

State Corporation Commission

2017 Fiscal Impact Statement

1. Bill Number: HB2233

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Cline

3. Committee: Commerce and Labor

4. Title: Health benefit plans offered by foreign health insurers.

5. Summary: Health benefit plans offered by foreign health insurers. Authorizes any foreign health insurer to sell individual or group health benefit plans in the Commonwealth if it is approved to sell such plans in the foreign health insurer's domiciliary state. The measure establishes requirements applicable to such sales, including registration, disclosures, compliance with marketing standards, and financial condition. The measure has a delayed effective date of July 1, 2018.

6. Budget amendment necessary: No

7. Fiscal Impact Estimates: No Fiscal Impact on the State Corporation Commission

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: The State Corporation Commission Bureau of Insurance suggested to the patron the following amendments to House Bill 2233 for clarity and consistency:

- Line 28 – Under § 38.2-1802 C 1 add “vessels” after “on”
- Line 36 -- Under § 38.2-1802 C 3 add “foreign” before “insurer”
- Line 58 - Under § 38.2-6400 the definition of “foreign health insurer” should be amended as follows: “means an insurer domiciled and licensed to sell, offer, or provide health benefits plans in any other state.”
- Line 64 -- Under § 38.2-6400 replace “health carrier” with “an insurer”
- Line 73 -- Under § 38.2-6400 add “care” before “services”
- Line 85 – Under § 38.2-6401 A 1 add “that has been approved for use” after “plan” and add “provides documentation that it” after “and”
- Line 92 – Under § 38.2-6401 add “38.2-316.1” after “316”
- Line 101 – Under § 38.2-6402 A 2 replace “Commissioner” with “Commission”
- Line 102 – Under § 38.2-6402 A 2 replace “Analysis” with “Condition Examiners”
- Line 107 -- Under § 38.2-6402 B add “unless the registration is revoked or suspended pursuant to § 38.2-6404” after “Commission”

- Line 130 – Under § 38.2-6406 delete “an unlicensed” and add “not licensed in the Commonwealth” after “insurer”
- Line 148 -- Under § 38.2-6404 C delete “doing business in the Commonwealth”
- Line 161 – Under § 38.2-6406 replace “Commissioner” with “Commission” and “solvency” with “financial condition”
- Line 162 – Under § 38.2-6406 replace “out-of-state companies” with “foreign health insurers”
- Line 164 – Under § 38.2-6406 add “licensed health” after “domestic”
- Line 165 – Under § 38.2-6406 delete “licensed to sell health benefit plans in the Commonwealth”
- Lines 172 and 173 – Under § 38.2-6407 2 add “licensed health insurers” after “to” and delete “carriers that are licensed by the Commissioner to provide health benefit plans in the Commonwealth”

11. Other comments: The State Corporation Commission Bureau of Insurance (Bureau) offered the following comments to the patron of House Bill 2233 relating to the sale of health benefit plans by foreign insurers unlicensed in Virginia (Chapter 64 plans):

- The bill includes a disclosure requirement regarding the lack of protection by the Virginia Life, Accident and Sickness Insurance Guaranty Association. State laws relating to Guaranty Association coverage differ. The Bureau cannot state with any certainty whether or to what extent Virginia policyholders would be protected by the Guaranty Association in the foreign health insurer’s domiciliary state in the event the foreign health insurer were to become insolvent.
- There are numerous consumer protections afforded under Virginia law that would not extend to purchasers of a product issued under this proposal. These protections are evident in current product form and rate approval requirements as well as in a number of requirements pertaining to market behavior that are too numerous to identify in this fiscal impact statement. A few examples of Virginia consumer protections that would not necessarily extend to Virginia purchasers of policies issued by foreign health insurers include the following:
 - a requirement for interest added to late claim payments;
 - prohibitions against certain prescription drug denials;
 - standards for fair business practices associated with contracts between insurers and providers;
 - ensured access to certain specialty providers;
 - requirements pertaining to freedom of choice among pharmacy providers;
 - a requirement for advance notification to policyholders of premium rate increases.

- protections afforded to policyholders through Virginia's requirements governing managed care health insurance plans (MCHIPS), including the services of the Virginia Managed Care Ombudsman and the External Review Office and quality standards regarding the delivery of health care services and access to health care providers; and
- protections afforded to consumers through Virginia's laws and regulations addressing agents, including licensure and sales practices.

Section 38.2-6403 identifies specific disclosure requirements for the application and the certificates and evidences of coverage associated with a health benefit plan issued by a foreign health insurer. It should be noted, however, that because the State Corporation Commission does not have approval authority over these documents, there will be no means to verify "front-end" compliance with these disclosure requirements through a form review and approval process as is done with licensed companies issuing products in Virginia.

While not necessarily suggesting changes to the patron, the Bureau pointed out that House Bill 2233 does not appear to establish the same level of financial controls, i.e. Risk-Based Capital standards (RBC) that otherwise apply to licensed insurers in Virginia. The Bureau would not be authorized to take certain actions against the foreign health insurer if and when its RBC levels were found to be within ranges that would otherwise require regulatory action, such as suspending or revoking the insurer's license. The proposal also does not provide any specifics regarding renewal of registration. It is unclear which financial standards under Title 38.2 would be applicable to foreign health insurers registered under Chapter 64 when conducting a "solvency examination" as provided for in § 38.2-6406.

Date: 01/25/17/V. Tompkins