

# Revision of the Insurance Laws

REPORT OF THE  
VIRGINIA ADVISORY LEGISLATIVE COUNCIL  
TO  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY OF VIRGINIA



HOUSE DOCUMENT No. 12

COMMONWEALTH OF VIRGINIA  
Division of Purchase and Printing  
Richmond  
1950

## Members of the Council

---

M. M. LONG, *Chairman*  
EDMUND T. DEJARNETTE, *Vice Chairman*  
W. R. BROADDUS, JR.  
PAUL CROCKETT  
BENJAMIN T. GUNTER, JR.  
J. D. HAGOOD  
EDWARD O. McCUE, JR.  
E. BLACKBURN MOORE  
MOSBY G. PERROW, JR.

---

CASSIUS M. CHICHESTER, *Secretary*  
JOHN B. BOATWRIGHT, JR., *Recording Secretary*

# Revision of the Insurance Laws

---

## A REPORT OF THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, *December 19, 1949.*

To: HONORABLE WM. M. TUCK, *Governor of Virginia*  
and  
THE GENERAL ASSEMBLY OF VIRGINIA:

During its 1948 session the General Assembly of Virginia passed the following act:

Chap. 448.—An Act to provide for a study by the Virginia Advisory Legislative Council of the insurance laws of Virginia; and to appropriate to the Virginia Advisory Legislative Council certain funds to carry out such purposes.

Approved April 1, 1948

Be it enacted by the General Assembly of Virginia:

1. Section 1. The Virginia Advisory Legislative Council is hereby authorized and directed to make a thorough and complete study of the provisions of the insurance laws of the Commonwealth of Virginia in order to determine whether or not a revision, simplification, or recodification thereof and the elimination of obsolete matter therein, is necessary to provide for proper and adequate supervision and regulation of the organization, licensing, and solvency of insurance carriers, of their officers, agents, employees, and other representatives, and of the conduct of the insurance business generally in this State.

Section 2. The Council shall submit to the Governor and the General Assembly, at least sixty days prior to the next regular session of the General Assembly, a report of its findings and recommendations, together with suggested legislation necessary to carry such recommendations into effect.

Section 3. The Council is authorized to expend funds made available to it for the study herein directed for the purpose of paying the per diem and expenses of members of the Council, and expenses of members of committees

selected by it, when engaged in duties incident to the conduct of such study, as well as salaries and expenses of employees of the Council engaged in such studies and other expenses of the Council properly chargeable thereto.

2. There is hereby appropriated to the Virginia Advisory Legislative Council, to be paid out of the fees, licenses and taxes levied and collected for the payment of the expenses incurred in supervising and inspecting concerns conducting an insurance business in Virginia, to be used solely in the conduct of the study herein directed, the sum of ten thousand dollars, or so much thereof as shall be necessary. Any balance of such funds remaining unexpended at the end of the biennium ending June thirty, nineteen hundred fifty shall revert to the special fund from which appropriated.

In order to carry out the provisions of the act the Council referred the proposed investigation to a committee consisting of the following: Edmund T. DeJarnette, Ashland, Roger Clarke, Fredericksburg, Courtenay W. Harris, Ashland, D. Orville Lahy, Richmond, Claude D. Minor, Richmond, William R. Shands, Richmond, and John J. Wicker, Jr., Richmond, with directions to submit its findings and recommendations to the Council for consideration.

With the consent and approval of the Council the Committee employed Mr. Robert C. Duval, Jr., an attorney practicing in the City of Richmond, to assist it in its investigation and study, and to do the drafting made necessary by proposed amendments and additions to the insurance statutes.

Mr. Duval worked untiringly with the Committee and contributed greatly to the work accomplished. In addition to preparing drafts of suggested changes, he studied and checked the proposed changes with statutes of other states, particularly those which have recently completed and adopted modern insurance codes. His keen interest in the subject, his wise counsel, and his long experience in the drafting of statutes were of invaluable aid to the Committee in its deliberations.

