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HOUSE BILL NO. 923**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Corporations, Insurance and Banking
on February 12, 2000)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact §§ 38.2-4123, 38.2-4214 and 38.2-4319, as it is ineffect and as it shall become effective, of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 38.2-5202.1, relating to long-term care insurance; refund of unearned premiums.

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-4123, 38.2-4214 and 38.2-4319, as it is in effect and as it shall become effective, of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 38.2-5202.1 as follows:

§ 38.2-4123. Exemptions.

Except as herein provided, societies shall be governed by this chapter and §§ 38.2-100 through 38.2-134, Chapters 2 through 9, §§ 38.2-1301.1, 38.2-1304, 38.2-1307 through 38.2-1315, and 38.2-1322 through 38.2-1340, Chapters 14, 15 and 18, §§ 38.2-3100 through 38.2-3125, 38.2-3127.1 and 38.2-3300 through 38.2-3317, Chapter 34, §§ 38.2-3500 through 38.2-3520, ~~and~~ Chapter 36, *and Chapter 52* (§ 38.2-5200 *et seq.*) and shall be exempt from all other provisions of this title unless expressly designated therein, or unless they are specifically made applicable by this chapter.

§ 38.2-4214. Application of certain provisions of law.

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 *et seq.*) and 2 (§ 38.2-1306.2 *et seq.*) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.16, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3501, 38.2-3502, 38.2-3514.1, 38.2-3514.2, 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3542, 38.2-3543.2, 38.2-3600 through 38.2-3607, *Chapter 52* (§ 38.2-5200 *et seq.*), Chapter 53 (§ 38.2-5300 *et seq.*), Chapter 58 (§ 38.2-5800 *et seq.*) and Chapter 59 (§ 38.2-5900 *et seq.*) of this title shall apply to the operation of a plan.

§ 38.2-4319. (Effective until July 1, 2004) Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 *et seq.*), §§ 38.2-1057, 38.2-1306.2 through 38.2-1309, Articles 4 (§ 38.2-1317 *et seq.*) and 5 (§ 38.2-1322 *et seq.*) of Chapter 13, Articles 1 (§ 38.2-1400 *et seq.*) and 2 (§ 38.2-1412 *et seq.*) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.16, 38.2-3411.2, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.11, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, *Chapter 52* (§ 38.2-5200 *et seq.*), Chapter 53 (§ 38.2-5300 *et seq.*), Chapter 58 (§ 38.2-5800 *et seq.*) and Chapter 59 (§ 38.2-5900 *et seq.*) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 *et seq.*) of this title except with respect to the activities of its health maintenance organization.

B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

C. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

D. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health

60 maintenance organization's service area.

61 § 38.2-4319. (Effective July 1, 2004) Statutory construction and relationship to other laws.

62 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
63 chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225,
64 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500
65 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1057, 38.2-1306.2
66 through 38.2-1309, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1
67 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836,
68 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through
69 38.2-3407.16, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.11, 38.2-3419.1, 38.2-3430.1
70 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525,
71 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 53 (§ 38.2-5300 et seq.), Chapter 58
72 (§ 38.2-5800 et seq.) and Chapter 59 (§ 38.2-5900 et seq.) of this title shall be applicable to any health
73 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
74 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
75 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance
76 organization.

77 B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
78 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
79 professionals.

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81 practice of medicine. All health care providers associated with a health maintenance organization shall
82 be subject to all provisions of law.

83 D. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health
84 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to
85 offer coverage to or accept applications from an employee who does not reside within the health
86 maintenance organization's service area.

87 § 38.2-5202.1. *Refund of premium for cancellation or termination of policy.*

88 A. *Each long-term care insurance policy or certificate shall provide for refund of premium in the*
89 *event of cancellation or termination of coverage. In the event that the policy or certificate is cancelled*
90 *by the insurer or terminated by the insured, the insurer shall, within thirty days of the effective date of*
91 *such cancellation or termination, return to the insured the unearned portion of any premium paid. The*
92 *earned premium shall be computed on a pro rata basis.*

93 B. *The requirements of this section shall apply to all long-term care insurance policies, contracts,*
94 *and plans delivered, issued for delivery, reissued, renewed, or extended or at any time when any term of*
95 *any such policy, contract, or plan is changed or any premium adjustment is made.*