

# **Virginia**

## **Regulatory Hot Tip 2010 –Two**

**Professional Insurance Agents Association of Virginia and DC, Inc.**

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### **THE LAW – A MOVING TARGET!**

As many of us are only too aware, the Virginia General Assembly is currently in session. The legislature's efforts to address the State's projected budget shortfall and the continuing transportation crisis are the things that get reported in the press, but, particularly as business people, none of us should ever forget that, in addition to these headline issues, the General Assembly is also considering several thousand OTHER bills. Many of these bills will ultimately pass, and many of them will change current law.

And that's the point: the law changes. Frequently!

Quite often, I meet with business clients who, when discussing a proposed deal or course of conduct, tell me that they have an opinion from another lawyer, accountant or other professional on the matter we are discussing, and that therefore their plans are in compliance with the law. When I ask (as I always do) how old that opinion is and hear the answer, "several years," I cringe.

My next question of them is: "Has the law upon which that opinion was based changed?" Generally, they look at me with a puzzled expression on their faces as though I just arrived from the planet Mars.

But, it is a relevant question. The best advice in the world can be altered by the mere flick of a legislative pen, modifying or repealing a statute. And the same goes for regulations, which are often subject to even more frequent change.

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*This regulatory hot tip is designed to provide accurate and authoritative information about the subject matter covered as of the date of this hot tip. The statutory authority and substantive information contained in this hot tip should be verified as it is subject to change with the passage of time. This hot tip is provided with the understanding that the provider is not engaged in rendering legal, accounting or other professional advice or counsel. If legal advice or other expert assistance is required, the services of a competent professional should be secured. This publication is coauthored by JoAnne L. Nolte, JD, CIC, CPCU, FLMI, CLU and Bruce B. Nolte, JD, CIC, CPCU who practice at The Nolte Law Firm, P.C., 1427 W. Main Street, Richmond, VA 23220. Their telephone number is: (804) 658-4518. The firm's practice is concentrated in matters of a general business nature as well as regulated industries (telecommunications, insurance, financial, water & sewer, energy related matters, and government relations). Jo has served as attorney for the Virginia State Corporation Commission and as in-house counsel to a privately owned national corporation. Non-traditionally, Jo owned and operated an insurance surplus lines brokerage agency and an insurance consulting business. Bruce has over 30 years of experience in the financial services industry, most recently serving as CEO of a Richmond based bank holding company.*

The fact is most professional opinions do not carry with them any obligation for the professional to update his or her advice when laws or regulations change. Such professional opinions usually speak only of the law on the date they are given. Admittedly, if you are a regular, long time client of a single lawyer, accountant, etc. who is familiar with your business, that person might remember to give you a call upon learning of a legal or regulatory change, but they are certainly not under any formal obligation to do so.

So relying on an old legal or accounting opinion to justify future (and maybe even current) conduct carries with it certain risks. The good news is that, at least for PIA members, your professional association (i) carefully follows all insurance-related bills in the General Assembly, (ii) seeks your input during the Assembly session, and (iii) quickly informs you of changes to current law immediately following adjournment. In my opinion, this valuable service alone is enough to justify your PIA dues!

All of you probably know that the Virginia General Assembly convenes in early January of each year, and adjourns a few months later, depending upon whether it is a long or short session. This year, the General Assembly is scheduled to adjourn on March 13, 2010. This day is colloquially referred to at the General Assembly as the day of adjournment, *Sine Die*. The veto session will be held April 21, 2010. If a bill passed by the General Assembly is not designated as emergency legislation with an immediate effective date, it generally goes into effect on July 1 of the year in which it was implemented, though in the insurance arena, there have been a couple of bills in recent years that have had delayed effective dates beyond the normal July 1 date. The delay between passage of a bill and its effective date are intended to give citizens, including small business folks like you, time to get in compliance.

But, regardless of legislative process, vetoes, and effective dates, if you rely on a professional opinion in the conduct of your business, it remains your responsibility to see if the law has changed. This is true whether we are speaking about State or federal law.