**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4210**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Stavrinakis and Hutto

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Introduced in the House on January 12, 2010

Currently residing in the House Committee on **Judiciary**

Summary: Department of Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/17/2009 House Prefiled

11/17/2009 House Referred to Committee on **Judiciary**

1/12/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑31

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**VERSIONS OF THIS BILL**

[11/17/2009](file:///p:\pprever\2009-10\4210_20091117.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑3‑102 SO AS TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MUST BE ELECTED TO OFFICE BY THE QUALIFIED ELECTORS OF THE STATE IN THE GENERAL ELECTION AND PROVIDE FOR THE DIRECTOR’S TERM OF OFFICE, QUALIFICATIONS, VACANCIES, AND RELATED MATTERS; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO THE DEPARTMENTS OF STATE GOVERNMENT, SO AS TO PROVIDE THAT THE GOVERNING AUTHORITY OF THE DEPARTMENT OF INSURANCE IS THE DIRECTOR OF THE DEPARTMENT OF INSURANCE ELECTED TO OFFICE UNDER THE LAWS OF THIS STATE; TO AMEND SECTION 38‑1‑20, RELATING TO DEFINITIONS UNDER THE INSURANCE LAWS OF THIS STATE, SO AS TO MAKE CERTAIN CHANGES TO THE DEFINITION OF “DIRECTOR” OF THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38‑3‑10, RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO DELETE CERTAIN PROVISIONS RELATING TO THE DEPARTMENT’S DIRECTOR, PROVIDE THAT THE DIRECTOR IS ELECTED RATHER THAN APPOINTED, AND MAKE CHANGES IN THE PROVISIONS CONCERNING THE REMOVAL OF THE DIRECTOR; TO AMEND SECTION 38‑3‑100, RELATING TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, SO AS TO, AMONG OTHER CHANGES, DELETE THE REQUIREMENT THAT, IF THE DIRECTOR BECOMES A CANDIDATE FOR PUBLIC OFFICE OR BECOMES A MEMBER OF A POLITICAL COMMITTEE DURING TENURE, HIS OFFICE MUST BE IMMEDIATELY VACATED; AND TO PROVIDE THAT THE ELECTION OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE BEGINS WITH THE 2010 STATEWIDE ELECTION PROCESS AND THAT THE DIRECTOR SERVING ON THE EFFECTIVE DATE OF THIS ACT SHALL CONTINUE TO SERVE UNTIL HIS SUCCESSOR IS ELECTED AND QUALIFIES FOR OFFICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 38 of the 1976 Code is amended by adding:

“Section 38‑3‑102. The Director of the Department of Insurance must be elected by the qualified electors of the State in the general election. He may succeed himself in the office. His term begins at noon on the first Wednesday following the second Tuesday in January next following his election and ends at noon on the first Wednesday following the second Tuesday in January four years later. He must be at least thirty years of age at the time his term of office commences. He shall not hold any other public office while serving as director. A candidate for or person elected to the office of director shall not accept campaign contributions or anything of value, directly or indirectly, from insurance companies regulated by the Department of Insurance, or their subsidiaries, or from insurance agents or any other insurance professionals regulated pursuant to Title 38 including, but not limited to, employees or immediate family members of such insurance agents, other insurance professionals, and officers, directors, and managers of such insurance companies or subsidiaries. Notwithstanding any other provision of law, a vacancy in the office of director must be filled by the Governor for the unexpired portion of the term.”

SECTION 2. Section 1‑30‑10(B)(1)(iii) of the 1976 Code is amended to read:

“(iii) in the case of the Department of Agriculture and the Department of Education, the State Commissioner of Agriculture and the State Superintendent of Education, respectively, elected to office under the Constitution of this State, and in the case of the Department of Insurance, the Director of the Department of Insurance elected to office under the laws of this State; or”

SECTION 3. Section 38‑1‑20(16) of the 1976 Code is amended to read:

“(16) ‘Director’ means the person who is ~~appointed by the Governor upon the advice and consent of the Senate~~ elected by the qualified electors of this State and who is responsible for the operation and management of the Department of Insurance. The director has the authority to appoint or designate the person or persons who shall serve at the pleasure of the director to carry out the objectives or duties of the department as provided by law. Furthermore, the director may bestow upon his designee or deputy director any duty or function required of him by law to manage and supervise the ~~Insurance~~ Department of Insurance.”

SECTION 4. Section 38‑3‑10 of the 1976 Code is amended to read:

“Section 38‑3‑10. There is established a separate and distinct department of this State, known as the Department of Insurance. The department must be managed and operated by a director ~~appointed by the Governor upon the advice and consent of the Senate~~ elected by the qualified electors of this State. The director is subject to removal ~~by the Governor as provided in Section 1‑3‑240(B)~~ from office as may be provided by law for the other officers of the executive department of this State. ~~The director shall be selected with special reference to his training, experience, technical knowledge of the insurance industry, and demonstrated administrative ability.~~ The director may appoint or designate the person or persons who shall serve at the pleasure of the director to carry out the objectives or duties of the department as provided by law. Furthermore, the director may bestow upon his designee or deputy director any duty or function required of him by law in managing or supervising the Department of Insurance.”

SECTION 5. Section 38‑3‑100 of the 1976 Code is amended to read:

“Section 38‑3‑100. The director ~~or his designee~~ is not subject to the State Employee Grievance Committee or any internal grievance procedure established at the ~~Insurance~~ Department of Insurance. The director ~~or his designee~~ shall devote all of his working time to the duties of his office. Before taking the oath of office he shall sever all connections, either direct or indirect, except as a policyholder, with any insurance company or agency and shall maintain the severance during his tenure of office. ~~If he becomes a candidate for public office or becomes a member of a political committee during tenure, his office as director or his designee must be immediately vacated.~~”

SECTION 6. The election of the Director of the Department of Insurance provided in Section 38‑3‑102 of the 1976 Code, as contained in Section 1 of this act, begins with the 2010 statewide election process. The director serving on the effective date of this act shall continue to serve until his successor is elected and qualifies for office.

SECTION 7. Except as otherwise specifically provided in this act, this act takes effect upon approval by the Governor.

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