**South Carolina General Assembly**

119th Session, 2011-2012

**A137, R155, H3333**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sandifer, Toole, Bowers, Hayes, Erickson and Brady

Document Path: l:\council\bills\dka\3183ab11.docx

Introduced in the House on January 18, 2011

Introduced in the Senate on March 15, 2011

Last Amended on February 29, 2012

Passed by the General Assembly on March 21, 2012

Governor's Action: April 2, 2012, Signed

Summary: Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/18/2011 House Introduced and read first time ([House Journal‑page 4](file:///h:\hj%20archive\2011\01-18-11.docx))

1/18/2011 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 4](file:///h:\hj%20archive\2011\01-18-11.docx))

2/23/2011 House Member(s) request name added as sponsor: Toole, Bowers, Hayes, Erickson

2/23/2011 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 1](file:///h:\hj%20archive\2011\02-23-11.docx))

2/24/2011 House Member(s) request name added as sponsor: Brady

3/2/2011 House Requests for debate‑Rep(s). Sellers, Ott, Jefferson, King, Brady, Stavrinakis, Sandifer, Brannon, Cooper, White, JR Smith, Crawford, Lowe, Viers, and GR Smith ([House Journal‑page 40](file:///h:\hj%20archive\2011\03-02-11.docx))

3/10/2011 House Read second time ([House Journal‑page 37](file:///h:\hj%20archive\2011\03-10-11.docx))

3/10/2011 House Roll call Yeas‑107 Nays‑0 ([House Journal‑page 38](file:///h:\hj%20archive\2011\03-10-11.docx))

3/10/2011 House Unanimous consent for third reading on next legislative day ([House Journal‑page 39](file:///h:\hj%20archive\2011\03-10-11.docx))

3/11/2011 House Read third time and sent to Senate ([House Journal‑page 3](file:///h:\hj%20archive\2011\03-11-11.docx))

3/15/2011 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h:\sj%20archive\2011\03-15-11.docx))

3/15/2011 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 6](file:///h:\sj%20archive\2011\03-15-11.docx))

2/22/2012 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 16](file:///h:\sj%20archive\2012\02-22-12.docx))

2/29/2012 Senate Amended ([Senate Journal‑page 17](file:///h:\sj%20archive\2012\02-29-12.docx))

3/1/2012 Scrivener's error corrected

3/7/2012 Senate Read second time ([Senate Journal‑page 19](file:///h:\sj%20archive\2012\03-07-12.docx))

3/7/2012 Senate Roll call Ayes‑43 Nays‑1 ([Senate Journal‑page 19](file:///h:\sj%20archive\2012\03-07-12.docx))

3/8/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 7](file:///h:\sj%20archive\2012\03-08-12.docx))

3/21/2012 House Concurred in Senate amendment and enrolled ([House Journal‑page 38](file:///h:\hj%20archive\2012\03-21-12.docx))

3/21/2012 House Roll call Yeas‑108 Nays‑0 ([House Journal‑page 39](file:///h:\hj%20archive\2012\03-21-12.docx))

3/29/2012 Ratified R 155

4/2/2012 Signed By Governor

4/5/2012 Effective date 04/02/12

4/11/2012 Act No. 137

**VERSIONS OF THIS BILL**

[1/18/2011](file:///p:\pprever\2011-12\3333_20110118.docx)

[2/23/2011](file:///p:\pprever\2011-12\3333_20110223.docx)

[2/22/2012](file:///p:\pprever\2011-12\3333_20120222.docx)

[2/29/2012](file:///p:\pprever\2011-12\3333_20120229.docx)

[3/1/2012](file:///p:\pprever\2011-12\3333_20120301.docx)

(A137, R155, H3333)

**AN ACT** **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 AMEND SECTION 38‑9‑10, RELATING TO CASH OR MARKETABLE SECURITIES THAT MUST COMPRISE INITIAL CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO PROVIDE THE CASH AND MARKETABLE SECURITIES MUST QUALIFY AS ADMITTED ASSETS ON THE MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38‑9‑20, RELATING TO CASH OR MARKETABLE SECURITIES THAT MUST COMPRISE INITIAL CAPITAL AND SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO PROVIDE THE CASH AND MARKETABLE SECURITIES MUST QUALIFY AS ADMITTED ASSETS ON THE MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT 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 THOSE THAT QUALIFY AS ADMITTED ASSETS ON THE MOST RECENT FINANCIAL STATEMENT FILED BY THE ASSUMING INSURER; TO AMEND SECTION 38‑10‑40, RELATING TO THE PROTECTED CELL ASSETS, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38‑33‑130, RELATING TO STOP‑LOSS COVERAGE REQUIRED OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE CERTAIN REQUIREMENTS OF RELATED OPTIONAL CONVERSION POLICIES; TO AMEND SECTION 38‑55‑80, RELATING TO LOANS BY AN INSURER TO ITS DIRECTORS OR OFFICERS, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38‑41‑10, RELATING TO THE DEFINITION OF A MULTIPLE EMPLOYER SELF‑INSURED HEALTH PLAN, SO AS TO PROVIDE AN ABBREVIATION OF THE TERM AND MAKE TECHNICAL CHANGES; TO AMEND SECTION 38‑41‑50, RELATING TO EXCESS STOP‑LOSS COVERAGE OF MULTIPLE EMPLOYER SELF‑INSURED HEALTH PLANS, SO AS TO PROVIDE A PLAN MUST MAINTAIN EXCESS COVERAGE WRITTEN BY AN INSURER CONSIDERED APPROVED OR ELIGIBLE TO DO BUSINESS IN THIS STATE BY THE DEPARTMENT, THE COVERAGE MUST HAVE A NET RETENTION LEVEL IN COMPLIANCE WITH SOUND ACTUARIAL PRINCIPLES, TO PROVIDE THE PLAN MUST FILE ITS POLICY CONTRACT WITH THE DEPARTMENT, AND THE POLICY CONTRACT MUST INCLUDE SPECIFIC TERMS RELATING TO ITS CANCELLATION AND MODIFICATION; AND TO AMEND SECTION 38‑41‑80, RELATING TO RECORD KEEPING REQUIREMENTS OF A MULTIPLE EMPLOYER SELF‑INSURED HEALTH PLAN, SO AS TO PROVIDE A PLAN IS SUBJECT TO CERTAIN FINANCIAL EXAMINATION.**

