

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 38.2-218 of the Code of Virginia, relating to insurance; restitution*
3 *required by the State Corporation Commission.*

4
5 Approved

[H 260]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 38.2-218 of the Code of Virginia is amended and reenacted as follows:**

8 § 38.2-218. Penalties and restitution payments.

9 A. Any person who knowingly or willfully violates any provision of this title or any regulation
10 issued pursuant to this title shall be punished for each violation by a penalty of not more than \$5,000.

11 B. Any person who violates without knowledge or intent any provision of this title or any rule,
12 regulation, or order issued pursuant to this title may be punished for each violation by a penalty of not
13 more than \$1,000. For the purpose of this subsection, a series of similar violations resulting from the
14 same act shall be limited to a penalty in the aggregate of not more than \$10,000.

15 C. Any violation resulting solely from a malfunction of mechanical or electronic equipment shall not
16 be subject to a penalty.

17 D. 1. The Commission may require a person to make restitution in the amount of the direct actual
18 financial loss:

19 a. For charging a rate in excess of that provided by statute or by the rates filed with the Commission
20 by the insurer;

21 b. For charging a premium that is determined by the Commission to be unfairly discriminatory, such
22 restitution being limited to a period of one year from the date of determination; ~~and~~

23 c. For failing to pay amounts explicitly required by the terms of the insurance contract where no
24 aspect of the claim is disputed by the insurer; *and*

25 d. *For improperly withholding, misappropriating, or converting any money or property received in*
26 *the course of doing business.*

27 2. The Commission shall have no jurisdiction to adjudicate controversies growing out of this
28 subsection regarding restitution among insurers, insureds, agents, claimants and beneficiaries.

29 E. The provisions provided under this section may be imposed in addition to or without imposing
30 any other penalties or actions provided by law.

ENROLLED

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