

State Corporation Commission

2016 Fiscal Impact Statement

1. Bill Number: SB640

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Stanley

3. Committee: Commerce and Labor

4. Title: Insurance policies and annuity contracts; exemption from creditors' claims.

5. Summary: Insurance policies and annuity contracts; exemption from creditors' claims. Provides that the cash surrender value or proceeds of any life insurance policy; the withdrawal value of an optional settlement, annuity contract, or deposit with a life insurance company; or any other benefit from such a policy, contract, or deposit shall not be liable to execution, attachment, garnishment, or other legal process in favor of any creditor of (i) the person whose life is insured by the related policy or contract; (ii) the person who is protected by that contract, deposit, indemnity, policy, or settlement, provided that such person is the insured or owner of the contract, deposit, indemnity, policy, or settlement or the spouse or intended spouse of, a dependent child of, or any other person dependent on the insured or owner of the contract, deposit, indemnity, policy, or settlement; (iii) the person who can, may, or will receive the benefit of such an item, if the person is the insured or owner of the contract, deposit, indemnity, policy, or settlement or the spouse or intended spouse of, a dependent child of, or any other person dependent on the insured or owner of the contract, deposit, indemnity, policy, or settlement; (iv) the person who owns the related contract, deposit, or policy; or (v) the person who effected the related contract, deposit, or policy. These exemptions from creditors' claims apply regardless of whether the right to change the beneficiary thereof is reserved or permitted or the insured person, the annuitant, the owner of the policy or contract, or the person effecting the policy or contract, or any of their estates, is a contingent beneficiary of the policy, contract, or deposit. These provisions do not apply (a) to any claim by a creditor with respect to a life insurance policy, annuity contract, or deposit with an insurance company that was taken out, made, or assigned in writing for the benefit of the creditor; (b) if the policy, contract, or deposit was paid with the intent to defraud creditors; or (c) to a policy, contract, or deposit issued or effected during the six months preceding the date that the person claiming the exemption files a voluntary petition in bankruptcy or is provided similar relief.

6. Budget amendment necessary: No

7. Fiscal Impact Estimates: No Fiscal Impact on the State Corporation Commission

8. Fiscal implications: None on the State Corporation Commission

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: No

11. Other comments: The State Corporation Commission Bureau of Insurance (Bureau) offered the following amendments to the patron of Senate Bill 640:

- The Bureau recommended that the term “protected insurance items” addressed in Senate Bill 640 is associated with policies of life insurance or annuities issued or issued for delivery in Virginia. The bill, as introduced, referred to the protected insurance items as being associated with an insurance company, but not specifically with a particular contract of insurance. The Bureau recommended a clarification (see below). The Bureau also recommended that references to “*accident, or health insurance policy*” be removed from the bill. The scope of Chapter 31 (§ 38.2-3100 et seq.) is life insurance and annuities. It does not include accident and sickness insurance. If the scope is expanded to include accident and sickness insurance benefits, it would sweep in payments and indemnities from disability income, accident only, specified disease, cancer and hospital indemnity benefits, for example.

Both of the above referenced changes could be accomplished by the following amendments to lines 23 through 32 of the introduced bill:

As used in this section, "protected insurance item" means, with respect to a policy of life insurance or annuity issued or issued for delivery in this Commonwealth: ~~contract, or deposit with an insurance company that is heretofore or hereafter (i) issued on or owned by a citizen or resident of the Commonwealth or (ii) issued in or otherwise subject to the laws of the Commonwealth:~~

- 1. The cash surrender value of any ~~life insurance~~ such policy;*
- 2. The proceeds of any ~~life insurance~~ such policy;*
- 3. The withdrawal value of any optional settlement, ~~annuity contract, or deposit with any life insurance company~~ made pursuant to the terms of such policy; or*
- 4. All other benefits, indemnities, payments, and privileges of every kind from any ~~life, accident, or health insurance policy, annuity contract, or deposit with an insurance company.~~ such policy.*

- The Bureau also pointed out that Subdivision B 2 appears to be duplicative of subdivisions B. 1, 3, 4 and 5. It is also not clear who the “*person who is protected*” is on line 36. “*Protected insurance item*” is defined in line 23, but there is not a definition of “*person who is protected.*” Elimination of Subdivision B 2 will remove this undefined term.

- For consistency within this section, the Bureau suggested that lines 54 and 55 be amended as follows.

The exemption provided by this section shall not apply to any protected insurance item policy, ~~annuity contract, or deposit with an insurance company~~ issued or effected during the six months preceding the date that the person claiming the exemption (i) files a voluntary petition in bankruptcy; (ii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceeding; or (iii) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation.

Date: 01/27/16/V. Tompkins

cc: Secretary of Commerce and Trade
Secretary of Health and Human Resources