

State Corporation Commission 2010 Fiscal Impact Statement

1. Bill Number: HB260

House of Origin X Introduced Substitute Engrossed

Second House X In Committee Substitute Enrolled

2. Patron: McClellan

3. Committee: Commerce and Labor

4. Title: **Insurance; restitution.**

5. Summary: Authorizes the State Corporation Commission to require a person to make restitution in the amount of the direct actual financial loss if the person improperly withholds, misappropriates, or converts any money or property received in the course of conducting business.

6. 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 Bureau of Insurance

10. Technical amendment necessary: No

11. Other comments: House Bill 260 was introduced by Delegate McClellan at the request of the State Corporation Commission Bureau of Insurance to authorize the Commission to order restitution in cases where insurance agents or others in the insurance business have misappropriated insurance premiums or other funds from applicants, insureds, or other parties. The Code of Virginia requires insurance agents to hold funds in a fiduciary capacity on behalf of Virginia consumers. While the Commission has the ability to assess monetary penalties or take action against the license of an agent for misappropriating funds, there are no provisions in the Code that allow for restitution to victims. Currently, the Commission's authority to order restitution is limited to cases where an insurer charges an excessive rate or discriminatory premium or fails to pay undisputed amounts required under an insurance contract.

The Commission already has the authority to order restitution for victims in the case of title settlement agents who violate the provisions of the Consumer Real Estate Settlement Protection Act (CRESPA); and licensees or registrants in certain securities cases.

Date: 01/25/10 V. Tompkins

cc: Secretary of Commerce and Trade