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September 15, 2017

Administrative Letter 2017-03

TO: All Insurers, Rate Service Organizations, and Interested Persons

RE: Appraisal and Arbitration Provisions in Insurance Policies; Withdrawal of Administrative Letter 1998-12

This administrative letter withdraws and replaces Administrative Letter 1998-12.

The Bureau of Insurance ("Bureau") issued Administrative Letter 1998-12 prohibiting binding arbitration provisions and binding appraisal conditions in insurance contracts pursuant to Code of Virginia § 38.2-312¹ that prohibits provisions in insurance policies that deprive the courts of jurisdiction in actions against an insurer.

Further review of appraisal conditions led to a change in the Bureau's position that was outlined in a letter dated August 29, 2014, [Appraisal Condition Letter](#).² This letter provides that any appraisal conditions in property insurance policies must be binding on both parties.

The Bureau recently conducted a legal and regulatory review of arbitration provisions in insurance policies. The Bureau confirms its previous position that mandatory binding arbitration provisions are not permitted in Virginia insurance policies.

Nothing in this letter should be construed to apply to an agreement in which both the insured and insurer consent to post-dispute arbitration.

Sincerely,

A handwritten signature in black ink that reads "Jacqueline K. Cunningham". The signature is written in a cursive, flowing style.

Jacqueline K. Cunningham
Commissioner of Insurance

¹ Section 38.2-312 applies to insurance contracts "delivered or issued for delivery in this Commonwealth and covering subjects which are located or residing in this Commonwealth, or which are performed in this Commonwealth...."

² This letter may be found on the Bureau's website at http://scc.virginia.gov/boi/co/pc/files/appr_cond.pdf.