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SENATE BILL NO. 225

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor
on February 12, 1996)

(Patron Prior to Substitute—Senator Holland)

A BILL to amend the Code of Virginia by adding in Article 2 of Chapter 12 of Title 38.2 sections numbered 38.2-1230 and 38.2-1231, relating to insurance; domestic reciprocals.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 12 of Title 38.2 sections numbered 38.2-1230 and 38.2-1231 as follows:

§ 38.2-1230. Material transactions.

A. Prior written approval of the Commission shall be required for a material transaction between a domestic reciprocal, or an affiliate of the reciprocal, and any one or more of the following: the attorney of the reciprocal; an affiliate of the attorney of the reciprocal; an insurer or other reciprocal managed by the attorney of the reciprocal or by an affiliate of the attorney of the reciprocal; or any other person who, directly or indirectly, by contract or otherwise, acts on behalf of, or at the direction of, the attorney of the reciprocal or any affiliate of the attorney of the reciprocal, when the material transaction involves more than five percent of the domestic reciprocal's admitted assets as reported in its most recent statutory statement filed with the Commission. All other material transactions between such parties involving more than 0.5 percent of the domestic reciprocal's admitted assets as reported in its most recent statutory statement filed with the Commission shall be reported to the Commission within fifteen days after the end of the month in which the transaction occurs. In addition, all transactions shall meet the following standards:

1. The terms shall be fair and equitable;

2. Charges or fees for services performed shall be reasonable;

3. Expenses incurred and payments received shall be allocated to the reciprocal on an equitable basis in conformity with statutory insurance accounting practices consistently applied; and

4. The books, accounts, and records of each party shall disclose clearly and accurately the precise nature and details of the transaction.

B. The Commission, in reviewing a material transaction under this section, shall consider whether the material transaction complies with the standards set forth in subsection A and also whether the transaction may adversely affect the interests of the subscribers or the solvency of the reciprocal.

C. Within sixty days after written notification of any transaction requiring approval pursuant to this section, the Commission shall notify the insurer of its approval or disapproval, and, in the event of disapproval, its reason thereof. Failure of the Commission to act within sixty days of notification by the insurer shall constitute approval of the transaction.

D. For the purposes of this section:

1. "Affiliate" of a specific person means a person that directly or indirectly through one or more intermediaries, owns, is owned by or is under common ownership with the person specified. An affiliate relationship shall be presumed to exist if any person, directly or indirectly, owns or holds with the power to vote, or holds proxies representing collectively ten percent or more of the voting securities of the person specified.

2. "Material transaction" means a transaction, other than a claim payment, a premium payment or a reinsurance payment made pursuant to a reinsurance contract which reinsurance contract complies with the requirements of this section, occurring on or after July 1, 1996, that exceeds any minimum limits set forth in subsection A of this section. Any series of transactions occurring within a twelve-month period that are sufficiently similar in nature as to be reasonably construed as a single transaction and that in the aggregate exceed any minimum limits set forth in subsection A of this section shall be deemed a material transaction.

E. Any report or other information filed pursuant to this section shall not be open to public inspection and shall receive confidential treatment by the Commission.

§ 38.2-1231. Attorney's financial statement.

A. The subscribers' advisory committee of a domestic reciprocal shall annually obtain from its attorney an audited financial report of the attorney's financial position and the results of its operations as related to its management of the reciprocal. A copy of the report shall be filed with the Commission.

B. Unless the Commission provides otherwise in writing, the report required by this section shall be due within 120 days after the end of the attorney's fiscal year, shall be prepared in conformity with generally accepted accounting practices, and shall be audited by an independent certified public accountant.

60 C. If the attorney obtains an independent audit on a consolidated basis, the audited consolidated
61 financial statements shall satisfy the requirements of this section provided the attorney's financial
62 position and results of its operation as related to its management of the reciprocal are separately
63 disclosed.
64 D. The report filed pursuant to this section and any information provided in connection with the
65 preparation of such report shall not be open to public inspection and shall receive confidential
66 treatment by the Commission.