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**HOUSE BILL NO. 2444**

Offered January 9, 2019

Prefiled January 9, 2019

*A BILL to amend and reenact §§ 38.2-100, 38.2-127, 38.2-203, 38.2-210, 38.2-316, 38.2-501, 38.2-508, 38.2-800, 58.1-2501, 59.1-200, and 59.1-203 of the Code of Virginia and to repeal Chapter 44 (§§ 38.2-4400 through 38.2-4418) of Title 38.2 and Chapter 34.1 (§§ 59.1-441.1 through 59.1-441.6) of Title 59.1 of the Code of Virginia, relating to legal services plans and legal services contracts.*

Patron—Wilt

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-100, 38.2-127, 38.2-203, 38.2-210, 38.2-316, 38.2-501, 38.2-508, 38.2-800, 58.1-2501, 59.1-200, and 59.1-203 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.).

"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.), health maintenance organization as provided for in Chapter 43 (§ 38.2-4300 et seq.), ~~legal services organization or legal services plan as provided for in Chapter 44 (§ 38.2-4400 et seq.),~~ dental or optometric services plan as provided for in Chapter 45 (§ 38.2-4500 et seq.), and dental plan organization as provided for in Chapter 61 (§ 38.2-6100 et seq.). "Insurance" shall not include any activity involving a home service contract that is subject to regulation pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.) of Title 59.1; an extended service contract that is subject to regulation pursuant to Chapter 34 (§ 59.1-435 et seq.) of Title 59.1; 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; or any arrangement whereby legal services are provided in consideration of a specified payment consisting in whole or in part of prepaid or periodic charges, regardless of whether the payment is made by an individual or by a third person for them.~~

"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.

INTRODUCED

HB2444

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

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

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

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

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

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

75 **§ 38.2-127. Legal services insurance.**

76 "Legal services insurance" means the assumption of a contractual obligation to reimburse the insured  
77 against, or pay on behalf of the insured, all or a portion of his fees, costs, and expenses related to  
78 services performed by or under the supervision of an attorney licensed to practice in the jurisdiction  
79 where the services are performed. *For the purposes of this definition, the payment of only an*  
80 *administrative fee to an attorney shall not be considered a payment or reimbursement for any portion of*  
81 *the fees, costs, and expenses related to such services.*

82 **§ 38.2-203. Management and exclusive agency contracts subject to approval by Commission.**

83 A. For the purpose of this section, an insurer shall mean a stock or mutual insurer, cooperative  
84 nonprofit life benefit company, mutual assessment life, accident and sickness insurer, burial society,  
85 fraternal benefit society, mutual assessment property and casualty insurer, home protection company,  
86 health maintenance organization, premium finance company or a person licensed under Chapter 42  
87 (§ 38.2-4200 et seq.), 44 (~~§ 38.2-4400 et seq.~~) or 45 (§ 38.2-4500 et seq.) ~~of this title~~, incorporated or  
88 organized under the laws of this Commonwealth.

89 B. No insurer shall make or enter into any contract that provides for the control and management of  
90 the insurer, or the controlling or preemptive right to produce substantially all insurance business for the  
91 insurer, unless the contract has been filed with and approved by the Commission and approval has not  
92 been withdrawn by the Commission. Any approval, disapproval, or withdrawal of approval shall be  
93 delivered to the insurer in writing. The notice of disapproval or withdrawal of approval shall state the  
94 grounds of such action and shall be delivered to the insurer at least fifteen days before the effective  
95 date.

96 C. The Commission may disapprove or withdraw approval of any contract referred to in this section  
97 that:

- 98 1. Subjects the insurer to excessive charges for expenses or commissions;
- 99 2. Does not contain fair and adequate standards of performance;
- 100 3. Extends for an unreasonable length of time; or
- 101 4. Contains other inequitable provisions or provisions that may jeopardize the security of
- 102 policyholders.

103 D. The provisions of this section shall not affect contracts made before June 30, 1954, but shall  
104 apply to all renewals of those contracts made after that date.

105 E. Any insurer aggrieved by a disapproval or withdrawal of approval under this section may proceed  
106 under the provisions of § 38.2-222.

107 **§ 38.2-210. Loans to officers, directors, etc., prohibited.**

108 A. Except as provided in § 38.2-212, no insurer, ~~legal services plan~~, health services plan, dental or  
109 optometric services plan, health maintenance organization, or home protection company, transacting  
110 business in this Commonwealth shall make a loan, either directly or indirectly, to any of its officers or  
111 directors. No such company shall make a loan to any other corporation or business unit in which any of  
112 its officers or directors has a substantial interest. No such officer or director shall accept or receive any  
113 such loan directly or indirectly.

