filing requirements by AO.
- Forms for insuring large commercial risks pursuant to § 38.2-1903.1 of the Code.
- Forms subject to § 38.2-317 F of the Code.

Policy form or endorsement filings will be reviewed and either approved or disapproved within 30 days of the receipt of the filing. In order to provide a complete review, the Bureau may need to extend the review period for an additional 30 days. The filer will be notified if the Bureau extends the review period.

## **Applications**

Applications are not subject to filing requirements. Section 38.2-305 of the Code requires that all coverages, terms, exclusions, and conditions of the policy be contained in the policy forms and/or endorsements submitted for review and approval.

Even if an application is made a part of the policy, the application is not a policy form or endorsement under the provisions § 38.2-317 of the Code.

In addition, if an insurer elects to include rates or rating rules in an application, it is the insurer's responsibility to file any applicable rate or rule filing requirements in a rule/rate submission under the provisions of § 38.2-1906 of the Code.

Refer to the Fraud section of this handbook for the fraud notice requirements in applications.

## **Appraisal conditions**

The Bureau provided guidance (letter dated August 29, 2014 and AL 2017-03) about binding appraisal conditions in policy forms and endorsements.

In summary, the following are acceptable:

1. The appraisal condition in § 38.2-2105 of the Code and the appraisal conditions in Chapter 340 of the Virginia Administrative Code (i.e., minimum standards of content for owner-occupied property policies 14 VAC 5-340-10 et seq) include the following statement: "An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss." Insurers are permitted to use this or similar wording.
2. An appraisal condition can specifically state that it is binding on the INSURER.
3. An appraisal condition can state that it is binding on both the INSURER and the INSURED.
4. An appraisal condition can state that it is not binding on the INSURED; however, the condition may not state that it is not binding on the INSURER.

## **Countersignature endorsements**

If an insurer requires a countersignature for the policy to be valid, the Bureau considers this to be a change in conditions and the endorsement must be submitted for approval.

## **Earthquake – notice of exclusion**

Refer to § 38.2-2129 of the Code for earthquake exclusion notice requirements. These notices are not subject to filing requirements.

## **Forms subject to filing requirements**

All terms and conditions of coverage must be included in the insurance contract for compliance with § 38.2-305 of the Code.

*Typically, change endorsements, notices, disclosures, schedules, certificates of insurance, declarations, and blank endorsements for making clerical changes do not contain coverage terms or conditions and are not subject to filing requirements.*

## **Forms written in a language other than English**

Insurers are permitted to submit coverage forms that are written in a language other than English. The following is required with such submissions:

- An English-language version must be provided.
- An affidavit from the translator is required.
- A certification must be provided confirming that the non-English language form is the same as the English-language counterpart.

## **Endorsements**

Endorsements must track with the policies they modify. In addition,

- If multiple forms are submitted with the same title, a rule must be filed to indicate how each form will be used.
- Words or phrases that are entered in bold font or quotations must be defined in the form or endorsement.

## **Manuscript coverage provisions permitted**

Insurers may manuscript broadenings of coverage provided it meets the requirements of Administrative Order 11936; however, form wording commonly used (i.e., four or more times a year) must be filed for approval pursuant to § 38.2-317 of the Code. Insurers may not manuscript any restrictions of coverage. All restrictions of coverage must be filed and approved pursuant to § 38.2-317 of the Code.

## **Mold limitations or exclusions for ensuing loss are not permitted**

For policies subject to §§ 38.2-2104 and 38.2-2105, insurers must provide coverage for mold (including fungus, wet rot, etc.) ensuing from a fire or lightning loss and are not permitted to use sub-limits for ensuing mold loss.

For policies subject to Chapter 340 of Title 14 of the Virginia Administrative Code (minimum standards for owner-occupied properties), insurers must provide coverage for mold (including fungus, wet rot, etc.) except as permitted by the exclusions contained in the minimum standards.

## **Delegation of form filing responsibility to an RSO**

Insurers may elect to delegate form filing responsibility to an RSO.

