

988531726

**SENATE BILL NO. 509**

Offered January 26, 1998

A *BILL to amend the Code of Virginia by adding in Chapter 56 of Title 38.2 an article numbered 2, consisting of sections numbered 38.2-5604 through 38.2-5609, relating to medical savings accounts; self-insurance pools.*

\_\_\_\_\_  
 Patron—Quayle (By Request)

\_\_\_\_\_  
 Referred to the 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 56 of Title 38.2 an article numbered 2, consisting of sections numbered 38.2-5604 through 38.2-5609, as follows:**

*Article 2.**Medical Savings Account Group Self-Insurance Association.*

§ 38.2-5604. *Requirements for licensure as medical savings account group self-insurance association.*

A. *The State Corporation Commission shall license group self-insurance associations pooling their liabilities for the purpose of offering high-deductible, catastrophic health care insurance coverage to holders of medical savings accounts.*

B. *No group self-insurance association shall be licensed for this purpose, unless:*

1. *Such association is unincorporated and organized not for profit;*

2. *Individuals may voluntary enroll and disenroll for and from coverage provided through such association;*

3. *The high-deductible, catastrophic health care insurance coverage provided by such association (i) is community rated, although it may furnish minimal rate adjustments based on age, and may provide health-based discounts for subscribers related to the use of tobacco, alcohol and nonprescribed controlled substances, and (ii) contains no exclusions for preexisting conditions;*

4. *Such association does not discriminate on the basis of gender, social, financial or racial status;*

5. *Such association's financial records, including its records of all expenditures, are available to the public; and*

6. *Such association establishes no contractual relationships with health care providers or facilities.*

§ 38.2-5605. *Solvency requirements; association agreements; services to association.*

A. *The State Corporation Commission shall not license such a group self-insurance association or grant authorization for any person to become a member of such group unless it receives in such form as it requires satisfactory proof of the solvency of any such person, and of the financial ability of each to meet his obligations as a member.*

B. *Members of a group shall execute a written agreement under which each agrees to jointly and severally assume and discharge any liability under this article. Agreements among the members shall be subject to approval by the State Corporation Commission. In addition to the rights of the association under such agreements, in the event of failure of the association to enforce such rights after reasonable notice to the association, the State Corporation Commission shall have the right independently to enforce on behalf of the association the joint and several liability of its members under this article and the liability of members for any unpaid contributions and assessments. The State Corporation Commission shall be entitled to recover its expenses and attorneys' fees.*

C. *Any person, firm, or corporation desiring to engage in the business of providing services for a group self-insurance association shall satisfy the State Corporation Commission of its ability to perform the services necessary to fulfill the association's obligations under this article before it undertakes to provide such services to any group self-insurance association. The State Corporation Commission may from time to time review and alter any decision approving any person as a member of a group or its approval of a group or of an agency servicing a group. The State Corporation Commission may in its discretion require the deposit of an acceptable security, indemnity, or bond or the purchase of such excess insurance or the ceding of reinsurance on a specific or aggregate excess of loss basis as may be required by the circumstances.*

§ 38.2-5606. *Association approval and administration.*

*The State Corporation Commission may establish reasonable requirements and standards for the approval of a group self-insurance association and the administration of such associations including, without limitation, the quality, amount and accounting of security deposits, bonds, excess insurance and reinsurance, the membership in any group self-insurance association, the amount of advance payments and reserves required of group self-insurance associations, the investment of such funds, the form and*

INTRODUCED

SB509

60 content of financial information to be submitted by a group self-insurance association and the frequency  
61 of such submissions, and the terms of agreements between members of a group self-insurance  
62 association. The State Corporation Commission may, after notice and hearing, embody such  
63 requirements and standards and such other requirements as may be reasonably necessary for the  
64 purposes of this section in regulations; however, any group self-insurance association entering into a  
65 reinsurance transaction pursuant to the provisions of this section shall be deemed an insurer for  
66 purposes of such transaction and shall be subject to Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of  
67 Title 38.2.

68 § 38.2-5607. Association assessments; actions on bonds.

69 A. Notwithstanding any provision of this title to the contrary, each licensed group self-insurance  
70 association shall be assessed annually by the State Corporation Commission in like manner and amount  
71 to that provided by Chapter 4 (§ 38.2-400 et seq.) of Title 38.2 and shall pay such assessment in  
72 accordance with the aforesaid provisions of law.

73 B. Notwithstanding the provisions of § 49-25, neither the State Corporation Commission nor any  
74 other entity or person, as obligee under any surety bond required under this section or any regulation  
75 adopted hereunder, shall be required to institute suit against an association as a condition precedent to  
76 the surety's performance under the bond.

77 § 38.2-5608. Association liabilities and immunities.

78 Persons violating the provisions of this article or any applicable regulations pertinent thereto shall,  
79 in addition to any other civil or criminal penalties prescribed by law, be subject to the fines, penalties  
80 and other enforcement provisions contained in Chapter 1 (§ 38.2-200 et seq.) of this title.

81 § 38.2-5609. Regulations.

82 The State Corporation Commission shall promulgate regulations implementing the provisions of this  
83 article.

84 **2. That the provisions of this act shall become effective on July 1, 1999.**

85 **3. That the Joint Commission on Health Care, assisted by the Bureau of Insurance of the State**  
86 **Corporation Commission and the Department of Taxation, shall examine the current provisions of**  
87 **federal and state taxation and insurance laws to determine the feasibility of implementing the**  
88 **provisions of this act. The Joint Commission on Health Care shall complete its work in time to**  
89 **submit its findings and recommendations to the Governor and the 1999 Session of the General**  
90 **Assembly as provided in the procedures of the Division of Legislative Automated Systems for the**  
91 **processing of legislative documents.**