114 B. For the purposes of this section and of § 38.2-211, "a substantial interest" in any corporation or  
115 business unit means an interest equivalent to ownership or control of at least ten percent of its stock or  
116 its equivalent by an officer or director, or the aggregate ownership or control by all officers and  
117 directors of the same company.

118 **§ 38.2-316. Policy forms to be filed with Commission; notice of approval or disapproval;**  
119 **exceptions.**

120 A. No policy of life insurance, industrial life insurance, variable life insurance, modified guaranteed

life insurance, group life insurance, accident and sickness insurance, or group accident and sickness insurance; no annuity, modified guaranteed annuity, pure endowment, variable annuity, group annuity, group modified guaranteed annuity, or group variable annuity contract; no health services plan, legal services plan, dental or optometric services plan, or health maintenance organization contract; no dental plan organization dental benefit contract; and no fraternal benefit certificate nor any certificate or evidence of coverage issued in connection with such policy, contract, or plan issued or issued for delivery in Virginia shall be delivered or issued for delivery in this Commonwealth unless a copy of the form has been filed with the Commission. In addition to the above requirement, no policy of accident and sickness insurance shall be delivered or issued for delivery in this Commonwealth unless the rate manual showing rates, rules, and classification of risks applicable thereto has been filed with the Commission.

B. Except as provided in this section, no application form shall be used with the policy or contract and no rider or endorsement shall be attached to or printed or stamped upon the policy or contract unless the form of such application, rider or endorsement has been filed with the Commission. No individual certificate and no enrollment form shall be used in connection with any group life insurance policy, group accident and sickness insurance policy, group annuity contract, or group variable annuity contract unless the form for the certificate and enrollment form have been filed with the Commission.

C. 1. None of the policies, contracts, and certificates specified in subsection A of this section shall be delivered or issued for delivery in this Commonwealth and no applications, enrollment forms, riders, and endorsements shall be used in connection with the policies, contracts, and certificates unless the forms thereof have been approved in writing by the Commission as conforming to the requirements of this title and not inconsistent with law.

2. In addition to the above requirement, no premium rate change applicable to individual accident and sickness insurance policies, subscriber contracts of health services plans, dental or optometric services plans, or fraternal benefit contracts providing individual accident and sickness coverage as authorized in § 38.2-4116 shall be used unless the premium rate change has been approved in writing by the Commission. No premium rate change applicable to individual or group Medicare supplement policies shall be used unless the premium rate change has been approved in writing by the Commission.

D. The Commission may disapprove or withdraw approval of the form of any policy, contract or certificate specified in subsection A of this section, or of any application, enrollment form, rider or endorsement, if the form:

1. Does not comply with the laws of this Commonwealth;
2. Has any title, heading, backing or other indication of the contents of any or all of its provisions that is likely to mislead the policyholder, contract holder or certificate holder; or
3. Contains any provisions that encourage misrepresentation or are misleading, deceptive or contrary to the public policy of this Commonwealth.

E. Within 30 days after the filing of any form requiring approval, the Commission shall notify the organization filing the form of its approval or disapproval of the form which has been filed, and, in the event of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an additional 30 days the period within which it shall approve or disapprove the form. Any form received but neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the 30 days if the period is not extended, or at the expiration of the extended period, if any; however, no organization shall use a form deemed approved under the provisions of this section until the organization has filed with the Commission a written notice of its intent to use the form together with a copy of the form and the original transmittal letter thereof. The notice shall be filed in the offices of the Commission at least 10 days prior to the organization's use of the form.

F. If the Commission proposes to withdraw approval previously given or deemed given to the form of any policy, contract or certificate, or of any application, rider or endorsement, it shall notify the insurer in writing at least 15 days prior to the proposed effective date of withdrawal giving its reasons for withdrawal.

G. Any insurer or fraternal benefit society aggrieved by the disapproval or withdrawal of approval of any form may proceed as indicated in § 38.2-1926.

H. This section shall not apply to any special rider or endorsement on any policy, except an accident and sickness insurance policy that relates only to the manner of distribution of benefits or to the reservation of rights and benefits under such policy, and that is used at the request of the individual policyholder, contract holder or certificate holder.