If an insurer is not going to adopt or if the insurer is delaying adoption, § 38.2-317 H of the Code requires an insurer to notify the Bureau prior to the RSO effective date.

If an insurer makes amendments to any forms filed on its behalf by an RSO, the amended form must be filed with the Bureau in accordance § 38.2-317 of the Code.

If the change is clerical, such as adding an insurer's name or logo or changing the form number, the insurer is not required to submit the form for the Bureau's review or approval.

## **Form filings**

Insurers must file all independently developed forms and endorsements for the Bureau's review and approval at least 30 days prior to the proposed effective date pursuant to § 38.2-317 of the Code. If the endorsement does not specify the policy form it amends (by title or form number), that information must be submitted within the SERFF filing description.

## **Property insurance form submissions/statutory fire policy**

Insurers filing readable property insurance forms that provide fire insurance coverage are required by § 38.2-2107 of the Code to file forms that are in no respect less favorable to the insured than

the statutory fire policy. Such forms are subject to the 30-day prior filing provisions of § 38.2-317 of the Code.

### **Minimum standards of content for policies written to insure owner-occupied dwellings**

Chapter 340 of Title 14 of the Virginia Administrative Code (14 VAC 5-340-10 et seq.) outlines the minimum standards of content for policies insuring personal lines owner-occupied dwellings (other than owner-occupied farm, mobile home, or lender-placed policies).

Insurers developing independent policy forms and endorsements must carefully examine the provisions of Chapter 340 to ensure compliance with the minimum standards. Forms filings must contain a certification of compliance stating compliance with the provisions of Chapter 340. For example, “[Filer] certifies that all coverage forms and endorsements in this submission comply with the provisions of Chapter 340 of Title 14 of the Virginia Administrative Code.”

### **Ordinance or law (mandatory offer of coverage)**

Insurers are required by § 38.2-2124 of the Code to offer optional ordinance or law coverage on all property policies. This statute does not allow limitations or exclusions, such as excluding coverage for testing for pollution. Refer to the statute for additional details.

Ordinance or law must be offered up to the building limit for both demolition and increased costs of construction. Other limits may also be offered. Refer to AL 2016-05 for details.

Insurers are permitted to offer ordinance or law coverage with and without coverage for pollution exposures. However, insurers must offer ordinance or law coverage with pollution exposures covered before making the coverage available with pollution exposures excluded. Any premium consideration associated with the specific charge for the pollution exposure is exempt from filing requirements (AO 11248).

### **Replacement cost loss settlement coverage**

Pursuant to § 38.2-2119 B of the Code, property insurance policies that provide replacement cost coverage must permit the insured to make a claim for the actual cash value of the property without prejudicing the insured's right to later make a claim for the difference between the actual cash value and the full replacement cost of the property.

Such claims must be accepted if made within six months of the later of (i) the last date the insured received payment for the actual cash value, or (ii) the date of entry of a final order declaring the right of the insured to full replacement cost coverage.

### **Functional replacement cost loss settlement coverage**

Refer to § 38.2-2119 C of the Code for requirements when providing, at the insured's option, loss settlement on a functional replacement cost basis.

### **Water/sewer back-up coverage (mandatory offer of coverage)**

Section 38.2-2120 of the Code requires insurers that issue or deliver homeowners policies in Virginia to offer as an option a provision for insuring against loss caused by or resulting from water which backs up through sewers or drains. Coverage for water back up must be offered up to the policy limits.

### **Volunteer fire department service charges**

Property insurance policies must provide at least \$250 of coverage for the costs of services by volunteer fire departments that are not fully funded by real estate taxes or other property taxes. This coverage cannot be restricted by provisions requiring the coverage to be assumed by



contract or agreement prior to the loss or required by local ordinance. See § 38.2-2130 of the Code and AL 2012-06.

This is in addition to any other fire department service charges covered by the policy.

### **Auto (motor vehicle) insurance form submissions**

§ 38.2-2218 of the Code gives the Bureau the authority to establish standard policy forms and endorsements for writing motor vehicle insurance. Insurers writing motor vehicle insurance in Virginia must use the standard forms in the precise language adopted by the Bureau pursuant to § 38.2-2220 of the Code.

