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SENATE BILL NO. 984

Offered January 9, 2013

Prefiled January 8, 2013

A *BILL to amend the Code of Virginia by adding in Chapter 2 of Title 38.2 a section numbered 38.2-236, relating to notification of settlement payment.*

Patron—Obenshain

Referred to 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 2 of Title 38.2 a section numbered 38.2-236 as follows:

§ 38.2-236. Notice of settlement payment.

A. Upon payment by any insurer of at least \$5,000 in a single check to an attorney licensed in the Commonwealth, or other representative, in settlement or satisfaction by an insured or a third party of any claim arising out of an insurance policy issued or delivered in the Commonwealth, the insurer shall send to the claimant or judgment creditor on the underlying insurance or liability claim a notice of such payment as required by subsection B within five business days after the date payment is made or sent to the attorney or other representative of the claimant or judgment creditor. A copy of the notice shall be sent simultaneously to the attorney or representative of the claimant or judgment creditor.

B. The notice required pursuant to subsection A shall be sent to the physical address, or email or other electronic address, furnished by the claimant or judgment creditor to the insurance company, unless the claimant or judgment creditor has notified the insurance company in writing that he waives notice of payment. In the absence of any address or waiver furnished by the claimant or judgment creditor, the notice shall be sent to the last known physical address, or email or other electronic address, of the claimant or judgment creditor.

The notice shall be sent by the insurance company only after a settlement has been agreed to by the attorney or other representative of the claimant or judgment creditor, and shall contain only the following language:

"Pursuant to § 38.2-236 of the Code of Virginia, you are hereby notified that a payment was sent on (insert date on which payment was sent) by (insert name of insurer) to your attorney or other representative (insert name, address, and telephone number of attorney or other representative known to insurer), in satisfaction of your claim or judgment against (insert name of insurer, or insured, whichever is appropriate).

If you have any questions, please contact your attorney or other representative."

C. Nothing in subsection A or B shall (i) create any cause of action for monetary damages for any person against an insurer based upon a failure to provide notice as required by this section or the provision of a defective notice, (ii) establish a defense for any person to any cause of action based on a failure to provide notice as required by this section or the provision of a defective notice, or (iii) invalidate or in any way affect the settlement or satisfaction for which the payment was made by the insurer.

D. Except as provided and authorized by this section, no insurer shall otherwise communicate with a claimant or judgment creditor known to be represented by an attorney licensed in the Commonwealth, or other representative, regarding settlement of a claim or satisfaction of a judgment without the written consent of such attorney or other representative.

INTRODUCED

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