I. The Commission may exempt any categories of such policies, contracts, and certificates and any applicable rate manuals from (i) the filing requirements, (ii) the approval requirements of this section, or (iii) both such requirements. The Commission may modify such requirements, subject to such limitations and conditions which the Commission finds appropriate. In promulgating an exemption, the Commission may consider the nature of the coverage, the person or persons to be insured or covered, the competence

of the buyer or other parties to the contract, and other criteria the Commission considers relevant.

J. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to set standards for policy and other form submissions required by this section or § 38.2-3501.

**§ 38.2-501. Definitions.**

As used in this chapter:

"Insurance policy" or "insurance contract" includes annuities and any group or individual contract, certificate, or evidence of coverage, including, but not limited to, those issued by a health services plan, health maintenance organization, ~~legal services organization, legal services plan,~~ or dental or optometric services plan as provided for in Chapters 42 (§ 38.2-4200 et seq.), 43 (§ 38.2-4300 et seq.), 44 (~~§ 38.2-4400 et seq.~~) and 45 (§ 38.2-4500 et seq.) ~~of this title~~ issued, proposed for issuance, or intended for issuance, by any person.

"Lending institution" means any corporation, company or organization that accepts deposits from the public and lends money in this Commonwealth, including banks and savings institutions.

"Person," in addition to the definition in Chapter 1 (§ 38.2-100 et seq.) ~~of this title~~, extends to any other legal entity transacting the business of insurance, including agents, brokers and adjusters. "Person" also means health, ~~legal~~, dental, and optometric service plans and health maintenance organizations, as provided for in Chapters 42, 43, 44 and 45 of this title. For the purposes of this chapter, such service plans shall be deemed to be transacting the business of insurance. "Person" also means premium finance companies.

**§ 38.2-508. Unfair discrimination.**

No person shall:

1. Unfairly discriminate or permit any unfair discrimination between individuals of the same class and equal expectation of life (i) in the rates charged for any life insurance or annuity contract, ~~or~~ (ii) in the dividends or other benefits payable on the contract, or (iii) in any other of the terms and conditions of the contract;

2. Unfairly discriminate or permit any unfair discrimination between individuals of the same class and of essentially the same hazard (i) in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance, (ii) in the benefits payable under such policy or contract, (iii) in any of the terms or conditions of such policy or contract, or (iv) in any other manner;

3. Refuse to insure, refuse to continue to insure, or limit the amount, extent or kind of insurance coverage available to an individual, or charge an individual a different rate for the same coverage solely because of blindness, or partial blindness, or mental or physical impairments, unless the refusal, limitation or rate differential is based on sound actuarial principles. This paragraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract;

4. Unfairly discriminate or permit any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage solely because of the geographic location of the individual or risk, unless:

a. The refusal, cancellation or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

b. The refusal, cancellation or limitation is required by law or regulatory mandate;

5. Make or permit any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a residential property risk, or the personal property contained in a residential property risk, solely because of the age of the residential property, unless:

a. The refusal, cancellation or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

b. The refusal, cancellation or limitation is required by law or regulatory mandate;

6. Refuse to issue or renew any individual accident and sickness insurance policy or contract for coverage over and above any lifetime benefit of a group accident and sickness policy or contract solely because an individual is insured under a group accident and sickness insurance policy or contract, provided that medical expenses covered by both individual and group coverage shall be paid first by the group policy or contract to the extent of the group coverage; or

7. Consider the status of a victim of domestic violence as a criterion in any decision with regard to insurance underwriting, pricing, renewal, scope of coverage, or payment of claims on any and all insurance defined in § 38.2-100 and further classified in Article 2 (§ 38.2-101 et seq.) of Chapter 1 ~~of this title~~, other than (i) ~~legal services plans as provided for in Chapter 44 (§ 38.2-4400 et seq.) of this title~~ and (ii) the insurance classified in §§ 38.2-110 through 38.2-133. The term "domestic violence" means the occurrence of one or more of the following acts by a current or former family member, household member as defined in § 16.1-228, person against whom the victim obtained a protective order

or caretaker:

a. Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape or sexual assault;

b. Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm;

c. Subjecting another person to false imprisonment; or

d. Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

Nothing in this subsection shall prohibit an insurer or insurance professional from asking about a medical condition or from using medical information to underwrite or to carry out its duties under an insurance policy even if the medical information is related to a medical condition that the insurer or insurance professional knows or has reason to know resulted from domestic violence, to the extent otherwise permitted under this section and other applicable law.

