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HOUSE BILL NO. 1166

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 28, 2014)

(Patron Prior to Substitute—Delegate Ingram)

A BILL to amend and reenact § 38.2-3521.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3521.2, relating to group accident and sickness insurance; blanket policies.

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3521.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3521.2 as follows:

§ 38.2-3521.1. Group accident and sickness insurance definitions.

Except as provided in § 38.2-3522.1, no policy of group accident and sickness insurance shall be delivered in this Commonwealth unless it conforms to one of the following descriptions:

A. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

1. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

2. The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in subdivision 3 of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

B. A policy which is:

1. Not subject to Chapter 37.1 (§ 38.2-3727 et seq.) of this title, and

2. Issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors with respect to their indebtedness, subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

(1) Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

(2) The debtors of one or more subsidiary corporations; and

(3) The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control.

b. The premium for the policy shall be paid either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in subdivision 3 of this subsection, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors.

3. An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

4. The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments which are delinquent on the date the debtor becomes disabled as defined in the policy.

5. The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of the insurance shall be payable to the insured or the estate of the insured.

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60 6. Notwithstanding the preceding provisions of this section, insurance on agricultural credit
61 transaction commitments may be written up to the amount of the loan commitment. Insurance on
62 educational credit transaction commitments may be written up to the amount of the loan commitment
63 less the amount of any repayments made on the loan.

64 C. A policy issued to a labor union, or similar employee organization, which labor union or
65 organization shall be deemed to be the policyholder, to insure members of such union or organization
66 for the benefit of persons other than the union or organization or any of its officials, representatives, or
67 agents, subject to the following requirements:

68 1. The members eligible for insurance under the policy shall be all of the members of the union or
69 organization, or all of any class or classes thereof.

70 2. The premium for the policy shall be paid either from funds of the union or organization, or from
71 funds contributed by the insured members specifically for their insurance, or from both. Except as
72 provided in subdivision 3 of this subsection, a policy on which no part of the premium is to be derived
73 from funds contributed by the insured members specifically for their insurance must insure all eligible
74 members, except those who reject such coverage in writing.

75 3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual
76 insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

77 D. A policy issued (i) to or for a multiple employer welfare arrangement, a rural electric cooperative,
78 or a rural electric telephone cooperative as these terms are defined in 29 U.S.C. § 1002, or (ii) to a trust,
79 or to the trustees of a fund, established or adopted by or for two or more employers, or by one or more
80 labor unions of similar employee organizations, or by one or more employers and one or more labor
81 unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to
82 insure employees of the employers or members of the unions or organizations for the benefit of persons
83 other than the employers or the unions or organizations, subject to the following requirements:

84 1. The persons eligible for insurance shall be all of the employees of the employers or all of the
85 members of the unions or organizations, or all of any class or classes thereof. The policy may provide
86 that the term "employee" shall include the employees of one or more subsidiary corporations, and the
87 employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or
88 partnerships if the business of the employer and of such affiliated corporations, proprietorships or
89 partnerships is under common control. The policy may provide that the term "employees" shall include
90 retired employees, former employees and directors of a corporate employer. The policy may provide that
91 the term "employees" shall include the trustees or their employees, or both, if their duties are principally
92 connected with such trusteeship.

93 2. The premium for the policy shall be paid from funds contributed by the employer or employers of
94 the insured persons, or by the union or unions or similar employee organizations, or by both, or from
95 funds contributed by the insured persons or from both the insured persons and the employers or unions
96 or similar employee organizations. Except as provided in subdivision 3 of this subsection, a policy on
97 which no part of the premium is to be derived from funds contributed by the insured persons
98 specifically for their insurance must insure all eligible persons, except those who reject such coverage in
99 writing.

100 3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual
101 insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

102 E. 1. A policy issued to an association or to a trust or to the trustees of a fund established, created,
103 or maintained for the benefit of members of one or more associations which association or trust shall be
104 deemed the policyholder. The association or associations shall:

105 a. Have at the outset a minimum of 100 persons;

106 b. Have been organized and maintained in good faith for purposes other than that of obtaining
107 insurance;

108 c. Have been in active existence for at least five years;

109 d. Have a constitution and bylaws which provide that (i) the association or associations hold regular
110 meetings not less than annually to further purposes of the members, (ii) except for credit unions, the
111 association or associations collect dues or solicit contributions from members, and (iii) the members
112 have voting privileges and representation on the governing board and committees;

113 e. Does not condition membership in the association on any health status-related factor relating to an
114 individual (including an employee of an employer or a dependent of an employee);

115 f. Makes health insurance coverage offered through the association available to all members
116 regardless of any health status-related factor relating to such members (or individuals eligible for
117 coverage through a member);

118 g. Does not make health insurance coverage offered through the association available other than in
119 connection with a member of the association; and

120 h. Meets such additional requirements as may be imposed under the laws of this Commonwealth.

