

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 38.2-508 of the Code of Virginia, relating to life insurance; health insurance;*
 3 *unfair discrimination; pre-exposure prophylaxis for prevention of human immunodeficiency virus.*

4 [H 60]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 38.2-508 of the Code of Virginia is amended and reenacted as follows:**8 **§ 38.2-508. Unfair discrimination.**

9 No person shall:

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

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

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

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

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

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

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

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

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

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

42 7. Consider the status of a victim of domestic violence as a criterion in any decision with regard to
 43 insurance underwriting, pricing, renewal, scope of coverage, or payment of claims on any and all insurance
 44 defined in § 38.2-100 and further classified in Article 2 (§ 38.2-101 et seq.) of Chapter 1 of this title, other
 45 than (i) legal services plans as provided for in Chapter 44 (§ 38.2-4400 et seq.) of this title and (ii) the
 46 insurance classified in §§ 38.2-110 through 38.2-133. The term "domestic violence" means the occurrence of
 47 one or more of the following acts by a current or former family member, household member as defined in
 48 § 16.1-228, person against whom the victim obtained a protective order or caretaker:

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

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

54 c. Subjecting another person to false imprisonment; or

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

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

62 8. Refuse to insure, refuse to continue to insure, or limit the amount or extent of life insurance, disability
63 insurance, or long-term care insurance coverage available to an individual or charge an individual a different
64 rate for the same coverage based solely and without any additional actuarial risks upon the status of such
65 individual as a living organ donor. For the purposes of this subdivision, "living organ donor" means a living
66 individual who donates one or more of such individual's human organs, including bone marrow, to be
67 medically transplanted into the body of another individual; *or*

68 *9. Refuse to insure, refuse to continue to insure, or limit the amount or extent of life insurance or accident*
69 *and sickness insurance coverage available to an individual or charge an individual a different rate for the*
70 *same coverage based solely and without any additional actuarial risks upon the status of such individual as*
71 *having received pre-exposure prophylaxis for the prevention of human immunodeficiency virus.*