**§ 38.2-800. Definition.**

For the purposes of this article, "insurer" includes health services plans, health maintenance organizations, ~~legal services plans~~, dental or optometric services plans, and unlicensed insurers approved by the Commission to issue surplus lines coverage as respectively provided for in Chapters 42 (§ 38.2-4200 *et seq.*), 43 (§ 38.2-4300 *et seq.*), 44, 45 (§ 38.2-4500 *et seq.*), and 48 of this title (§ 38.2-4800 *et seq.*).

**§ 58.1-2501. Levy of license tax.**

A. For the privilege of doing business in the Commonwealth, there is hereby levied on every insurance company defined in § 38.2-100 which issues policies or contracts for any kind of insurance classified and defined in §§ 38.2-102 through 38.2-134 and on every corporation which issues subscription contracts for any kind of plan classified and defined in §§ 38.2-4201 and 38.2-4501, an annual license tax as follows:

1. For any kind of insurance classified and defined in §§ 38.2-109 through 38.2-134 or ~~Chapters 44 (§ 38.2-4400 *et seq.*) and Chapter 61 (§ 38.2-6100 *et seq.*)~~ of Title 38.2, except workers' compensation insurance on which a premium tax is imposed under the provisions of § 65.2-1000, such company shall pay a tax of two and three-fourths percent of its subscriber fee income or direct gross premium income on such insurance for each taxable year through 1988. For taxable year 1989 and each taxable year thereafter, such company shall pay a tax of two and one-fourth percent of its subscriber fee income or direct gross premium income on such insurance;

2. For policies or contracts for life insurance as defined in § 38.2-102, such company shall pay a tax of two and one-fourth percent of its direct gross premium income on such insurance. However, with respect to premiums paid for additional benefits in the event of death, dismemberment or loss of sight by accident or accidental means, or to provide a special surrender value, special benefit or an annuity in the event of total and permanent disability, the rate of tax shall be two and three-fourths percent for each taxable year beginning January 1, 1987, through December 31, 1988, and two and one-fourth percent for taxable year beginning January 1, 1989, and each taxable year thereafter;

3. For policies or contracts providing industrial sick benefit insurance as defined in § 38.2-3544, such company shall pay a tax of one percent of its direct gross premium income on such insurance. No company, however, doing business on the legal reserve plan, shall be required to pay any licenses, fees or other taxes in excess of those required by this section on such part of its business as is industrial sick benefit insurance as defined in § 38.2-3544; but any such company doing business on the legal reserve plan shall pay on all industrial sick benefit policies or contracts on which the sick benefit portion has been cancelled as provided in § 38.2-3546, or which provide a greater death benefit than \$250 or a greater weekly indemnity than \$10, and on all other life, accident and sickness insurance, the same license or other taxes as are required by this section; and

4. For subscription contracts for any kind of plan classified and defined in § 38.2-4201 or § 38.2-4501, such corporation shall pay a tax of two and one-fourth percent of its direct gross subscriber fee income derived from subscription contracts issued to primary small groups as defined in § 38.2-3431 and three-fourths of one percent of its direct gross subscriber fee income derived from other subscription contracts for taxable year 1997. For each of taxable years 1998 through 2013, such corporation shall pay a tax of three-fourths of one percent of its direct gross subscriber fee income derived from subscription contracts issued to individuals and from open enrollment contracts as defined in § 38.2-4216.1, and two and one-fourth percent of its direct gross subscriber fee income derived from other subscription contracts. For each taxable year thereafter, such corporation shall pay a tax of two and one-fourth percent of its direct gross subscriber fee income derived from all subscription contracts. The declaration of estimated tax pursuant to this subsection shall commence on or before April 15, 1988.

305 B. Notwithstanding any other provisions of this section, any domestic insurance company doing  
306 business solely in the Commonwealth which is purely mutual, has no capital stock and is not designed  
307 to accumulate profits for the benefit of or pay dividends to its members, and any domestic insurance  
308 company doing business solely in the Commonwealth, with a capital stock not exceeding \$25,000 and  
309 which pays losses with assessments against its policyholders or members, shall pay an annual license tax  
310 of one percent of its direct gross premium income.

311 **§ 59.1-200. Prohibited practices.**

312 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
313 transaction are hereby declared unlawful:

314 1. Misrepresenting goods or services as those of another;

315 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

316 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or  
317 services, with another;

318 4. Misrepresenting geographic origin in connection with goods or services;

319 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
320 benefits;

321 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

322 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,  
323 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first  
324 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods  
325 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"  
326 irregulars, imperfects or "not first class";

327 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell  
328 at the price or upon the terms advertised.