The only exception to using a standard form is outlined in § 38.2-2223 of the Code. This statute allows the Bureau to approve endorsements containing additional provisions, other than those in the standard form, or coverages more favorable than those in the standard form. Any such endorsements are subject to § 38.2-317 of the Code.

### **Personal auto coverage forms**

Insurers are required to use the Bureau-mandated auto insurance coverage forms and endorsements in writing personal motor vehicle insurance in Virginia. Therefore, it is not necessary for the insurer to physically file standard automobile forms for review or approval. No insurer shall use any form covering substantially the same provision contained in an approved standard form unless it is in the precise language of the standard form.

Refer to AO 12113 for the 2018 standard auto forms, which are available for use on January 1, 2021. These forms become mandatory on January 1, 2022.

The 2005 personal auto policy and endorsements will be withdrawn effective January 1, 2022.

The 2005 personal auto policy and endorsements are no longer available for use once an insurer implements the 2018 standard auto forms.

Refer to the Bureau's [website](#) for a list of the personal auto standard forms.

### **Commercial auto coverage forms**

AO 12048 details the three standard forms that are required when writing commercial motor vehicle insurance in Virginia. Refer to the Bureau's [website](#) for a list of the commercial auto standard forms.

### **Rating information statement required (personal auto insurance)**

Section 38.2-2214 of the Code requires insurers to prepare and submit a statement defining rate classifications. These forms summarize the factors used to develop the policy premium. Rate classification statements must be filed for approval.

### **Rental reimbursement coverage (personal auto insurance)**

Every insurer issuing a new or renewal policy of personal auto insurance must offer rental reimbursement coverage as required by § 38.2-2230 of the Code. Refer to standard form PP 13 52 Transportation Expenses – Virginia for this coverage.

### **Individual named insureds (commercial auto insurance)**

Commercial automobile policies endorsed to provide coverage for individual named insureds may also be subject to § 38.2-2230 of the Code. Refer to AL 2016-06 for additional details.

## **Lender-placed physical damage insurance coverage (collateral protection standard forms)**

A list of these standard forms for writing lender-placed physical damage insurance is included in Section X. The forms (collateral protection) are available upon request by contacting the Property/Casualty Division.

## **Named driver exclusions prohibited in contracts insuring motor vehicles, aircraft, and watercraft (“omnibus clause”)**

The Omnibus clause (§ 38.2-2204 of the Code) requires all policies covering liability for bodily injury or property damage arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure watercraft issued upon, or to the owner of, such motor vehicle, aircraft, or watercraft to provide coverage to all permissive users of, and any persons responsible for the use of, the motor vehicle, aircraft, or private pleasure watercraft. This statute prohibits the use of named driver exclusions in automobile insurance policies.

The Omnibus Clause does not apply to Commercial Umbrella or Commercial Excess policies.

Exception for Personal Umbrella or Personal Excess - Named driver exclusions are permitted in personal umbrella or excess policies if the insurer adheres to the requirements in Subsection B of § 38.2-2204 of the Code. This statute requires that the exclusion be requested in writing by the first named insured and acknowledged in writing by the excluded driver.

## **Credit property and credit involuntary unemployment insurance**

For credit property insurance and credit involuntary unemployment insurance, the Bureau has extra-territorial form approval authority, which includes certificates issued or delivered to Virginia residents—even if the certificate is generated from a master or group policy issued or delivered in another state. Chapter 3 establishes the 30-day prior filing requirement for forms.

Refer to § 38.2-233 of the Code (form and disclosure notices requirements); § 38.2-317 of the Code (30-day waiting period); § 38.2-317 I of the Code (extra territorial form authority); § 38.2-312 of the Code (binding arbitration prohibited).

## **Uninsured private pleasure watercraft insurance (mandatory offer of coverage)**

Insurers must offer uninsured private pleasure watercraft insurance coverage in accordance with § 38.2-2232 of the Code. Uninsured private pleasure watercraft insurance coverage must include bodily injury and property damage coverage. Insurers must offer limits of liability for uninsured private pleasure watercraft coverage that are equal to the limits of liability insurance coverage provided by the policy.

