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SENATE BILL NO. 516

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact § 38.2-2201 of the Code of Virginia, relating to motor vehicle insurance policies; assignment of certain benefits.

Patron—Wagner

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-2201 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-2201. Provisions for payment of medical expense and loss of income benefits; prohibition against assignments.

A. Upon request of an insured, each insurer licensed in this Commonwealth issuing or delivering any policy or contract of bodily injury or property damage liability insurance covering liability arising from the ownership, maintenance or use of any motor vehicle shall provide on payment of the premium, as a minimum coverage (i) to persons occupying the insured motor vehicle; and (ii) to the named insured and, while resident of the named insured's household, the spouse and relatives of the named insured while in or upon, entering or alighting from or through being struck by a motor vehicle while not occupying a motor vehicle, the following health care and disability benefits for each accident:

1. All reasonable and necessary expenses for medical, chiropractic, hospital, dental, surgical, ambulance, prosthetic and rehabilitation services, and funeral expenses, resulting from the accident and incurred within three years after the date of the accident, up to \$2,000 per person; however, if the insured does not elect to purchase such limit the insurer and insured may agree to any other limit;

2. If the person is usually engaged in a remunerative occupation, an amount equal to the loss of income incurred after the date of the accident resulting from injuries received in the accident up to \$100 per week during the period from the first workday lost as a result of the accident up to the date the person is able to return to his usual occupation. However, the period shall not extend beyond one year from the date of the accident; and

3. An expense described in subdivision 1 shall be deemed to have been incurred:

a. If the insured is directly responsible for payment of the expense;

b. If the expense is paid by (i) a health care insurer pursuant to a negotiated contract with the health care provider or (ii) Medicaid or Medicare, where the actual payment with reference to the medical bill rendered by the provider is less than or equal to the provider's usual and customary fee, in the amount of the actual payment; however, if the insured is required to make a payment in addition to the actual payment by the health care insurer or Medicaid or Medicare, the amount shall be increased by the payment made by the insured;

c. If no medical bill is rendered or specific charge made by a health care provider to the insured, an insurer, or any other person, in the amount of the usual and customary fee charged in that community for the service rendered.

B. The insured has the option of purchasing either or both of the coverages set forth in subdivisions A 1 and A 2 of subsection A of this section. Either or both of the coverages, as well as any other medical expense or loss of income coverage under any policy of automobile liability insurance, shall be payable to the covered injured person notwithstanding the failure or refusal of the named insured or other person entitled to the coverage to give notice to the insurer of an accident as soon as practicable under the terms of the policy, except where the failure or refusal prejudices the insurer in establishing the validity of the claim.

C. In any policy of personal automobile insurance in which the insured has purchased coverage under subsection A of this section, every insurer providing such coverage arising from the ownership, maintenance or use of no more than four motor vehicles shall be liable to pay up to the maximum policy limit available on every motor vehicle insured under that coverage if the health care or disability expenses and costs mentioned in subsection A of this section exceed the limits of coverage for any one motor vehicle so insured.

D. Benefits for medical expenses provided under this section shall be paid directly to the covered injured person and shall not be subject to any assignment, including any assignment of the proceeds of such coverage, in favor of any person. Any such assignment shall be void and unenforceable as against public policy. Nothing in this section shall prohibit the payment of medical expense benefits due to the covered injured person directly to any state or federal assistance program that has provided medical

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59 *benefits to such injured person when the injury arose out of the ownership, maintenance, or use of any*
60 *motor vehicle.*

61 *E. Medical expense benefits may not be reduced because of any benefits paid, payable, or provided*
62 *by any insurance contract providing hospital, medical, surgical, and similar or related benefits, or any*
63 *subscription contract or health services plan delivered or issued for delivery or providing for the*
64 *payment of benefits to or on behalf of persons residing in or employed in the Commonwealth.*