

State Corporation Commission 2010 Fiscal Impact Statement

1. Bill Number: HB339

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Marshall, R.G.

3. Committee: Commerce and Labor

4. Title: **Foreign insurers; reciprocal licensing.**

5. Summary: Sets forth reciprocal licensing requirements to be met by foreign insurers in order to transact the business of insurance in Virginia. The bill excludes policies issued by foreign insurers, to the extent provided for § 38.2-1027.1 E, from policy form filing requirements. The bill excludes foreign insurers licensed pursuant to § 38.2-1027.1 from the insurer licensing requirements under § 38.2-1024. The bill excludes foreign insurers licensed pursuant to § 38.2-1027.1 from the additional insurer licensing requirements applicable to stock insurers, which requires such insurers to have \$1 million in paid-in capital stock and \$3 million in surplus. The bill excludes foreign insurers licensed pursuant to § 38.2-1027.1 from the additional insurer licensing requirements applicable to mutual insurers, which requires such insurers to have \$1.6 million in surplus. The bill excludes foreign insurers licensed pursuant to § 38.2-1027.1 from the investment provisions in Chapter 14 of Title 38.2. The bill excludes foreign insurers, to the extent provided for § 38.2-1027.1 E, from the regulation of rates provisions in Chapter 19 of Title 38.2. The bill adds § 38.2-1027.1, which sets forth the requirements for a foreign insurer to obtain a reciprocal license in Virginia. These requirements include:

- Subsection A – The foreign insurer is required to present/submit to the Commission 1) proof that it is licensed as a domestic insurer in its home state and is in good standing, 2) the proper request for licensure and has paid required fees pursuant to § 38.2-1024, and 3) the license application that it submitted to its home state. The foreign insurer's home state must issue licenses for Virginia domestic insurers on the same basis.
- Subsection B – The foreign insurer's home state licensure laws do not have to be substantially similar to Virginia's domestic insurer licensure requirements in order for the Commission to issue a license.
- Subsection C – The foreign insurer may only write the classes of insurance that it is authorized to write in its home state.
- Subsection D – Authorizes the Commissioner (Commission) to enter into reciprocal licensure agreements with other states pursuant to this section.
- Subsection E – The foreign insurer is not required to submit policy forms to the Commission if 1) the home state certifies that they have approved the forms, or 2) it is a policy form on a "product," as defined § 38.2-6200, that has been approved by the Interstate Insurance Product Regulation Commission.
- Subsection F – Sets forth the applicability of § 38.2-1027 to foreign insurers licensed pursuant to § 38.2-1027.1 A.

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:** The Bureau of Insurance offered the following comments to the patron of House Bill 339:

Solvency Regulation

HB 339 provides for the reciprocal licensing of foreign insurers. The proposed legislation removes the majority of the Bureau's authority with respect to the effective financial oversight of such insurers. If the foreign insurer is licensed and in good standing in its home state, it may submit an application for licensure in this Commonwealth, pay the required fee and be licensed in Virginia as long as its home state would issue licenses to Virginia insurers. The State Corporation Commission (Commission) is prohibited from requiring that the laws of such foreign insurer's home state be substantially similar to the licensure requirements imposed on Virginia-domiciled insurers under the Virginia Insurance Title.

Insurers currently licensed to do business are subject to a full array of statutory financial standards in Title 38.2 that apply to the assessment of such critical areas as the insurer's investments, policy and claim reserve adequacy, capital requirements calibrated to the insurer's own risk exposures (i.e. risk-based capital), reinsurance coverage, and operating performance. Also, licensed insurers are subject to regular reporting and examination requirements to ensure timely monitoring.

It should be noted generally that the application of such standards and requirements helps ensure appropriate margins against uncertainty, supports a degree of confidence against insolvency, and aims to target financially troubled insurers for attention long before the insurer reaches a state of "hazardous financial condition." With limited financial monitoring requirements contained in HB 339, the Commission's ability to withdraw a reciprocal license may be restricted. The Commission would be dependent upon the state of domicile, which may have little or no insurance business written in that state, to take action against a troubled insurer operating in Virginia.

Currently, there are certain mechanisms in place for states to intervene and perform the function of peer review in the event the state of domicile fails to act. Typically, such a failure occurs when a state is faced with certain economic and political consequences involved with taking

action against one of its domestic insurers. The inability of the Bureau to apply statutory financial standards and to conduct peer reviews arguably weakens solvency protection for consumers substantially.

Market and Consumer Issues

Under House Bill 339, foreign insurers are exempted from form and rate filing and approval requirements for all lines of insurance. In the Virginia insurance marketplace, the majority of the insurers writing business in Virginia are foreign insurers. Under HB 339, a Virginia resident with a complaint about his/her insurance would contact the Bureau's Consumer Services sections. Bureau staff would have no option other than to refer the resident to the foreign insurer's home jurisdiction where the resident may or may not receive assistance. It is common practice among state insurance regulators in an insurer's home jurisdiction not to handle the consumer issues of residents of other states.

House Bill 339 is assigned to House Commerce and Labor Subcommittee #2.

Date: 01/24/10/V. Tompkins
cc: Secretary of Commerce and Trade