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

**Insurance definitions, “Admitted Assets” redefined**

SECTION 1. Section 38‑1‑20(4) of the 1976 Code, as last amended by Act 69 of 2009, is further amended to read:

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

**Capital and surplus required for stock insurance companies must be admitted assets**

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 that qualify as admitted assets on the most recent statutory financial statement of the insurer filed with the department pursuant to Section 38‑13‑80.”

**Capital and surplus requirements for mutual insurance companies must be admitted assets**

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 that qualify as admitted assets on the most recent statutory financial statement of the insurer filed with the department pursuant to Section 38‑13‑80.”

**Reduction from liability for reinsurance, securities must be admitted assets**

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 that qualify as admitted assets on the most recent statutory financial statement filed by the insurer with the department pursuant to Section 38‑13‑80.”

**Protected cell assets, code reference changed**

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 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.”

**Mandatory stop‑loss coverage for health maintenance organizations, requirements for related conversion policies deleted**

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

“(C) A 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 also must include provisions to cover all incurred, unpaid claim liability in the event of the termination of the health maintenance organization 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 policy to an enrollee upon termination of the health maintenance organization or the ineligibility of the enrollee for further coverage in the health maintenance organization.”

**Loans by insurers to directors and officers, code reference changed**

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 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.”

**Multiple employer Self‑Insured Health Plan defined, abbreviation provided**

SECTION 8. Section 38‑41‑10 of the 1976 Code is amended to read:

“Section 38‑41‑10. As used in this chapter, ‘multiple employer self‑insured health plan’ or ‘Multiple Employer Welfare Arrangement (MEWA)’ means a plan or arrangement established or maintained to offer or provide health, dental, or short‑term disability benefits to employees of two or more employers but which is not fully insured. A plan or arrangement is considered ‘fully insured’ only if all benefits payable are guaranteed under a contract or policy of insurance issued by an insurer authorized to transact business in this State.”

**Excess stop‑loss coverage for multiple employer self‑insured health plans, requirements modified**

SECTION 9. Section 38‑41‑50 of the 1976 Code is amended to read:

“Section 38‑41‑50. A multiple employer self‑insured health plan shall include aggregate excess stop‑loss coverage and individual excess stop‑loss coverage provided by an insurer licensed, approved, or eligible by the State. A MEWA shall maintain excess insurance coverage written by an insurer that the Department of Insurance considers approved or eligible to do business in this State. This coverage must have a net retention level determined in accordance with sound actuarial principles approved by the director or his designee, and based on the number of risks insured by the MEWA. The MEWA must file the policy contract providing this coverage with the director or his designee. The terms of this policy contract must require that before the insurer may cancel or modify the terms of this policy contract, the insurer must give notice of the pending cancellation or modification of terms to the director at least thirty days before the cancellation or modification may occur. Aggregate excess stop‑loss coverage shall include provisions to cover incurred, unpaid claim liability in the event of plan termination. The excess or stop‑loss insurer shall bear the risk of coverage for any member of the pool that becomes insolvent with outstanding contributions due. In addition, the plan shall have a participating employer’s fund in an amount at least equal to the point at which the excess or stop‑loss insurer shall assume one hundred percent of additional liability. A plan shall submit its proposed excess or stop‑loss insurance contract to the director or his designee at least thirty days prior to the proposed plan’s effective date and at least thirty days subsequent to any renewal date. The director or his designee shall review the contract to determine whether it meets the standards established by this chapter and respond within a thirty‑day period. Any excess or stop‑loss insurance plan must be noncancellable for a minimum term of two years.”

**Record keeping requirements for multiple employer self‑insured health plans, financial examinations required**

SECTION 10. Section 38‑41‑80 of the 1976 Code is amended to read:

“Section 38‑41‑80. A multiple employer self‑insured health plan shall make and keep a full and correct record of its business and affairs and the director or his representative shall inspect these records at least every three years. The information from these records must be furnished to the director or his representatives on demand and the original books or records must be open to examination by the director or his representatives when demanded. Every multiple employer self‑insured health plan must be subject to an examination of its financial affairs. This examination must be conducted in accordance with the requirements of Chapter 13, and the cost of the examination must be borne by the Multiple Employer Welfare Arrangement.”

**Time effective**

SECTION 11. This act takes effect upon approval by the Governor.

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

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