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## HOUSE BILL NO. 1538

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Commerce and Labor  
on January 18, 2011)

(Patron Prior to Substitute—Delegate Merricks)

A *BILL to amend and reenact § 38.2-3420 of the Code of Virginia, relating to bank-sponsored multiple employer welfare organizations.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3420 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-3420. Authority and jurisdiction of Commission; exception.

A. Except as provided in subsection B, any person offering or providing coverage in the Commonwealth for health care services, whether the coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the Commission to the extent the person is not regulated by another agency of the Commonwealth, any subdivision of the Commonwealth, or the federal government relating to the offering or providing of coverage for health care services.

B. Neither the provisions of this section nor any other provision of this title shall be construed to affect or apply to a multiple employer welfare arrangement (MEWA) comprised only of banks *together with their plan-sponsoring organization*, and their *respective* employees, provided the multiple employer welfare arrangement (i) is duly licensed as a MEWA by the insurance regulatory agency of a state contiguous to the Commonwealth, (ii) files with the Commission a copy of its certificate of authority or other proper license from the contiguous state, and (iii) has no more than 50 Virginia residents who are employees of its member banks enrolled in or receiving accident and sickness benefits as insureds, members, enrollees, or subscribers of the MEWA. For purposes of this subsection, a "bank" shall be defined as:

"Bank" means an institution that has or is eligible for insurance of deposits by the Federal Deposit Insurance Corporation.

"Plan-sponsoring organization" means an association that (i) sponsors a MEWA comprised only of banks; (ii) has been actively in existence for at least five years; (iii) has been formed and maintained in good faith for purposes other than obtaining insurance; (iv) does not condition membership in the association on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee; (v) makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members or individuals eligible for coverage through a member; (vi) does not make health insurance coverage offered through the association available other than in connection with a member of the association; and (vii) meets such additional requirements as may be imposed under the laws of the Commonwealth, and includes any subsidiary of such an association.