Policies that are of an excess or umbrella type or which provide liability coverage incidental to a policy not related to a specifically insured private pleasure watercraft are not required to offer uninsured private pleasure watercraft coverage.

## **Liability insurance coverage forms/endorsements**

### **Bankruptcy, insolvency, unsatisfied judgment provisions**

Section 38.2-2200 of the Code requires all policies insuring against liability for personal injury or property damage to contain provisions stating that:

(1) Insolvency or bankruptcy of the insured, or the insolvency of the insured's estate, shall not relieve the insurer of any of its obligations under the policy, and



(2) Any party who has obtained a judgment against the insured, which is returned unsatisfied, may bring an action against the insurer to recover damages insured by the policy.

### **Pollution exclusions - carbon monoxide**

For pollution exclusions in liability insurance to apply to carbon monoxide from residential or commercial heating systems, the form must explicitly state that pollution includes carbon monoxide from a residential or commercial heating system. Refer to § 38.2-235 of the Code.

### **Post-judgment interest**

Post-judgment interest (interest that accrues after the entry of a judgment) is extra contractual and is not required to be covered by the policy. If this coverage is provided, post-judgment interest must be paid in addition to the policy limits of liability. Deductibles or self-insured retentions cannot apply to post-judgment interest.

### **Binding arbitration conditions prohibited**

Arbitration decisions may not be binding. Refer to § 38.2-312 of the Code and AL 2017-03.

### **Fraud notices**

Section 52-40 of Title 52 of the Code requires all insurance applications and all claim forms to contain a statement (permanently affixed to, or included as part of, the application or claim form) that states in substance that:

"It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."

Insurers using wording that differs from the language of the statute should consult with their legal department and/or the Virginia State Police Insurance Fraud Investigation Unit. Claim forms and applications are not subject to form filing requirements and should not be submitted.

### **Forms exempt from filing requirements by AO**

The Bureau's [website](#) contains a list of the AOs that exempt certain policy forms and endorsements from filing requirements pursuant to § 38.2-317 F of the Code.

### **Miscellaneous casualty insurance**

Policies of miscellaneous casualty insurance are defined in § 38.2-111 B of the Code.

Most miscellaneous casualty insurance policies are subject to § 38.2-2200 of the Code (pertaining to insolvency, bankruptcy, and unsatisfied judgments) However, miscellaneous casualty insurance policies covering loss, damage, or expense arising out of injury to the economic interests of any person are not subject to this statute.

If miscellaneous casualty insurance is written on a claims-made basis, the requirements of Chapter 335 of Title 14 of the Virginia Administrative Code apply. See 14 VAC 5-335-10 et seq. for the minimum standards for claims-made liability insurance coverage.

## Claims-made form filings

Rules governing claims made liability insurance policies are outlined in Chapter 335 of the Virginia Administrative Code (14 VAC 5-335-10 et seq.). The following chart highlights some important items to note.

Section Reference	Item to Note
14VAC5-335-20	The claims-made regulation does <b>not</b> apply to incidental claims made coverage (endorsements that amend an occurrence liability contract).
14 VAC 5-335-23	Claims-made notice requirements. Notices do not need to be submitted for review or approval.
14 VAC 5-335-30	An Extended Reporting Period (ERP) must be offered to the named insured upon: <ol style="list-style-type: none"> <li>1. Cancellation or nonrenewal of claims-made coverage by either the insurer or the insured</li> <li>2. Advancement of any applicable retroactive date</li> <li>3. Renewal of the policy on other than a claims-made basis.</li> </ol>
14 VAC 5-335-40	An unlimited ERP with unimpaired limits of liability equal to the limits of the policy being extended must be offered for medical professional liability insurance coverage. A minimum of a one-year ERP must be offered for all other claims-made liability coverage. Insurers can offer reinstatement of limits at their discretion for other lines of business. The insured must be allowed at least 30 days after the termination of coverage in which to purchase the ERP. Once the minimum requirement has been met, higher or lower limits may also be offered. If the aggregate limit is reinstated, insurers are required to offer <b>unimpaired</b> limits. Insurers should refer to the definition of unimpaired limits in Chapter 335.
14 VAC 5-335-45	Requirement to provide loss information if the aggregate limit is reinstated.
14 VAC 5-335-50	Once in effect, the ERP cannot be cancelled by the insurer without the consent of the insured except for nonpayment of premium or fraud. The insured always has the right to cancel an ERP. The ERP coverage can apply as excess over other coverage, but the insurer cannot void coverage if other insurance applies.
14 VAC 5-335-60	To the extent that policy limits apply separately to each named insured, each named insured shall be separately entitled to purchase an ERP.