The Committee was also most fortunate in having Charles B. Coulbourn and Richard A. Chenery of the Bureau of Insurance of the State Corporation Commission to attend many of its meetings; their familiarity with the practical work of the Commission in the supervision of insurance and insurance companies greatly increased their contribution to the work of the Committee. The long experience of Mr. Coulbourn with the Commission made his services particularly valuable.

The Committee commenced its investigation and study early in 1949, with the intention of completing its work and making its report well ahead of the 1950 session of the General Assembly. After certain preliminary work was completed

a time was fixed for a public hearing, and many individuals and organizations were notified and given an opportunity to appear and be heard. Representatives of local and national associations of insurance underwriters and companies were present at the hearing and presented their views, many of them filing written memoranda for the benefit of the Committee. Thereafter numerous interested persons, organizations and insurance companies made suggestions for changes in the present statutes, many of these suggestions being very helpful to the Committee in its study of the problems involved.

During the first few weeks of its work the Committee was in doubt as to the advisability of making any substantial changes in the form and content of the present insurance statutes, particularly as these statutes had already been rearranged and codified by the Code Commission as Title 38 of the new Code which becomes effective February 1, 1950. As the study progressed, however, and the many ambiguities, omissions and contradictions in the law came to the Committee's attention, it realized that a revision was inevitable even if no changes should be made in the substance of the statutes. No real revision of the insurance law has ever been made, with the result that the present insurance code consists of a large number of uncoordinated and sometimes contradictory sections which have been enacted by successive General Assemblies over a period of many years. In making this statement attention should be called to the valuable study and report made by a legislative commission in 1936. Unfortunately, however, the recommendations of that Commission were made too late for full consideration by the General Assembly, and although many of the changes then suggested have been made, the net result was a continuation of the patchwork method of legislation already in force.

The Committee made a report to the Council. The Council has considered that report and now submits its findings and recommendations.

Insurance is not only growing in volume, but new types of coverages are being constantly developed to guard against the hazards present in our industrial economy. Insuring companies reach out across state lines, often from one country to another, and the scope of their operations make intelligent supervision necessary in the interest of the public. To adequately meet this need for regulation many states have already adopted or have under consideration new insurance codes, designed to provide supervision and regulation which will protect the public and at the same time encourage sound companies to furnish the protection against risks incident to modern conditions. How to meet this situation in Virginia is one of the problems which must be given consideration.

During recent years many so-called standard or uniform acts have been approved by conferences of insurance commis-

sioners and associations of agents and insuring companies. Some of these, such as the "Unfair Trade Practice Act" and the "Uniform Insurers Liquidation Act", have been adopted in many states, while others are in process of consideration and adoption by numerous state legislatures. The enactment of these statutes tends to uniformity of regulation in the several states, and is in accord with modern legislative policy. A number of these model statutes have been studied, and some of them, with appropriate changes to conform to the general laws of this State, will be incorporated in the tentative draft of proposed legislation filed with this report.

Early in the work it was found necessary to change the arrangement and sequence of the present statutes to obtain an orderly and logical insurance code. The arrangement of the statutes made by the Code Commission was a great improvement, but the limitations under which that body worked made it impossible for it to accomplish the desired end. Although the recodification already made was helpful at every stage of the work it was necessary to consider the statutes as contained in the old Code and the Acts of Assembly, and as rearranged in Title 38 by the Code Commission. This added greatly to the time required to perform the assigned task.

Much time and thought has been given to an orderly and logical structure for "Title 38", the insurance statutes as they appear in the new Code, and a tentative arrangement of subjects in chapters and articles has been prepared. The proposed Title consists of approximately eighteen or twenty chapters, the first eight or ten dealing with provisions applicable generally to insurance and insuring companies, and the remaining chapters relating to particular types of insurance and insurers. In preparing this general plan attention was given to the insurance codes of many states, particularly those which have revised their statutes in recent years.

Because of the interdependence of all of the chapters making up Title 38, no part of such Title can be put into final form until all of it is complete. For example, a change in chapter fifteen may require consequential changes in many other chapters. For this reason no part of the revision of the proposed Title can be submitted until the whole is complete.

