

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 653

An Act to amend and reenact §§ 38.2-100 and 38.2-514.1 of the Code of Virginia, relating to automobile clubs; insurance.

[S 1074]

Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-100 and 38.2-514.1 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-100. Definitions.

As used in this title:

"Alien company" means a company incorporated or organized under the laws of any country other than the United States.

"Commission" means the State Corporation Commission.

"Commissioner" or "Commissioner of Insurance" means the administrative or executive officer of the division or bureau of the Commission established to administer the insurance laws of this Commonwealth.

"Company" means any association, aggregate of individuals, business, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Domestic company" means a company incorporated or organized under the laws of this Commonwealth.

"Foreign company" means a company incorporated or organized under the laws of the United States, or of any state other than this Commonwealth.

"Health services plan" means any arrangement for offering or administering health services or similar or related services by a corporation licensed under Chapter 42 (§ 38.2-4200 et seq.) of this title.

"Insurance" means the business of transferring risk by contract wherein a person, for a consideration, undertakes (i) to indemnify another person, (ii) to pay or provide a specified or ascertainable amount of money, or (iii) to provide a benefit or service upon the occurrence of a determinable risk contingency. Without limiting the foregoing, "insurance" shall include (i) each of the classifications of insurance set forth in Article 2 (§ 38.2-101 et seq.) of this chapter and (ii) the issuance of group and individual contracts, certificates, or evidences of coverage by any health services plan as provided for in Chapter 42 (§ 38.2-4200 et seq.) of this title, health maintenance organization as provided for in Chapter 43 (§ 38.2-4300 et seq.) of this title, legal services organization or legal services plan as provided for in Chapter 44 (§ 38.2-4400 et seq.) of this title, dental or optometric services plan as provided for in Chapter 45 (§ 38.2-4500 et seq.) of this title, and dental plan organization as provided for in Chapter 61 (§ 38.2-6100 et seq.) of this title. "Insurance" shall not include any activity involving an extended service contract that is subject to regulation pursuant to Chapter 34 (§ 59.1-435 et seq.) of Title 59.1 or; a warranty made by a manufacturer, seller, lessor, or builder of a product or service; *or a service agreement offered by an automobile club as defined in subsection E of § 38.2-514.1.*

"Insurance company" means any company engaged in the business of making contracts of insurance.

"Insurance transaction," "insurance business," and "business of insurance" include solicitation, negotiations preliminary to execution, execution of an insurance contract, and the transaction of matters subsequent to execution of the contract and arising out of it.

"Insurer" means an insurance company.

"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendment of 1965, as amended.

"Person" means any association, aggregate of individuals, business, company, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Rate" or "rates" means any rate of premium, policy fee, membership fee or any other charge made by an insurer for or in connection with a contract or policy of insurance. The terms "rate" or "rates" shall not include a membership fee paid to become a member of an organization or association, one of the benefits of which is the purchasing of insurance coverage.

"Rate service organization" means any organization or person, other than a joint underwriting association under § 38.2-1915 or any employee of an insurer including those insurers under common control or management, who assists insurers in ratemaking or filing by:

- (a) Collecting, compiling, and furnishing loss or expense statistics;
- (b) Recommending, making or filing rates or supplementary rate information; or
- (c) Advising about rate questions, except as an attorney giving legal advice.

"State" means any commonwealth, state, territory, district or insular possession of the United States.

"Surplus to policyholders" means the excess of total admitted assets over the liabilities of an insurer, and shall be the sum of all capital and surplus accounts, including any voluntary reserves, minus any impairment of all capital and surplus accounts.

Without otherwise limiting the meaning of or defining the following terms, "insurance contracts" or "insurance policies" shall include contracts of fidelity, indemnity, guaranty and suretyship.

§ 38.2-514.1. Disclosure required.

A. Any agent selling, soliciting, or negotiating a contract of insurance in conjunction with any automobile club service agreement or in conjunction with any accidental death and dismemberment policy shall provide to the applicant, at the time of application, a written disclosure which shall contain:

1. The name or type of each policy or contract of insurance and automobile club service agreement for which application has been made;

2. The premium quotation associated with each policy or contract of insurance and the cost of any dues, assessments or periodic payments of money associated with each automobile club service agreement for which application has been made; and

3. A statement that the applicant has elected to purchase such policies, contracts, or automobile club service agreements.

B. The disclosure required by this section shall be signed and dated by the agent and the applicant. A copy of the signed disclosure shall be given to the applicant at the time of application. If the application is made by telephonic or electronic request, a copy of the disclosure shall be signed and dated by the agent and shall be mailed to the applicant within ten calendar days of the application.

C. The provisions of this section shall apply only to the original issuance of policies or contracts of insurance and automobile club service agreements covering personal, family, or household needs rather than business or professional needs. As used in this section, an automobile club service agreement is an agreement issued by an automobile club as defined in subsection E.

D. Notwithstanding subsections A, B and C, this section shall not apply to the sale of group insurance.

E. As used in this section, "automobile club" means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle by supplying services that may include, *but are not limited to*, towing service, emergency road service, indemnification service, guaranteed arrest bond certificate service, discount service, financial service, theft service, map service, or touring service.