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**HOUSE BILL NO. 1661**

Offered January 9, 2019

Prefiled December 3, 2018

A *BILL to amend the Code of Virginia by adding in Chapter 34 of Title 38.2 an article numbered 5.1, consisting of sections numbered 38.2-3437.1 through 38.2-3437.5, relating to health benefit plans sponsored by certain agricultural organizations or established by associations of employers.*

Patron—Head

Referred to Committee on Commerce and Labor

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

**1. That the Code of Virginia is amended by adding in Chapter 34 of Title 38.2 an article numbered 5.1, consisting of sections numbered 38.2-3437.1 through 38.2-3437.5, as follows:**

*Article 5.1.*

*Health Benefit Plans Sponsored by Certain Agricultural Organizations or Established by Associations of Employers.*

**§ 38.2-3437.1. Health benefit plans sponsored by agricultural organizations; exemption from regulation.**

A. A health benefit plan that (i) is sponsored by a nonprofit agricultural organization domiciled in the Commonwealth and created primarily to promote programs for the development of rural communities and the economic stability and sustainability of farmers in the Commonwealth, (ii) meets the requirements set forth in subsection B, and (iii) after January 1, 2020, provides health benefits under a self-funded arrangement that is administered by a corporation that has experience acting as the third-party administrator of health care administrative services for nonprofit or governmental organizations in the Commonwealth shall not be subject to:

1. Any provision of this title, including those provisions and regulations otherwise applicable to multiple employer welfare arrangements, other than the provisions of this article; or

2. The tax levied on insurance companies pursuant to § 58.1-2501.

B. A nonprofit agricultural organization providing a health benefit plan to its members under this section shall:

1. Have been in existence for 25 continuous years prior to the issuance of health benefits to members of the organization;

2. Provide membership opportunities for eligible individuals in all localities of the Commonwealth;

3. Hold regular meetings to further the purposes of the members;

4. Provide the members with representation on its governing board and committees;

5. Provide education, mentoring, and financial assistance to grow and expand rural businesses in the Commonwealth; and

6. Have contracted with a corporation that is qualified to act as third-party administrator of the health benefit plan as described in subsection A.

C. Prior to providing health benefits under a self-funded arrangement to its members, a nonprofit agricultural organization that meets the requirements of subsection B shall file a certification that the organization meets the foregoing requirements with the Commissioner.

**§ 38.2-3437.2. Exemptions for multiple employer welfare arrangements.**

A. Neither the provisions of § 38.2-1024 or 38.2-3420 nor any other provision of this title other than the provisions of this article shall be construed to affect or apply to a multiple employer welfare arrangement, as defined in Part 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, if the multiple employer welfare arrangement meets all of the following conditions:

1. The arrangement is administered by an authorized insurer or an authorized third-party administrator;

2. The arrangement has been in existence and provided health insurance in the Commonwealth for at least five years prior to July 1, 2019;

3. The arrangement is established by a trade, industry, or professional association of employers that has a constitution or bylaws and that has been organized and maintained in good faith for at least 10 continuous years prior to July 1, 2019, with membership stability as defined by rules adopted by the Commission;

4. The arrangement registers with and obtains and maintains a certificate of registration issued by the Commissioner; and

5. The arrangement is subject to the jurisdiction of the Commission, including regulatory oversight,

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59 *and complies with all rules and solvency standards as established by rules adopted by the Commission*  
60 *pursuant to § 38.2-223.*

61 *B. A multiple employer welfare arrangement registered with the Commissioner that does not meet the*  
62 *solvency standards requirements established by rule adopted by the Commission shall be subject to the*  
63 *provisions of Chapter 15 (§ 38.2-1500 et seq.).*

64 *C. A multiple employer welfare arrangement that meets all of the conditions of subsection A shall*  
65 *not be considered any of the following:*

66 *1. An insurance company that is subject to the tax levied on insurance companies pursuant to*  
67 *§ 58.1-2501; or*

68 *2. A member insurer of the Virginia Life, Accident and Sickness Insurance Guaranty Association*  
69 *under Chapter 17 (§ 38.2-1700 et seq.).*

70 *D. A multiple employer welfare arrangement registered with the Commissioner shall file with the*  
71 *Commissioner on or before March 1 of each year a copy of the report required to be filed by the*  
72 *multiple employer welfare arrangement with the U.S. Department of Labor pursuant to 29 C.F.R.*  
73 *§ 2520.101-2. A newly formed multiple employer welfare arrangement shall file with the Commissioner a*  
74 *copy of the report required to be filed pursuant to 29 C.F.R. § 2520.101-2 by a newly formed multiple*  
75 *employer welfare arrangement with the U.S. Department of Labor at least 30 days prior to operating in*  
76 *any state. The copy shall be filed with the Commissioner within 30 calendar days of the date that the*  
77 *multiple employer welfare arrangement files the report with the U.S. Department of Labor.*

78 *E. When not otherwise provided, a foreign or domestic multiple employer welfare arrangement doing*  
79 *business in the Commonwealth shall pay to the Commission any assessments required to be paid by*  
80 *insurers pursuant to Chapter 4 (§ 38.2-400 et seq.) unless otherwise provided by law.*

81 **§ 38.2-3437.3. Exception to requirements of a group accident and sickness insurance policy.**

82 *A policy of group health insurance coverage issued to an association health plan pursuant to*  
83 *§ 38.2-3437.4 that is subject to regulation by the Commission shall be exempt from the provisions of*  
84 *Article 3 (§ 38.2-3521.1 et seq.) of Chapter 35.*

85 **§ 38.2-3437.4. Association health plans.**

86 *The Commission shall adopt rules that allow for the creation of association health plans that are*  
87 *consistent with the regulations promulgated by the U.S. Department of Labor and published as 29*  
88 *C.F.R. Part 2510.*

89 **§ 38.2-3437.5. Rules and enforcement.**

90 *A. The Commission shall adopt rules and regulations pursuant to § 38.2-223 as are necessary to*  
91 *administer this article, including regulations establishing requirements for the registration of multiple*  
92 *employee welfare arrangements as set forth in subdivision A 4 of § 38.2-3437.2.*

93 *B. The Commission may take any enforcement action within the Commission's authority to enforce*  
94 *compliance with the provisions of this article.*