

State Corporation Commission 2004 Fiscal Impact Statement

1. Bill Number HB1402

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron Byron

3. Committee Courts of Justice

4. Title Subrogation rights of insurance companies.

5. Summary/Purpose: Allows insurers the right of subrogation with respect to the expenses associated with medical bills upon which an injured insured relies in any personal injury action (or the insured decedent's personal representative relies in any wrongful death action). Subrogation is limited to 25% of the amounts paid on behalf of the injured insured, and the subrogated insurer is required to pay a pro rata share of the legal fees and costs incurred by the injured insured or his personal representative.

6. No Fiscal Impact

7. Budget amendment necessary: No

8. Fiscal implications: None

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: The State Corporation Commission Bureau of Insurance offered technical comments to the patron of HB 1402 as follows:

- While no harm is done by the addition of the term "subscription contract" to Line 14, the law was already applicable to health services plans because § 38.2-3540.1 was cross-referenced in the "sweep-in provision" (§ 38.2-4214) as part of last year's legislation enacting § 38.2-3540.1.
- To make it clear that the requirements of § 38.2-3540.1 apply to all types of insurance carriers, the Bureau suggested language more consistent with generally utilized terminology in other provisions of Title 38.2 in subsection A (Line 14) as follows:

*Each group accident and sickness insurance policy, each
group subscription contract issued by a health services*

plan, and each group contract issued by a health maintenance organization shall contain a provision.....

- Provisions applicable to commercial health plans (and health services plans) took effect on July 1, 2003. Without a separate effective date clause for the 2004 amendment, confusion may be inadvertently created if there is not a separate effective date for the provisions of HB 1408. Unless you intended to suggest that the requirements addressed by this amendment are retroactive back to the original effective date of the law, we suggest the following clarifying amendment to subsection C:

C. With respect to group accident and sickness insurance policies and subscription contracts issued by health services plans, the requirements of this section shall apply to all policies, contracts, and plans delivered, issued for delivery, reissued or extended on and after July 1, 2003, or at any time after the effective date hereof when any term of any such policy, contract or plans is changed or any premium adjustment is made. With respect to group contracts issued by health maintenance organizations, the requirements of this section shall apply to all contracts delivered, issued for delivery, reissued or extended on and after July 1, 2004, or at any time after the effective date hereof when any term of any such contract is changed or any premium adjustment is made.

- Only the second version of § 38.2-4319 needs to be amended because the first version will expire on the same day HB 1402 would take effect.

11. Other comments: On February 13, 2004, HB 1402 was tabled by its patron.

Date: 02/18/04 / V. Tompkins

cc: Secretary of Commerce and Trade