

For brokers and producers only

Date: July 25, 2019

Market: VA small group

Virginia Revises Definition of Small Employer - Effective July 1

Mandate summary (VA HB2719/SB147)

On July 1, 2019, Virginia revised its definition of a small employer by removing the sole ownership requirement for corporations and limited liability companies (LLCs) where the only employees are the owner, their dependents or their spouse.

Under the revised law,

Corporations

Corporations with more than one shareholder are recognized as a small employer and eligible for group coverage when at least one shareholder (or immediate family member of the shareholder) performed services for hire on behalf of the corporation during the applicable time period.

Limited Liability Company (LLC)

LLCs with more than one owner are recognized as a small employer and eligible for group coverage when at least one member (meaning an owner) performed services for hire on behalf of the LLC during the applicable time period.

Additionally, health insurers are no longer required to issue more than one group health plan for each employer identification number issued by the Internal Revenue Service (IRS) for a business entity.

Note: The law does *not* recognize a small employer when it is a “mom and pop” scenario, in which *both* are owners of the company that is *not* a Corporation or LLC.

Sole Proprietors

A company with only one owner that is not a Corporation or an LLC but *is* a sole proprietorship remains a small employer under Virginia law if the sole proprietor (sole owner) of the Company derives a substantial portion of his income from a trade or business (i) operated by the individual as a sole proprietor, (ii) through which the individual has attempted to earn taxable income, and (iii) for which he has filed the appropriate IRS Form 1040 Schedule C or Schedule F, for the previous taxable year. **Note:** If an employer is an S corporation, a K-1 tax form is required.

For more information

If you have any questions, please contact your broker sales representative.