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COMMITTEE REPORT

March 11, 2009

**S. 202**

Introduced by Senator Thomas

S. Printed 3/11/09--S.

Read the first time January 13, 2009.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 202) to amend Section 38‑1‑20, as amended, Code of Laws of South Carolina, 1976, relating to definitions used in Title 38 relating to the Department of Insurance, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

DAVID L. THOMAS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Insurance indicates the bill would have no impact on the General Fund of the State or federal and/or other funds as it merely makes technical changes to references to repealed chapters of the Code of Laws.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 38‑1‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF “ADMITTED ASSETS” TO INCLUDE THOSE ON THE INSURER’S MOST RECENT STATUTORY FINANCIAL STATEMENT FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38‑13‑80 INSTEAD OF THOSE ADMITTED UNDER THE PROVISIONS OF SECTION 38‑11‑100; TO AMEND SECTION 38‑9‑10, RELATING TO CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES THAT MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38‑9‑20, RELATING TO THE SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES WHICH MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38‑9‑210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY; TO AMEND SECTION 38‑10‑40, RELATING TO THE PROTECTED CELL ASSETS OF A PROTECTED CELL, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38‑33‑130, RELATING TO THE SECURITY DEPOSIT OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE THE REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION SHALL ISSUE A CONVERSION POLICY TO AN ENROLLEE UPON THE TERMINATION OF THE ORGANIZATION; AND TO AMEND SECTION 38‑55‑80, RELATING TO LOANS TO DIRECTORS OR OFFICERS BY AN INSURER, SO AS TO CHANGE A CODE REFERENCE.

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

SECTION 1. Section 38‑1‑20(4) of the 1976 Code is amended to read:

“(4) ‘Admitted assets’ means assets of an insurer considered admitted ~~under Section 38‑11‑100~~ on the insurer’s most recent statutory financial statement filed with the department pursuant to section 38‑13‑80.”

SECTION 2. Section 38‑9‑10(A)(2) of the 1976 Code is amended to read:

“(2) The director or his designee may require additional initial capital and surplus based on the type or nature of business transacted, and the initial capital and surplus of the insurer must consist of cash or marketable securities ~~which are eligible investments under Section 38‑11‑40~~ that qualify as admitted assets on the insurer’s most recent statutory financial statement filed with the department pursuant to Section 38‑13‑80.”

SECTION 3. Section 38‑9‑20(A)(2) of the 1976 Code is amended to read:

“(2) The director or his designee may require additional initial surplus based on the type or nature of business transacted, and the initial surplus of the insurer must consist of cash or marketable securities ~~which are eligible investments under Section 38‑11‑40~~ that qualify as admitted assets on the insurer’s most recent statutory financial statement filed with the department pursuant to Section 38‑13‑80.”

SECTION 4. Section 38‑9‑210(2) of the 1976 Code is amended to read:

“(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners ~~and qualifying as admitted assets under Section 38‑11‑100~~ that qualify as admitted assets on the insurer’s most recent statutory financial statement filed with the department pursuant to Section 38‑13‑80;”

SECTION 5. Section 38‑10‑40(B) of the 1976 Code is amended to read:

“(B) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains or losses of the protected cell company, including income, gains or losses of other protected cells. Amounts attributed to any protected cell and accumulations on the attributed amounts may be invested and reinvested without regard to any requirements or limitations of ~~Sections 38‑11‑40 and 38‑11‑50~~ Chapter 12 of this title and the investments in a protected cell or cells may not be taken into account in applying the investment limitations otherwise applicable to the investments of the protected cell company.”

SECTION 6. Section 38‑33‑130(C) of the 1976 Code is amended to read:

“(C) Each health maintenance organization shall procure and maintain a policy of individual excess stop‑loss coverage provided by an insurance company licensed by the state. The policy ~~must~~ also must include provisions to cover all incurred, unpaid claim liability in the event of the health maintenance organization’s termination due to insolvency or otherwise. In addition, the director or his designee may require that the policy provide that the insurer will issue an individual ~~conversion~~ policy to any enrollee upon termination of the health maintenance organization or the enrollee’s ineligibility for further coverage in the health maintenance organization. ~~Any such conversion policy must meet at least the minimum requirements of Section 38‑71‑770.~~”

SECTION 7. Section 38‑55‑80(B) of the 1976 Code is amended to read:

“(B) This section does not prohibit an insurer in connection with the relocation of the place of employment of an officer, including any relocation in connection with the initial employment of the officer, from making, or the officer from accepting, a mortgage loan to the officer on real property owned by the officer which is to serve as his residence or acquiring, or the officer from selling to it, at not more than the fair market value, the residence of the officer. Mortgage loans made or residences acquired under this section are subject to the limitations imposed on investments by ~~Section 38‑11‑50~~ Chapter 12 of this title. In addition, this section does not prohibit an insurer from making a loan to its directors or officers if the loan is first approved in writing by the director or his designee.”

SECTION 8. This act takes effect upon approval by the Governor.

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