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HOUSE BILL NO. 1458

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 25, 2011)

(Patron Prior to Substitute—Delegate Marshall, R.G.)

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 38.2-3117.4, relating to the use of retained asset accounts.

Be it enacted by the General Assembly of Virginia:

1. 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 38.2-3117.4, as follows:

Article 1.1.

Use of Retained Asset Accounts.

§ 38.2-3117.1. Definitions.

As used in this article, unless the context requires a different meaning:

"Insurer" means an insurance company licensed in the Commonwealth that offers retained asset accounts for death benefits.

"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 is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges where those proceeds are retained by the insurer pursuant to a supplementary contract not involving annuity benefits.

§ 38.2-3117.2. Explanation of settlement options.

The insurer shall provide the beneficiary, at the time a claim is made, written information describing the settlement options available under the policy and how to obtain specific details relevant to the options.

§ 38.2-3117.3. Supplemental contract.

If the insurer settles benefits through a retained asset account, the insurer shall provide the beneficiary with a supplemental contract that clearly discloses the rights of the beneficiary and the obligations of the insurer under the supplemental contract.

§ 38.2-3117.4. Disclosures for retained asset accounts to beneficiaries.

The insurer shall provide the following written disclosures to the beneficiary of a policy before the retained asset account is selected, if optional, or established, if not optional:

1. Payment of the full benefit amount is accomplished by delivery of the draft book or check book;

2. One draft or check may be written to access the entire amount, including interest, of the retained asset account at any time;

3. Whether other available settlement options are preserved until the entire balance is withdrawn or the balance drops below the insurer's minimum balance requirements;

4. A statement identifying the account as either a checking account or a draft account and an explanation of how the account works;

5. Information about the account services provided and contact information where the beneficiary may request and obtain more details about such services;

6. A description of fees charged, if applicable;

7. The frequency of statements showing the current account balance, the interest credited, drafts or checks written, and any other account activity;

8. The minimum interest rate to be credited to the account and how the actual interest rate will be determined;

9. The interest earned on the account may be taxable;

10. Retained asset account funds held by insurance companies are not insured by the Federal Deposit Insurance Corporation but are guaranteed by the state guaranty association. The beneficiary should be advised to contact the National Organization of Life and Health Insurance Guaranty Associations via the association's website to learn more about the coverage limitations to the account under a state guaranty association; and

11. A description of the insurer's policy regarding retained asset accounts that become inactive.