

OVERVIEW
OF
VIRGINIA INSURANCE LAW

I. INTRODUCTION.

This outline provides a general overview of Virginia insurance law. It is not intended to serve as an exhaustive authority on the subject, but rather as a compliment to more detailed outlines and treatises. Persons may wish to consult a more detailed insurance treatise or outline such as one of those cited in the bibliography.

The outline deals with basic aspects of automobile liability, uninsured/underinsured motorist, fire insurance, and medical payments/medical expense coverages. It will also address general principles of policy construction and the issue of bad faith.

This outline is current through the insurance related decisions of the Supreme Court of Virginia that were handed down on June 10, 2010, that Court's final opinion day of its 2009-2010 Term, as well as significant decisions of the U. S. District Court and the U.S. Court of Appeals for the Fourth Circuit decided on or before that date. The Outline also includes the most recent amendments to the Code of Virginia that went into effect on July 1, 2010.

Please be sure to check for more recent statutory changes and/or case law.

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II. COVERAGE GENERALLY.

- A. Introduction.** Most insurance coverage questions can be determined by a careful analysis of the pertinent insurance statute and the policy in question. *Always obtain a complete copy of the entire policy and then carefully read both the statute and policy.*
- B. Statutory Provisions.** Title 38.2 of the Code of Virginia sets forth certain statutory requirements relating to insurance policies and contracts.
- C. Statutory Principles.** In dealing with these statutory requirements, the following general principles apply:
- 1. Incorporation.** Even if the insurance policy fails to mention a particular statutory requirement, that statutory provision is still a part of that policy as if incorporated therein. *Maxey v. American Cas. Co.*, 180 Va. 285, 23 S.E.2d 221 (1942).
 - 2. Consistency.** If there is no conflict between the policy provision and the statutory requirement such that each provision can be complied with without interference with the other, then the policy and the statute are supplementary to and not inconsistent with each other. *State Farm Mut. Auto. Ins. Co. v. Duncan*, 203 Va. 440, 125 S.E.2d 154 (1962).
 - 3. Inconsistency.** Whenever an insurance policy provision affords *less* coverage than that mandated by the governing statute, the statute always controls and the inconsistent policy provisions are deemed void and ineffective. *Bryant v. State Farm Mut. Auto. Ins. Co.*, 205 Va. 897, 140 S.E.2d 817 (1965).
 - 4. Broader Coverage than Statute.** If the insurance policy affords *broader* coverage than the minimum prescribed by law, then the policy, not the statute, determines the applicable coverage. *Hill v. State Farm Mut. Auto. Ins. Co.*, 237 Va. 148, 375 S.E.2d 727 (1989).
 - 5. No applicable Statutory Provisions.** Where a particular policy provision is not otherwise governed by statute, the rights and duties of the parties are governed by the insurance contract. *Quesenberry v. Nichols*, 208 Va. 667, 159 S.E.2d 636 (1968).