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SENATE BILL NO. 38

Offered January 11, 2012

Prefiled December 30, 2011

A *BILL to amend and reenact § 38.2-1715 of the Code of Virginia, relating to advertisement of coverage by the Virginia Life, Accident and Sickness Insurance Guaranty Association.*

Patron—Reeves

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-1715 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-1715. Prohibited advertisement of Association coverage in insurance sales; notice to policy owners.

A. No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, that uses the existence of the Association of ~~this~~ the Commonwealth for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This subsection shall not apply to (i) the Association or any other entity that does not sell or solicit insurance; (ii) *any display of the logo of the Association on letterheads and on signs, plaques, and posters within the office or other place of business of an agent of a member insurer; or (iii) any display or distribution by an agent of a member insurer, within the agent's office or other place of business, of a pamphlet that states the types of policies for which guaranty funds will provide coverage and the maximum amount of such coverage.*

B. By January 1, 2011, the Association shall prepare a summary document describing the general purposes and current limitations of this chapter and that complies with subsection C. This document shall be submitted to the Commission for approval. At the expiration of the sixtieth day after the date on which the Commission approves the document, an insurer may not deliver a policy or contract to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The document shall be posted on the Association's website and shall also be available upon request by a policy or contract owner. The distribution, delivery, or contents or interpretation of this document does not guarantee that either the policy or the contract or the owner of the policy or contract is covered in the event of the impairment or insolvency of a member insurer. The summary document shall be revised by the Association as amendments to the chapter may require. Failure to receive this document does not give the policy owner, contract owner, certificate owner, certificate holder, or insured any greater rights than those stated in this chapter.

C. The document prepared under subsection B shall contain a clear and conspicuous disclaimer on its face. The Commission shall establish the form and content of the disclaimer. The disclaimer shall:

1. State the name and address of the Association and the Bureau of Insurance;
2. Prominently warn the policy or contract owner that the Association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the Commonwealth;
3. State the types of policies for which guaranty funds will provide coverage;
4. State that the insurer and its agents are prohibited by law from using the existence of the Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance;
5. State that the policy or contract owner should not rely on coverage under the Association when selecting an insurer;
6. Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this chapter; and
7. Provide other information as directed by the Commission including but not limited to, sources for information about the financial condition of insurers provided that the information is not proprietary and is subject to disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.).

D. A member insurer shall retain evidence of compliance with subsection B for so long as the policy or contract for which the notice is given remains in effect.

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