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Indicates New Matter

AMENDED

February 29, 2012

**H. 3333**

Introduced by Reps. Sandifer, Toole, Bowers, Hayes, Erickson and Brady

S. Printed 2/29/12--S. [SEC 3/1/12 12:08 PM]

Read the first time March 15, 2011.

**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 MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38‑13‑80; 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.

Amend Title To Conform

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

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 ~~under Section 38‑11‑100~~ on the most recent statutory financial statement of the insurer 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 most recent statutory financial statement of the insurer 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 most recent statutory financial statement of the insurer 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 most recent statutory financial statement filed of the insurer 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~~ 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 ~~must~~ also must include provisions to cover all incurred, unpaid claim liability in the event of the termination of the health maintenance ~~organization’s termination~~ 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 ~~conversion~~ policy to ~~any~~ an enrollee upon termination of the health maintenance organization or the ~~enrollee’s~~ ineligibility of the enrollee 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. 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 ‘MEWA’ means ~~any~~ a plan or arrangement ~~which is~~ established or maintained ~~for the purpose of offering or providing~~ 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.”

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.”

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

“Section 38‑41‑80. ~~Every~~ 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.”

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

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