

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 707

An Act to amend and reenact §§ 38.2-100 and 38.2-501 of the Code of Virginia, relating to the definition of insurance.

[S 987]

Approved March 26, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-100 and 38.2-501 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, and dental or optometric services plan as provided for in Chapter 45 (§ 38.2-4500 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.

"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" shall include ~~fidelity and suretyship~~, and "insurance contracts" or "insurance policies" shall include contracts of fidelity, indemnity, guaranty and suretyship.

§ 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.