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HOUSE BILL NO. 1458

Offered January 12, 2011

Prefiled November 29, 2010

A *BILL to amend the Code of Virginia by adding in Chapter 31 of Title 38.2 an article numbered 1.1, consisting of sections numbered 38.2-3117.1 through 38.2-3117.6, relating to the use of retained asset accounts.*

Patrons—Marshall, R.G., Armstrong and Bulova

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-200 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 31 of Title 38.2 an article numbered 1.1, consisting of sections numbered 38.2-3117.1 through 38.2-3117.6, as follows: *Article 1.1. Use of Retained Asset Accounts.*

§ 38.2-3117.1. *Application of article.*

This article shall apply to all insurance companies licensed in the Commonwealth that offer retained asset accounts for death benefits.

§ 38.2-3117.2. *Definitions.*

As used in this article:

"Policy" means any policy or certificate of insurance that provides a death benefit.

"Retained asset account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account.

§ 38.2-3117.3. *General requirements.*

A. An insurer shall not use a retained asset account as a mode of settlement unless the insurer obtains the written consent of the beneficiary or, in the case of a group contract, the policy owner, prior to the transfer of the death benefit to a retained asset account.

B. A retained asset account shall not be the default method of payment to a beneficiary or policy owner.

C. Insurers shall report to the Commission the number of beneficiaries with retained asset accounts in place, the total funds held in such accounts, a description of how the funds are invested, a listing of any retained asset account service fees charged by the insurer, and the funds necessary to cover liabilities under those accounts on their annual statement required by the Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners.

§ 38.2-3117.4. *Disclosure requirements.*

A. If an insurer utilizes retained asset accounts, the claimant or beneficiary statement form shall provide the claimant, in easy-to-understand language and in bold type, all available benefit options including, but not limited to, payment directly by check or use of a retained asset account.

B. An insurer shall not use a retained asset account as a mode of settlement unless the insurer discloses, prior to the transfer of the death benefit to a retained asset account, in a written document signed by the recipient, the following to any beneficiary and, in the case of a group contract, to the policy owner:

1. Any settlement options available under the policy, including the immediate lump sum payment of all proceeds;

2. The rights and obligations of both the beneficiary and the insurer under the retained asset account option;

3. Any interest being paid under the options and how it is calculated;

4. Whether the retained asset account is the equivalent of a checking or draft account;

5. An explanation of all the account's features, including:

a. What banking services are provided to the account holder;

b. Which services are provided at no charge and which services involve a fee and the amount of the fee;

c. The nature and frequency of account statements;

d. A telephone number and address where the beneficiary can obtain additional information regarding the account;

e. Any minimum or maximum benefit payment requirements under the account;

f. The number of withdrawals permitted within any time period and minimum withdrawal amounts;

and g. If the account is guaranteed by the Federal Deposit Insurance Corporation;

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59 6. That payment of the total proceeds is accomplished by delivery of a "checkbook kit" or "draft kit"
60 to the beneficiary;
61 7. That one check or draft can be written to access the entire proceeds and that other settlement
62 options are preserved until the entire balance is withdrawn or the balance drops below the insurer's
63 minimum payment requirements;
64 8. Any time delays the beneficiary should expect to encounter in completing any authorized
65 transaction under a retained asset account and the anticipated amount of such time delay;
66 9. That interest earned on the account may be taxable and the beneficiary should consult his tax
67 advisor;
68 10. The methodology used to determine the interest rate being paid under the retained asset account;
69 11. A comparison of the advantages and disadvantages of maintaining the settlement proceeds with
70 the insurer in a retained asset account and maintaining the settlement proceeds with a financial
71 institution; and
72 12. Any other information as prescribed by the Commission.
73 § 38.2-3117.5. Unfair Trade Practices.
74 Failure to meet the requirements of this article shall be considered an unfair trade practice under
75 Chapter 5 (§ 38.2-500 et seq.) and subject to the penalties contained in that chapter.
76 § 38.2-3117.6. Effective date.
77 This article shall apply to claims submitted on or after October 1, 2011, under any policy issued,
78 delivered, or renewed in the Commonwealth.