

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 38.2-405 of the Code of Virginia and to amend the Code of Virginia by*
3 *adding a section numbered 38.2-403.1, relating to the State Corporation Commission; insurance*
4 *assessments; omissions; application for correction.*

5 [S 209]

6 Approved

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

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

10 **§ 38.2-403.1. Omitted assessments.**

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

18 **§ 38.2-405. Application for correction of assessment.**

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