Much work has been done, and a substantial portion of the present statutes have been carefully considered, revised and arranged in more or less final form. However, the task was too great for the time available and the Council was finally forced to conclude that it could not complete its study and make its report in time for the report to be considered adequately at the 1950 session of the General Assembly. Upon reaching this decision it determined to do everything possible to preserve its own work for use in a subsequent study should one be appointed. With this in mind it has prepared, but not as a part of this

report, a draft of eight chapters of the proposed revision, together with a memorandum setting out the parts thereof which have not been considered or if considered, which have not been approved. This material should not be published in its present form, but should be preserved and used in the completion of the investigation and study already begun.

No attempt was made to prepare amendments to the new Code for presentation to the 1950 session of the General Assembly. If changes are to be made appropriate bills for the purpose should be prepared by those interested.

The Council is of opinion that the proposed revision of the insurance laws which has begun should be completed. It, therefore, concludes this report with the recommendation that the General Assembly authorize and direct the Virginia Advisory Legislative Council to continue its study of the insurance laws of Virginia and to prepare and submit its report and a draft of the proposed revision to the Governor and the General Assembly on or before September 1, 1951.

A bill carrying out these recommendations has been prepared and is submitted herewith.

The Council acknowledges its indebtedness to the members of the Committee for the time and labor which they have contributed.

Respectfully submitted,

M. M. LONG, *Chairman*

EDMUND T. DEJARNETTE,  
*Vice-Chairman*

W. R. BROADDUS, JR.

PAUL CROCKETT

BEN T. GUNTER, JR.

J. D. HAGOOD

EDWARD O. MCCUE, JR.

E. BLACKBURN MOORE

MOSBY G. PERROW, JR.

## Suggested Bill

---

### A BILL

To authorize and direct the Virginia Advisory Legislative Council to continue and complete the study and revision of the insurance laws of Virginia which it has already begun; and to appropriate to the Virginia Advisory Legislative Council certain funds to carry out such purposes.

WHEREAS, by chapter four hundred forty-eight of the Acts of Assembly of nineteen hundred forty-eight, the Virginia Advisory Legislative Council was directed to make a study of the insurance laws of Virginia to determine whether or not a revision or recodification was necessary, and the Council has reported that a revision and recodification is advisable and necessary, and that it has prepared a substantial part of such work but was unable to complete its work in sufficient time to permit adequate consideration thereof at the present session of the General Assembly; and

WHEREAS, the Council has recommended that it be authorized and directed to complete the study and investigation already begun, and to make a report of its findings and recommendations by September one, nineteen hundred fifty-one; now therefore,

Be it enacted by the General Assembly of Virginia:

1. Section 1. The Virginia Advisory Legislative Council is hereby authorized and directed to continue and complete the study of the insurance laws of the Commonwealth of Virginia which it has already begun and revise and recodify the same to provide for such elimination of obsolete matter and the addition of new matter therein as is necessary to provide for proper and adequate supervision and regulation of insurance carriers and of their officers, agents, employees and other representatives, and of the conduct of the insurance business generally in this State.

Section 2. The Council shall complete and submit to the Governor and the General Assembly on or before September 1, 1951, a report of its findings and recommendations together with a draft of legislation necessary to carry such recommendations into effect.

Section 3. The Council is authorized to expend funds made available to it for the study herein directed for the purpose of



---

paying the per diem and expenses of members of the Council, and expenses of members of committees selected by it, when engaged in duties incident to the conduct of such study, and also salaries and expenses of employees of the Council engaged in such studies and other expenses of the Council properly chargeable thereto.

2. There is hereby appropriated to the Virginia Advisory Legislative Council, to be paid out of the fees, licenses and taxes levied and collected for the payment of the expenses incurred in supervising and inspecting concerns conducting an insurance business in Virginia, to be used solely in the conduct of the study herein directed, the sum of twenty thousand dollars, or so much thereof as shall be necessary. Any balance of such funds remaining unexpended at the end of the biennium ending June thirty, nineteen hundred fifty-two, shall revert to the special fund from which it is appropriated.