329 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or  
330 servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms  
331 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph  
332 shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such  
333 goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or  
334 amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement  
335 or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

336 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts  
337 of price reductions;

338 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts  
339 installed;

340 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice  
341 or bill for merchandise or services previously ordered;

342 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
343 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the  
344 supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in  
345 manufacturing the goods or services advertised or offered for sale;

346 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of  
347 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,  
348 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth,  
349 or under federal statutes or regulations;

350 13a. Failing to provide to a consumer, or failing to use or include in any written document or  
351 material provided to or executed by a consumer, in connection with a consumer transaction any  
352 statement, disclosure, notice, or other information however characterized when the supplier is required  
353 by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other  
354 information in connection with the consumer transaction;

355 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection  
356 with a consumer transaction;

357 15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain  
358 animals by pet dealers which is described in such sections, is a violation of this chapter;

359 16. Failing to disclose all conditions, charges, or fees relating to:

360 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
361 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
362 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does  
363 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of  
364 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not  
365 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account  
366 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.

In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

~~39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);~~

~~40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;~~

~~41. 40. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);~~

~~42. 41. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);~~

~~43. 42. Violating any provision of § 59.1-443.2;~~

~~44. 43. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);~~

~~45. 44. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;~~

~~46. 45. Violating the provisions of clause (i) of subsection B of § 54.1-1115;~~

~~47. 46. Violating any provision of § 18.2-239;~~

428 48. 47. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);  
429 49. 48. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or  
430 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a  
431 rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of  
432 the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing  
433 for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not  
434 apply to children's products that are used, secondhand or "seconds";  
435 50. 49. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);  
436 51. 50. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;  
437 52. 51. Violating any provision of § 8.2-317.1;  
438 53. 52. Violating subsection A of § 9.1-149.1;  
439 54. 53. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential  
440 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective  
441 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in  
442 which defective drywall has been permanently installed or affixed;  
443 55. 54. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while  
444 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in  
445 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of  
446 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant  
447 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;  
448 56. 55. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);  
449 57. 56. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1; and  
450 58. 57. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.).  
451 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or  
452 lease solely by reason of the failure of such contract or lease to comply with any other law of the  
453 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation  
454 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable  
455 such contract or lease.  
456 **§ 59.1-203. Restraining prohibited acts.**  
457 A. Notwithstanding any other provisions of law to the contrary, the Attorney General, any attorney  
458 for the Commonwealth, or the attorney for any city, county, or town may cause an action to be brought  
459 in the appropriate circuit court in the name of the Commonwealth, or of the county, city, or town to  
460 enjoin any violation of § 59.1-200 or 59.1-200.1. The circuit court having jurisdiction may enjoin such  
461 violations notwithstanding the existence of an adequate remedy at law. In any action under this section,  
462 it shall not be necessary that damages be proved.  
463 B. Unless the Attorney General, any attorney for the Commonwealth, or the attorney for any county,  
464 city, or town determines that a person subject to the provisions of this chapter intends to depart from  
465 this Commonwealth or to remove his property herefrom, or to conceal himself or his property herein, or  
466 on a reasonable determination that irreparable harm may occur if immediate action is not taken, he shall,  
467 before initiating any legal proceedings as provided in this section, give notice in writing that such  
468 proceedings are contemplated, and allow such person a reasonable opportunity to appear before said  
469 attorney and show that a violation did not occur or execute an assurance of voluntary compliance, as  
470 provided in § 59.1-202.  
471 C. The circuit courts are authorized to issue temporary or permanent injunctions to restrain and  
472 prevent violations of § 59.1-200 or 59.1-200.1.  
473 D. The Commissioner of the Department of Agriculture and Consumer Services, or his duly  
474 authorized representative, shall have the power to inquire into possible violations of subdivisions A 18,  
475 28, 29, 31, 39, and 41 40, as it relates to motor fuels, of § 59.1-200 and § 59.1-335.12, and, if  
476 necessary, to request, but not to require, an appropriate legal official to bring an action to enjoin such  
477 violation.  
478 **2. That Chapter 44 (§§ 38.2-4400 through 38.2-4418) of Title 38.2 and Chapter 34.1 (§§ 59.1-441.1**  
479 **through 59.1-441.6) of Title 59.1 of the Code of Virginia are repealed.**