121 2. The policy shall be subject to the following requirements:

a. The policy may insure members of such association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employee's employer.

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

3. Except as provided in subdivision 4 of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

4. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

F. A policy issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees, or agent shall be deemed the policyholder, to insure members of such credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

1. The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof.

2. The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in subdivision 3 of this subsection, must insure all eligible members.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

G. A policy issued to a health maintenance organization as provided in subsection B of § 38.2-4314.

H. A policy of blanket insurance issued in accordance with § 38.2-3521.2.

I. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

§ 38.2-3521.2. Blanket accident and sickness insurance.

A. As used in this section, "blanket insurance" means that form of limited accident and sickness insurance defined as an "excepted benefit" under § 38.2-3431, providing coverage for specified circumstances and specific classes of persons defined in a policy issued to a master policyholder and not by specifically naming the persons covered, by certificate or otherwise, although a statement of the coverage provided may be given, or required by the policy to be given, to eligible persons.

B. An individual application need not be required from a person covered under a blanket insurance policy.

C. No insurer issuing a blanket insurance policy shall be required to furnish a certificate to each person covered by the policy.

D. A blanket insurance policy may be issued or issued for delivery in the Commonwealth if it conforms to one of the following descriptions:

1. A policy or contract issued to any common carrier or to any operator, owner, lessor or lessee of a means of transportation, which shall be deemed the policyholder, which policy or contract covers a group defined as all persons who may become passengers, renters, lessors, lessees, or operators defined by their travel status on such common carrier or means of transportation.

2. A policy issued to an employer, who shall be deemed the policyholder, covering any group of workers, dependents or guests defined by reference to hazards incident to any activity or activities or operations of the policyholder.

3. A policy issued to a college, school, or other institution of learning, a school district or districts or school jurisdictional unit, or to the head, principal, or governing board thereof, who or which shall be deemed the policyholder, covering students, parents, teachers, employees, or volunteers.

4. A policy issued in the name of any volunteer or governmental fire department, first aid, civil defense, or other such volunteer group, which shall be deemed the policyholder, covering any group of the members, participants, or volunteers incident to any activity or activities or operations sponsored or supervised by such department or group.

5. A policy or contract issued to a sports team, camp, or sponsor thereof, which shall be deemed the policyholder, covering participants, members, campers, employees, officials, supervisors, or volunteers.

6. A policy or contract issued to a religious, charitable, recreational, educational, or civic organization or branch thereof, which shall be deemed the policyholder, covering any group of members, participants, or volunteers defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by or on the premises of such policyholder.

7. A policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

8. A policy or contract issued to a restaurant, hotel, motel, resort, innkeeper, or other group with a high degree of potential customer liability, which shall be deemed the policyholder, covering patrons,

183 guests, or volunteers.

184 9. A policy or contract issued to an entertainment production company, who shall be deemed the
185 policyholder, covering any group of participants, volunteers, audience members, contestants, or workers.

186 10. A policy or contract issued to a health maintenance organization, a health care provider or other
187 arranger of health services, which shall be deemed the policyholder, covering subscribers, patients,
188 donors, and surrogates provided that the coverage is not made a condition of receiving care.

189 11. A policy or contract issued to a bank, association, financial or other institution, vendor, or to a
190 parent holding company, or to the trustee, trustees, or agent designated by one or more banks,
191 associations, financial or other institutions, or vendors under which accountholders, credit card holders,
192 debtors, guarantors, or purchasers are insured.

193 12. A policy or contract issued to an incorporated or unincorporated association of persons having a
194 common interest or calling, which association shall be deemed the policyholder, formed for purposes
195 other than obtaining insurance, covering members or participants of such association.

196 13. A policy or contract issued to a travel agency, or other organization that provides travel related
197 services, which organization shall be deemed the policyholder, to cover all persons for which travel
198 related services are provided.

199 14. A policy issued to any other risk or class of risks which, in the discretion of the Commission,
200 may be subject to the issuance of a blanket accident and sickness policy. The discretion of the
201 Commission may be exercised on an individual risk basis or class of risks, or both.

202 E. Notwithstanding any other provision of this title, any benefits that are payable under a blanket
203 insurance policy shall be paid directly to the person covered under such policy.