## **Section V – Workers’ compensation insurance submissions**

Filings that include independent rates or supplementary rate information for workers’ compensation insurance [i.e., rates and/or rating rules that deviate from the approved National Council of Compensation Insurers (NCCI) loss costs or supplementary rating information] are subject to the 60-day delayed-effect provisions of § 38.2-1912 of the Code pursuant to § 38.2-1906 E of the Code.

### **Workers’ compensation insurance coverage forms**

The Virginia Workers’ Compensation Commission (WCC) is responsible for form review and approval for workers’ compensation insurance pursuant to § 65.2-813 of the Code. Therefore, the Bureau does not approve coverage forms applicable to workers’ compensation and employers’ liability insurance.

### **Delayed effect rate filings (subject to § 38.2-1912)**

Currently only independent workers’ compensation rates or rating rules that deviate from, or do not rely upon, NCCI loss costs or supplementary rate information are subject to the delayed-effect provisions of § 38.2-1912 of the Code.

### **Delay or non-adoption of NCCI filings not allowed**

Insurers must adopt all NCCI filings for use with all new and renewal policies effective on or after the effective date in the approving order. Insurers are not permitted to delay the implementation date of an NCCI loss cost filing or an approved item filing.

### **Loss cost multipliers and rule filings – workers’ compensation insurance**

AL 2010-05 contains Form WCLC-VA and instructions for filing expense multipliers applicable to current NCCI loss costs. Each NCCI loss costs filing supersedes the previous NCCI loss costs, and all insurers must use the approved NCCI loss costs on their effective date or file independent rates (which are subject to the delayed-effect provisions of § 38.2-1912 of the Code). Multipliers filed by insurers will remain in effect and apply to each subsequent NCCI loss costs filing on the filing’s effective date unless and until the insurer files a revised form WCLC-VA. Form WCLC-VA is available in interactive PDF format in SERFF and on the Bureau’s [website](#). The WCLC-VA form also includes instructions for filing rate-related rules for workers’ compensation insurance.

Workers’ compensation loss cost adoption submissions must include the Rate/Loss Cost Certification Form, COF-1 (05/05), which is attached to AL 2005-01. The COF-1 (05/05) is also available in interactive PDF format in SERFF and on the Bureau’s [website](#).

### **Workers’ compensation drug-free workplace premium credits**

§ 65.2-813.2 of the Code requires that insurers provide premium discounts of up to 5% for drug-free workplace programs. Every insurer providing workers’ compensation coverage must file a rule outlining the specific credits available and the eligibility criteria. Insurers should not submit drug-free credit application forms, either with or in lieu of a rule.

### **Workers’ compensation small deductible plans**

Filers should review the requirements outlined in the NCCI Basic Manual for the Benefits Deductible Coverage Program (Small Deductible Plan).

