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SENATE BILL NO. 209

Offered January 13, 2016

Prefiled January 5, 2016

A BILL to amend and reenact § 38.2-405 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-403.1, relating to the State Corporation Commission; insurance assessments; omissions; application for correction.

Patron—Alexander

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-405 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-403.1 as follows:

§ 38.2-403.1. Omitted assessments.

If the Commission ascertains that any assessment that could have been assessed during any current assessable year has not been assessed for any assessable year of the three years last past, or that the same has been assessed at less than the law required for any one or more of such years, or that the assessment, for any cause, has not been realized, the Commission shall list and assess the same at the rate prescribed for that year, adding thereto a penalty of 10 percent and interest at the rate established pursuant to § 58.1-1812 which shall be computed upon the assessment from the due date of the assessment until the assessment is paid.

§ 38.2-405. Application for correction of assessment.

~~A company~~ Any corporation aggrieved by the assessment assessed or imposed by or under authority of this chapter and collected from any corporation, domestic or foreign, may appeal, within one year from the date of the payment of such assessment, apply to the Supreme Court of Virginia in accordance with the Rules of Court applicable to appeals from the State Corporation Commission for a refund, in whole or in part, of the amount so assessed or imposed and paid. If the court is of the opinion that the assessment is either excessive or insufficient, the court shall by its order request the Commission to make appropriate adjustments. If the appellant fails to pay the assessment when due and the court affirms the action of the Commission, judgment shall be entered against the appellant for damages, which are to be paid to the Commission, equal to legal interest upon the amount of the assessment from the time the assessment was payable. If relief is granted in whole or in part, judgment shall be rendered against the Commonwealth for any excess that may have been paid, with legal interest. No payment shall be recovered after a formal adjudication in a proceeding in which the right of appeal existed and was not taken. Such application shall be by written petition, in duplicate and verified by affidavit. Such application shall be filed with the Commission and shall set forth the names and addresses of every party in interest.