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SENATE BILL NO. 58

Offered January 14, 1998

A BILL to amend and reenact § 38.2-316 of the Code of Virginia, relating to insurance; policy forms filed with Virginia State Corporation Commission.

Patron—Wampler

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-316 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-316. Policy forms to be filed with Commission; notice of approval or disapproval; exceptions.

A. No policy of life insurance, industrial life insurance, variable life insurance, modified guaranteed life insurance, group life insurance, accident and sickness insurance, or group accident and sickness insurance; no annuity, modified guaranteed annuity, pure endowment, variable annuity, group annuity, group modified guaranteed annuity, or group variable annuity contract; no health services plan, legal services plan, dental or optometric services plan, or health maintenance organization contract; and no fraternal benefit certificate nor any certificate or evidence of coverage issued in connection with such policy, contract, or plan issued or issued for delivery in Virginia shall be delivered or issued for delivery in this Commonwealth unless a copy of the form has been filed with the Commission. In addition to the above requirement, no policy of accident and sickness insurance shall be delivered or issued for delivery in this Commonwealth unless the rate manual showing rates, rules, and classification of risks applicable thereto has been filed with the Commission.

B. Except as provided in this section, no application form shall be used with the policy or contract and no rider or endorsement shall be attached to or printed or stamped upon the policy or contract unless the form of such application, rider or endorsement has been filed with the Commission. No individual certificate *and no enrollment form* shall be used in connection with any group life insurance policy, group accident and sickness insurance policy, group annuity contract, or group variable annuity contract unless the form for the certificate ~~has~~ *and enrollment form have* been filed with the Commission.

C. 1. None of the policies, contracts, and certificates specified in subsection A of this section shall be delivered or issued for delivery in this Commonwealth and no applications, *enrollment forms*, riders, and endorsements shall be used in connection with the policies, contracts, and certificates unless the forms thereof have been approved in writing by the Commission as conforming to the requirements of this title and not inconsistent with law.

2. In addition to the above requirement, no premium rate change applicable to individual accident and sickness insurance policies, subscriber contracts of health services plans, dental or optometric services plans, or fraternal benefit contracts providing individual accident and sickness coverage as authorized in § 38.2-4116 shall be used unless the premium rate change has been approved in writing by the Commission. No premium rate change applicable to individual or group Medicare supplement policies shall be used unless the premium rate change has been approved in writing by the Commission.

D. The Commission may disapprove or withdraw approval of the form of any policy, contract or certificate specified in subsection A of this section, or of any application, *enrollment form*, rider or endorsement, if the form:

1. Does not comply with the laws of this Commonwealth;
2. Has any title, heading, backing or other indication of the contents of any or all of its provisions that is likely to mislead the policyholder, contract holder or certificate holder; or
3. Contains any provisions that encourage misrepresentation or are misleading, deceptive or contrary to the public policy of this Commonwealth.

E. Within thirty days after the filing of any form requiring approval, the Commission shall notify the organization filing the form of its approval or disapproval of the form which has been filed, and, in the event of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an additional thirty days the period within which it shall approve or disapprove the form. Any form received but neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the thirty days if the period is not extended, or at the expiration of the extended period, if any; however, no organization shall use a form deemed approved under the provisions of this section until the organization has filed with the Commission a written notice of its intent to use the form together with a copy of the form and the original transmittal letter thereof. The notice shall be filed in the offices of the Commission at least ten days prior to the organization's use of the form.

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60 F. If the Commission proposes to withdraw approval previously given or deemed given to the form
61 of any policy, contract or certificate, or of any application, rider or endorsement, it shall notify the
62 insurer in writing at least fifteen days prior to the proposed effective date of withdrawal giving its
63 reasons for withdrawal.

64 G. Any insurer or fraternal benefit society aggrieved by the disapproval or withdrawal of approval of
65 any form may proceed as indicated in § 38.2-1926.

66 H. This section shall not apply to any special rider or endorsement on any policy, except an accident
67 and sickness insurance policy that relates only to the manner of distribution of benefits or to the
68 reservation of rights and benefits under such policy, and that is used at the request of the individual
69 policyholder, contract holder or certificate holder.

70 I. The Commission may exempt any categories of such policies, contracts, and certificates and any
71 applicable rate manuals from (i) the filing requirements, (ii) the approval requirements of this section, or
72 (iii) both such requirements. The Commission may modify such requirements, subject to such limitations
73 and conditions which the Commission finds appropriate. In promulgating an exemption, the Commission
74 may consider the nature of the coverage, the person or persons to be insured or covered, the competence
75 of the buyer or other parties to the contract, and other criteria the Commission considers relevant.

76 J. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and
77 regulations as it may deem necessary to set standards for policy and other form submissions required by
78 this section or § 38.2-3501.