

## State Corporation Commission 2009 Fiscal Impact Statement

**1. Bill Number:** HB2320

House of Origin	<u>  X  </u>	Introduced	<u>      </u>	Substitute	<u>      </u>	Engrossed
Second House	<u>      </u>	In Committee	<u>      </u>	Substitute	<u>      </u>	Enrolled

**2. Patron:** Marshall, R.G.

**3. Committee:** Commerce and Labor

**4. Title:** Financial guaranty insurance.

**5. Summary/Purpose:** Creates a new Chapter 64 in Title 38.2 for financial guaranty Insurance.” The new chapter sets forth requirements to be met by a domestic or foreign entity in order to conduct the business of financial guaranty insurance in Virginia, which includes obtaining a license pursuant to Chapter 10 of Title 38.2 except as modified by provisions contained in the new chapter. This business is made subject to supervision by the Bureau of Insurance.

**6. Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission

**7. Budget amendment necessary:** No

**8. Fiscal implications:** None on the State Corporation Commission

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

**10. Technical amendment necessary:** Certain terms are used in the Chapter that may need to be defined, such as “super-senior tranches” (lines 505-506), “junior tranches” (line 506), “affiliated transformer” (line 576), “special purpose vehicle” (line 585), “nominal counterparty” (line 586), “notional value” (line 793), and “single purpose vehicle” (lines 801 – 802). The “single risk limits” proposed in § 38.2-6407 (lines 510 – 551) conflicts with those in the current § 38.2-208 (limitation of risks generally). As such, § 38.2-208 should be amended to remove the sections relating to financial guaranty insurance as addressed in House Bill 2320. There appears to be an inconsistency in the language found on lines 150, 172, and 246. Line 150 states that financial guaranty insurance means a surety bond whereas line 172 states financial guaranty insurance does not include fidelity and surety insurance or credit insurance. Line 246 states that a corporation transacting financial guaranty insurance may be licensed to transact only fidelity and surety insurance or credit insurance.

In addition, all references to “Commissioner” should be replaced with “Commission.”

Under the transition provisions section (§ 38.2-6411 A 1 b and A 1 b (4)) the dates December 31, 1988 and January 1, 1989 are used, respectively. These dates do not appear to be applicable here and were taken from the New York law, which was first adopted in 1989.

**11. Other comments:** The proposed Chapter 64 is based on New York's financial guaranty insurance article (Article 69 of Chapter 28 of the Consolidated Laws of New York) and contains additional provisions addressing oversight of credit default swaps (CDS). These additional provisions are based on the New York Insurance Department's New York Circular Letter 2008-19, dated September 22, 2008, which outlines additional standards applicable to the financial guaranty insurance business and covered CDS. Ultimately, the New York Insurance Department decided to delay indefinitely the applicability of New York insurance law to covered CDS based on progress by the federal government for a national single market solution.

House Bill 2320 is assigned to Commerce and Labor Subcommittee #2.

Date: 1/25/09 V. Tompkins

cc: Secretary of Commerce and Trade