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## SENATE BILL NO. 1225

Offered January 14, 2015

Prefiled January 14, 2015

*A BILL to amend and reenact §§ 38.2-3122, 38.2-3124, and 38.2-3125 of the Code of Virginia and to repeal § 38.2-3123 of the Code of Virginia, relating to annuity and insurance policy proceeds; claims of creditors.*

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Patron—McWaters

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Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-3122, 38.2-3124, and 38.2-3125 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-3122. Proceeds of life insurance policies and annuities payable to others free of claims against insured.**

A. The assignee or lawful beneficiary of an insurance policy shall be entitled to its proceeds against any claims of the creditors or representatives of the insured or the person effecting the policy, except in cases of transfer with intent to defraud creditors, subject to the following conditions:

1. The policy shall have been effected by a person on his own life or on another life, in favor of a person other than himself;

2. The assignee of the policy, or the payee, if the policy is otherwise made payable to another, shall not be the insured, nor the person effecting the policy, nor the executors or administrators;

3. The right to change the beneficiary may or may not have been reserved or permitted;

4. The policy may be payable to the person whose life is insured if the beneficiary or assignee predeceases the insured; and

5. Subject to the statute of limitations, the amount of any premiums for such policy paid with the intent to defraud creditors, or paid under such circumstances as to be void under § 55-81, with the interest thereon, shall be to the benefit of the creditors from the proceeds of the policy.

B. *In addition to any exemption against claims established pursuant to subsection A, any (i) proceeds payable because of the death of the insured or the person effecting the policy under a life insurance policy, (ii) cash surrender or loan value of any life insurance policy, and (iii) proceeds of an annuity contract, which sums are payable to the spouse of the insured or the person effecting the policy, or to a child, parent, or other person dependent upon the insured or the person effecting the policy, upon whatever form and whether the insured, annuitant, or other person protected thereby has the right to change the beneficiary therein or not, and whether the insured or the annuitant or the estate of either is a contingent beneficiary or not, shall in no case be liable to execution, attachment, garnishment, or other legal process in favor of any creditor of the person whose life is so insured or who is protected by said contract, or who receives or is to receive the benefit of such a contract, for any debts or liabilities incurred by the insured or annuitant on or after July 1, 2015, unless such policy, contract, or deposit was taken out, made, or assigned in writing for the benefit of such creditor. However, the exemption provided by this subsection shall not apply to any insurance policy or annuity contract issued during the six months preceding the date that the insured or person effecting the policy or contract (a) files a voluntary petition in bankruptcy; (b) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceeding; or (c) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation.*

**§ 38.2-3124. Protection of insurers from creditor's claims.**

Notwithstanding §§ 38.2-3122 and 38.2-3123, any insurer issuing any insurance policy shall be discharged of all liability on that policy by payment of its proceeds in accordance with its terms, unless before payment the insurer receives written notice by or on behalf of a creditor of a claim, stating the amount claimed and the nature of the claim.

**§ 38.2-3125. Other rights of beneficiaries and assignees protected.**

Since the purpose of §§ 38.2-3122 and 38.2-3123 is to confer additional rights, privileges and benefits upon beneficiaries and assignees of policies, no beneficiary or assignee shall by reason of these sections be divested or deprived of or prohibited from exercising or enjoying any right, privilege or benefit that he would have or could exercise or enjoy had §§ 38.2-3122 and 38.2-3123 not been enacted.

**2. That § 38.2-3123 of the Code of Virginia is repealed.**

INTRODUCED

SB1225