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SENATE BILL NO. 233

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 15, 2014)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend and reenact § 8.01-382 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-382.1, relating to awards of prejudgment interest against insurers.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-382 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-382.1 as follows:

§ 8.01-382. Verdict, judgment or decree to fix period at which interest begins; final order; judgment or decree for interest.

In any Administrative Process Act (§ 2.2-4000 et seq.) action or action at law or suit in equity, the final order, verdict of the jury, or if no jury the judgment or decree of the court, may provide for interest on any principal sum awarded, or any part thereof, and fix the period at which the interest shall commence. The final order, judgment or decree entered shall provide for such interest until such principal sum be paid. If a final order, judgment or decree be rendered which does not provide for interest, the final order, judgment or decree awarded or jury verdict shall bear interest at the judgment rate of interest as provided for in § 6.2-302 from its date of entry or from the date that the jury verdict was rendered. *Prejudgment interest shall be awarded in actions against insurers when authorized by § 8.01-382.1.* Notwithstanding the provisions of this section, any judgment entered for a sum due under a negotiable instrument, as defined by § 8.3A-104, shall provide for interest on the principal sum in accordance with § 8.3A-112 at the rate specified in the instrument. If no such rate is specified, interest on the principal sum shall be at the judgment rate provided in § 6.2-302. Final orders may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the agency head or his designee.

§ 8.01-382.1. Award of interest to insured on certain judgment awards.

A. Except as otherwise provided in § 38.2-3115, in any civil action that is instituted (i) by an insured against his insurer, or by a third party asserting a claim against an insured covered by an insurer under a liability insurance policy, and (ii) after the insurer has denied coverage or liability and refused or failed to make payment to the claimant, and in which civil action a final order, judgment, or decree is entered for the claimant, the claimant shall be entitled to recover from the insurer interest on the principal sum awarded up to the policy limits at the judgment rate of interest as provided for in § 6.2-302 from the date the action is filed until such principal sum is paid. Such interest shall be payable by the insurer outside of the limits of any coverage under which the claimant sought payment.

B. Nothing in this section shall be deemed to grant a right to bring a civil action against an insurer by a person who would otherwise lack standing to bring an action.

2. That the provisions of this act shall become effective on January 1, 2015.