

## Session 121 - (2015-2016)

### S\*0342 (Rat #0003, Act #0002 of 2015) General Bill, By Hayes

**Summary:** Annual Enterprise Risk report

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-21-225 SO AS TO REQUIRE FILING OF AN ANNUAL ENTERPRISE RISK REPORT BY THE ULTIMATE CONTROLLING PERSON OF AN INSURANCE HOLDING COMPANY, AND TO PROVIDE SPECIFIC REQUIREMENTS FOR THE CONTENT OF THE REPORT; BY ADDING SECTION 38-21-285 SO AS TO ENABLE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OR HIS DESIGNEE TO PARTICIPATE IN CERTAIN SUPERVISORY COLLEGES, TO PROVIDE RELATED POWERS AND DUTIES, AND TO PROVIDE FOR THE PAYMENT OF RELATED EXPENSES; TO AMEND SECTION 38-21-10, AS AMENDED, RELATING TO DEFINITIONS IN THE INSURANCE HOLDING COMPANY REGULATORY ACT, SO AS TO DEFINE THE TERM "ENTERPRISE RISK"; TO AMEND SECTION 38-21-60, RELATING TO THE STATEMENT REQUIRED BY A PERSON SEEKING TO ACQUIRE CONTROL OF AN INSURER, SO AS TO IMPOSE CERTAIN NOTICE REQUIREMENTS; TO AMEND SECTION 38-21-70, RELATING TO THE CONTENTS OF A STATEMENT THAT MUST BE FILED BY A PERSON SEEKING TO ACQUIRE CONTROL OF AN INSURER, SO AS TO REVISE THE CONTENT REQUIREMENTS; TO AMEND SECTION 38-21-90, RELATING TO APPROVAL BY THE DIRECTOR OF THE ACQUISITION OF CONTROL OF AN INSURER, SO AS TO PROVIDE SPECIFIC REQUIREMENTS FOR PUBLIC HEARINGS WHERE APPROVAL OF MORE THAN ONE COMMISSIONER IS REQUIRED, AND TO DEFINE THE TERM "COMMISSIONER"; TO AMEND SECTION 38-21-110, RELATING TO VIOLATIONS OF CERTAIN PROVISIONS OF THE ACT, SO AS TO INCLUDE EFFECTUATION OF THE DIVESTITURE OF A DOMESTIC INSURER WITHOUT APPROVAL BY THE DIRECTOR OR HIS DESIGNEE; TO AMEND SECTION 38-21-125, RELATING TO ACQUISITIONS OF INSURERS EXEMPT FROM THE ACT, SO AS TO REMOVE CERTAIN ACQUISITIONS SUBJECT TO APPROVAL OR DISAPPROVAL BY THE DIRECTOR OR HIS DESIGNEE FROM THESE EXEMPTIONS; TO AMEND SECTION 38-21-130, RELATING TO THE REGISTRATION OF MEMBERS OF INSURANCE HOLDING COMPANY SYSTEMS, SO AS TO MAKE A TECHNICAL CORRECTION TO AN INCORRECT REFERENCE; TO AMEND SECTION 38-21-140, RELATING TO REQUIRED STATEMENTS OF REGISTERING MEMBERS OF INSURANCE HOLDING COMPANY SYSTEMS, SO AS TO ADD CERTAIN FINANCIAL STATEMENTS AND A STATEMENT CONCERNING THE GOVERNANCE AND INTERNAL CONTROLS OF THE INSURER BY ITS BOARD, AMONG OTHER THINGS; TO AMEND SECTION 38-21-220, RELATING TO DISCLAIMERS OF AFFILIATION, SO AS TO DELETE LANGUAGE REGARDING CERTAIN REGISTRATION AND REPORTING REQUIREMENTS, AND TO PROVIDE THAT A DISCLAIMER MUST BE CONSIDERED GRANTED ABSENT CERTAIN NOTIFICATION BY THE DIRECTOR, AND TO PROVIDE RELIEF FOR A DENIAL; TO AMEND SECTION 38-21-230, RELATING TO FAILURE TO TIMELY FILE A REGISTRATION STATEMENT OR AMENDMENT TO A REGISTRATION STATEMENT, SO