## Workers' compensation large deductible plans – filing instructions

1. Values for expense provisions, underwriting profit provision, premium discounts, and charges for assigned risk overburden should be consistent with the values in the filed manual rates. In the case where values are not consistent, insurers must provide support for the proposed values used in the large deductible rating plan.
2. Insurers must calculate their own Retrospective Expected Loss Ratio (RELR) based on the underwriting expense provisions, underwriting profit provision, and charges for assigned risk overburden used to develop their filed loss cost multiplier. In the case where the RELR is to be based on provisions and charges not consistent with the same values in the filed manual rates, insurers must provide support for the proposed values.
3. NCCI files Excess Loss Pure Premium Factors (ELPPFs). The deductible rating formula must accommodate the currently filed and approved NCCI ELPPFs. In the case where the ELPPFs filed with the large deductible rating plan are not consistent with the NCCI filed values, insurers must provide support for the proposed values.
4. The Bureau considers the following elements when reviewing a workers' compensation large deductible filing:
  - a) Completeness
  - b) Soundness of actuarial rate making methodologies (particular values proposed in the filing are addressed in items c and d below).
  - c) Regarding the loss and loss adjustment expense (allocated and unallocated) provisions of the filing.
    - i) Consistency of proposed loss and loss adjustment expense rating factors with approved Virginia rating factors from NCCI filings.
    - ii) Support for proposed loss and loss adjustment expense rating factors, which are deviations from, approved Virginia rating factors from NCCI filings.
  - d) Regarding the expense and underwriting profit provisions of the filing.
    - i) Consistency of proposed expense and underwriting profit provisions in the deductible program filing with the expense and underwriting profit provisions in the Insurers' loss cost multiplier filing.
    - ii) Support for proposed expense and underwriting profit provisions, which are not consistent with the expense, and underwriting profit provisions in the loss cost multiplier filing.
  - e) Reference to judgment rating or ranges of factors is not permissible in Virginia. Specific values/factors must be filed.
5. A copy of the forms sent to the Workers' Compensation Commission must be filed for informational purposes with the deductible plan. This is necessary to determine consistency between the filed plan and proposed forms.

*Some large deductible plans may be exempt from filing requirements pursuant to § 38.2-1903 of the Code.*

## **Waiver of right of subrogation (workers' compensation insurance)**

NCCI does not file a premium charge for *waiver of our right to recover* (i.e., waiver of subrogation) on behalf of its member insurers in the voluntary market.

If an insurer elects to file a specific waiver of subrogation rule that includes a premium charge equal to or less than the NCCI assigned risk plan premium charge of 5% of the manual premium developed for the work for which the waiver is provided, the filing will be accepted without supporting actuarial data. However, the filing will be subject to 60-days delayed effect as required by § 38.2-1912 of the Code. If the insurer elects to charge a higher premium, the insurer will be required to submit actuarial support. Similarly, if an insurer elects to file a rating rule for a blanket waiver of subrogation, a premium charge equal to or less than 5% of the manual premium for the policy will be accepted without actuarial support.

## **Section VI – Requirements applicable to non-SERFF filings**

Filings submitted outside of SERFF must comply with all requirements of this handbook. For example, an effective date is required, any rate or form certifications are required, etc.

### **Cover letter, copies, group submissions, and return envelopes**

All paper filings must include a cover letter on the insurers' or third-party filer's letterhead, or a completed NAIC transmittal form. Paper filings must also include a complete copy of the filing for each insurer to which the filing applies, and group filings must be sorted and collated by insurers. These requirements also apply to responses and re-submissions. All paper filings must include an extra copy of the cover letter or an e-mail address for acknowledgment.

### **Contact information**

The review of a filing can often be expedited if the filer includes a telephone number, fax number, and e-mail address.

### **NAIC number(s)**

AL 1983-7 requires that every rule, rate, and/or form filing include the individual NAIC number of each insurer for which the filing is being submitted. This information can be provided in a cover letter submitted with the filing.

## **Section VII – SERFF Filing Access**

SERFF Filing Access (SFA) is a NAIC-sponsored application available for searching SERFF submissions. The link to SFA is available on the Bureau's [website](#).

## **Section VIII – Statistical Agent Report Form**

Each insurer is required to designate a statistical agent for each line of insurance that the insurer is licensed to write in Virginia. The form VA SRF-2 must be used for this purpose and is available on the Bureau's [website](#).

## **Section IX – Chapters in Title 38.2 of the Code - Applicable to Property/Casualty Insurance**

Chapter 1 (§ 38.2-100 et seq.) General Provisions - Defines and classifies the various lines of insurance.

