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**HOUSE BILL NO. 1438**

Offered January 23, 2004

*A BILL to amend and reenact § 46.2-368 of the Code of Virginia, relating to self-insured rental vehicles.*

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Patrons—Athey and Morgan

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Referred to Committee on Transportation**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-368 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-368. Certificate of self-insurance exempts from chapter.

A. This chapter, except §§ 46.2-371 through 46.2-373, shall not apply to any person who has registered in his name in the Commonwealth more than twenty motor vehicles, nor to any person operating more than twenty vehicles whether as owner or as lessee, if the person seeking exemption under this section obtains from the Commissioner a certificate of self-insurance as provided in subsection B of this section.

B. The Commissioner may, in his discretion and on the application of such a person, issue a certificate of self-insurance when he is reasonably satisfied (i) that the person has and will continue to have financial ability to respond to a judgment as provided in this chapter, obtained against the person, arising out of the ownership, maintenance, use, or operation of his motor vehicles and (ii) that the certificate provides for protection against the uninsured or underinsured motorist to the extent required by § 38.2-2206. However, protection against the uninsured or underinsured motorist required under this section shall not exceed the financial requirements of § 46.2-472 and shall be secondary coverage to any other valid and collectible insurance providing the same protection which is available to any person otherwise entitled to assert a claim to such protection by virtue of this section.

*C. The bodily injury and property damage liability protection provided the driver of a self-insured rental vehicle under this section shall, in instances in which the self-insured vehicle is rented as a substitute for any motor vehicle being repaired or serviced, be secondary to any insurance coverage that insures the driver for the same loss. If the applicable insurance of the driver has limits less than the financial responsibility requirements specified in § 46.2-472, the self-insured liability protection afforded the driver shall be applicable to the extent necessary to equal the financial responsibility requirements specified in § 46.2-472.*

€ D. No holder of a certificate of self-insurance shall be liable to pay any judgment arising out of the use or operation of any motor vehicle covered by such certificate by a person who used or operated the vehicle without the permission of the owner of such vehicle; nor shall any holder of a certificate of self-insurance be liable to pay any judgment arising out of the use or operation of any motor vehicle covered by such certificate by a permissive user of such vehicle, where the permissive user has prejudicially failed to cooperate in the defense of the claim which resulted in the judgment. This subsection shall only apply to a holder of a certificate of self-insurance who has provided notice of its intention to rely on the provisions of this subsection as set forth in § 38.2-2226.

Ð E. On due notice and hearing, the Commissioner may, in his discretion and on reasonable grounds, cancel a certificate of self-insurance.

INTRODUCED

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