AS TO INCLUDE ENTERPRISE RISK FILING; TO AMEND SECTION 38-21-250, RELATING TO STANDARDS FOR TRANSACTIONS BETWEEN REGISTERED INSUREDS AND THEIR AFFILIATES, SO AS TO PROVIDE THAT AGREEMENTS FOR COST-SHARING SERVICES AND MANAGEMENT MUST INCLUDE PROVISIONS REQUIRED BY REGULATION, TO INCLUDE AMENDMENTS OR MODIFICATIONS OF CERTAIN AFFILIATE AGREEMENTS AMONG TRANSACTIONS INVOLVING DOMESTIC INSURERS AND ANY PERSON IN AN INSURANCE HOLDING COMPANY SYSTEM THAT REQUIRES CERTAIN NOTICE TO THE DEPARTMENT, AND TO PROVIDE REQUIREMENTS FOR THIS NOTICE, AMONG OTHER THINGS; TO AMEND SECTION 38-21-280, RELATING TO THE POWER OF THE DIRECTOR TO COMPEL PRODUCTION OF CERTAIN INFORMATION FROM INSURERS, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 38-21-290, RELATING TO CONFIDENTIAL INFORMATION, SO AS TO REVISE THE REQUIREMENTS TO MAKE THE INFORMATION PRIVILEGED AND NOT SUBJECT TO DISCOVERY OR THE FREEDOM OF INFORMATION ACT, AND TO PROVIDE FOR USE OF THIS INFORMATION BY THE DIRECTOR OR HIS DESIGNEE, AMONG OTHER THINGS, AND TO PROVIDE NEITHER THE DIRECTOR NOR HIS DESIGNEE MAY BE REQUIRED TO TESTIFY ABOUT THIS INFORMATION IN A PRIVATE CIVIL ACTION; TO AMEND SECTION 38-21-340, RELATING TO CRIMINAL PROSECUTIONS AND VIOLATIONS, SO AS TO PROVIDE THAT CERTAIN VIOLATIONS MAY SERVE AS AN INDEPENDENT BASIS FOR THE DIRECTOR TO DISAPPROVE DIVIDENDS OR DISTRIBUTIONS AND FOR PLACING THE INSURER UNDER AN ORDER OF SUPERVISION; AND TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 38 TO RISK RETENTION GROUPS LICENSED AS A CAPTIVE INSURANCE COMPANY, SO AS TO MAKE CONFORMING CHANGES. - ratified title

01/15/15 Senate Introduced and read first time (Senate Journal-page 20)

01/15/15 Senate Referred to Committee on Banking and Insurance (Senate Journal-page 20)

01/29/15 Senate Committee report: Favorable Banking and Insurance (Senate Journal-page 7)

02/03/15 Senate Read second time (Senate Journal-page 18)

02/03/15 Senate Roll call Ayes-40 Nays-0 (Senate Journal-page 18)  
02/03/15 Scrivener's error corrected  
02/04/15 Senate Read third time and sent to House (Senate Journal-page 47)  
02/05/15 House Introduced and read first time (House Journal-page 9)  
02/05/15 House Referred to Committee on Labor, Commerce and Industry (House Journal-page 9)  
02/19/15 House Committee report: Favorable Labor, Commerce and Industry (House Journal-page 3)  
02/20/15 Scrivener's error corrected  
02/24/15 House Read second time (House Journal-page 29)  
02/24/15 House Roll call Yeas-91 Nays-0 (House Journal-page 31)  
02/25/15 House Read third time and enrolled (House Journal-page 25)  
03/05/15 Ratified R 3  
03/09/15 Signed By Governor  
03/11/15 Effective date 03/09/15  
03/16/15 Act No. 2