Chapter 2 (§ 38.2-200 et seq.) Provisions of a General Nature - Specific attention should be given to § 38.2-231, Notice of Cancellation of or Refusal to Renew Certain Commercial Insurance Policies. This chapter also addresses credit property and credit involuntary unemployment insurance disclosures.

Chapter 3 (§ 38.2-300 et seq.) Provisions Relating to Insurance Policies and Contracts - Outlines provisions relating to the content of policies and authority for approval and/or disapproval of forms.

Chapter 5 (§ 38.2-500 et seq.) Unfair Trade Practices – Outlines provisions relating to unfair trade practices including rebating, unfair discrimination, unfair claim settlement practices and the permissible content of certificates of insurance.

Chapter 6 (§ 38.2-600 et seq.) Insurance Information and Privacy Protection – Contains provisions relating to information and privacy protection, insurance information data security, adverse underwriting decisions, and the protection of the Fair Credit Reporting Act.

Chapter 19 (§ 38.2-1900 et seq.) Regulation of Rates Generally - Outlines the way(s) insurance rates are regulated in Virginia, sets forth rate standards, the authority of RSOs, and the procedure for disapproval of rates and exemption from filing requirements.

Chapter 20 (§ 38.2-2000 et seq.) Regulation of Rates for Certain Types of Insurance – Describes the regulation of rates for certain types of insurance that are subject to prior approval.

Chapter 21 (§ 38.2-2100 et seq.) Fire Insurance Policies – Applies to contracts or policies of fire insurance and contracts or policies of fire insurance in combination with other insurance coverages.

Chapter 22 (§ 38.2-2200 et seq.) Liability Insurance Policies – Applies to contracts or policies of liability insurance, including motor vehicle insurance.

Chapter 23 (§ 38.2-2300 et seq.) Legal Services Insurance - Outlines requirements for Legal Services Insurance.

Chapter 24 (§ 38.2-2400 et seq.) Fidelity and Surety Insurance - Outlines requirements for insurers providing Fidelity and Surety Insurance.

Chapter 25 (§ 38.2-2500 et seq.) Mutual Assessment Property and Casualty Insurers - Outlines classes of insurance which may be written by such insurers and sets forth other applicable requirements.

Chapter 26 (§ 38.2-2600 et seq.) Home Protection Insurers - Outlines regulation of Home Protection insurers.

Chapter 30 (§ 38.2-3000 et seq.) Uninsured Motorists Fund - Contains provisions for the distribution of the Uninsured Motorists Fund.

Chapter 50 (§ 38.2-5000 et seq.) Virginia Birth-Related Neurological Injury Compensation Act - § 38.2-5020.1 requires credits applicable to medical malpractice premiums for certain participating physicians and hospitals.

## Section X – Collateral Protection Insurance Coverage Forms

Form Number	Edition Date	Title of Endorsement
CPPD-VA 1	11/79	Master Policy Declarations
CPPD-VA 2	11/79	Master Policy – Collateral Protection Physical Damage
CPPD-VA 3	11/79	Individual Policy Certificate Declarations
CPPD-VA 4	11/79	Individual Policy Certificate
CPPD-VA 5	11/79	Blanket Policy Declarations
CPPD-VA 6	11/79	Blanket Policy - Collateral Protection Physical Damage
CPPD-VA 11	11/79	Automatic Protection
CPPD-VA 12	11/79	Errors and Omissions
CPPD-VA 13	11/79	Conversion, Secretion, Embezzlement
CPPD-VA 14	11/79	Mechanics Lien Reimbursement
CPPD-VA 15	11/79	Repossession and Return Expense Reimbursement
CPPD-VA 16	11/79	Repossession Storage Expense Reimbursement
CPPD-VA 17	11/79	Repossessed Property
CPPD-VA 18	11/79	Instrument Non-filing
CPPD-VA 19	11/79	Instrument Non-filing Errors and Omissions
CPPD-VA 20	11/79	Assumption of Coverage
CPPD-VA 21	11/79	Holder in Due Course
CPPD-VA 22	11/79	Blanket Waiver
CPPD-VA 23	11/79	Specific Waiver
CPPD-VA 24	11/79	Worldwide

These forms are available upon request.