

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 199

*An Act to amend and reenact § 38.2-1906 of the Code of Virginia and to repeal §§ 38.2-1905.1 and 38.2-1905.2 of the Code of Virginia, relating to certain lines of commercial insurance.*

[S 1065]

Approved March 9, 1997

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

**1. That § 38.2-1906 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-1906. Filing and use of rates.

A. Each authorized insurer subject to the provisions of this chapter shall file with the Commission all rates and supplementary rate information and all changes and amendments to the rates and supplementary rate information made by it for use in this Commonwealth *on or before the date they become effective*. Each rate service organization licensed under § 38.2-1914 that has been designated by an insurer for the filing of prospective loss costs or supplementary rate information under § 38.2-1908 shall file with the Commission all prospective loss costs or supplementary rate information and all changes and amendments to the prospective loss costs or supplementary rate information made by it for use in this Commonwealth. Prospective loss costs and supplementary rate information for insurance defined in § 38.2-119 must comply with the provisions of § 38.2-1912.1 prior to being used by an insurer in a filing establishing or changing its rates. Both insurer and rate service organization shall file as follows:

1. In cases where the Commission has made a determination under the provisions of subsection E of § 38.2-1905.1 that competition is an effective regulator of rates within the lines or subclassifications designated by the Commission, or in the case of all other lines or subclassifications subject to this chapter and not designated under subsection B of § 38.2-1905.1, such rates, supplementary rate information, changes and amendments to rates and supplementary rate information shall be filed with the Commission on or before the date they become effective.

2. In cases where the Commission has made a determination pursuant to subsection E or F of § 38.2-1905.1 1912 that competition is not an effective regulator of rates for a line or subclassification of insurance, such rates, supplementary rate information, changes and amendments to rates and supplementary rate information for that line or subclassification shall be filed in accordance with and shall be subject to the provisions of § 38.2-1912.

B. Each rate service organization licensed under § 38.2-1914 that has been designated by an insurer for the filing of prospective loss costs or supplementary rate information under § 38.2-1908 shall file with the Commission all prospective loss costs or supplementary rate information and all changes and amendments to the prospective loss costs or supplementary rate information made by it for use in this Commonwealth on or before the date they become effective. Prospective loss costs and supplementary rate information for insurance defined in § 38.2-119 must comply with the provisions of § 38.2-1912.1 prior to being used by an insurer in a filing establishing or changing its rate.

3. For any line or subclassification that has been designated pursuant to subsection B of § 38.2-1905.1, insurers shall continue to file their rates in the same manner then applicable to the line or subclassification until a final determination is made by the Commission pursuant to subsection E of § 38.2-1905.1 as to whether competition is an effective regulator of rates.

A1. Each insurer whose rate filings are subject to subdivision 2 of subsection A of this section shall submit with each rate filing, as deemed appropriate by, and to the extent directed by the Commission, the following information relating to experience in Virginia and countrywide:

1. Number of exposures;
2. Direct premiums written;
3. Direct premiums earned;
4. Direct losses paid identified by such period as the Commission may require;
5. Number of claims paid;
6. Direct losses incurred during the year, direct losses incurred during the year which occurred and were paid during the year, and direct losses incurred during the year which were reported during the year but were not yet paid;
7. Any loss development factor used and supporting data thereon;
8. Number of claims unpaid;
9. Loss adjustment expenses paid identified by such period as the Commission may require;
10. Loss adjustment expenses incurred during the year, loss adjustment expenses incurred during the year for losses which occurred and were paid during the year, and loss adjustment expenses incurred during the year for losses which were reported during the year but were not paid;

11. Other expenses incurred, separately by category of expense, excluding loss adjustment expenses;  
12. Investment income on assets related to reserve and allocated surplus accounts;  
13. Total return on allocated surplus;  
14. Any loss trend factor used and supporting data thereon;  
15. Any expense trend factor used and supporting data thereon;  
16. Such premium, loss, and expense data reported on a net basis as the Commission deems necessary for its consideration of a rate filing where coverage to which the rate filing applies is reinsured by another company (i) under common management, (ii) under common controlling ownership, or (iii) under other common effective legal control as defined in § 38.2-1322; and

17. Such other information as may be required by rule of the Commission, including statewide rate information presented separately for Virginia and each state wherein the insurer writes the line, subline or rating classification for which the rate filing is made and which the Commission deems necessary for its consideration.

A2. Where actual experience does not exist or is not credible, the Commission may allow the use of estimates for the information required by subdivisions 1 through 15 of subsection A1 of this section and may require the insurer to submit such information as the Commission deems necessary to support such estimates.

A3. C. Prospective loss costs filings and supplementary rate information filed by rate service organizations shall not contain final rates, minimum premiums, or minimum premium rules.

B. D. No insurer shall make or issue an insurance contract or policy of a class to which this chapter applies, except in accordance with the rate and supplementary rate information filings that are in effect for the insurer.

C. The Commission shall develop a uniform statement or format for requesting the information specified in subsection A1 of this section. Such statement or format shall be utilized by all insurers for all rate filings.

D. E. For insurance as defined in § 38.2-119 any authorized insurer that does not rely on prospective loss costs or supplementary rate information filed by a rate service organization shall comply with the filing provisions of § 38.2-1912 as if competition was not an effective regulator of rates.

**2. That §§ 38.2-1905.1 and 38.2-1905.2 of the Code of Virginia are repealed.**