

## Session 107 - (1987-1988)

### **S\*0321 (Rat #0221, Act #0155 of 1987) General Bill, By Senate Banking and Insurance**

#### ***Similar (S 0110, H 2028)***

A Bill to amend Title 38, Code of Laws of South Carolina, 1976, relating to insurance, so as to, among other things, restructure the contents of the Title, rearrange and recodify the provisions of law in this State concerning insurance matters, and place in Title 38 various insurance provisions heretofore codified in other Titles of the Code of Laws or uncodified; to amend Section 15-9-280, relating to civil remedies and procedures and service on unauthorized insurer, so as to, among other things, provide that any act of transacting an insurance business as set forth in Section 38-25-110 by an unauthorized insurer is equivalent to and constitutes an irrevocable appointment by the insurer of the Secretary of State to be the true and lawful attorney of the insurer upon whom may be served all lawful process in any action, suit, or proceeding in any court by the Chief Insurance Commissioner or by the State and upon whom may be served any notice, order, pleading, or process in any proceeding before the Chief Insurance Commissioner and which arises out of transacting an insurance business in this State by the insurer, provide for the making of service of process, and impose duties on the Secretary of State; to amend Article 3 of Chapter 9 of Title 15, relating to civil remedies and procedures and personal or substitute service in the State, by adding Section 15-9-285 so as to, among other things, provide that the issuance and delivery of a policy of insurance or contract of insurance or indemnity to any person in this State or the collection of a premium thereon by an insurer not licensed in this State irrevocably constitutes the Chief Insurance Commissioner the true and lawful attorney in fact upon whom service of any and all processes, pleadings, actions, or suits arising out of the policy or contract in behalf of the insured may be made, provide for the making of service of process in the action, and impose duties upon the Chief Insurance Commissioner; to amend Section 15-9-290, relating to civil remedies and procedures and alternative method of service on unauthorized insurer, so as to, among other things, provide that service of process in any action, suit, or proceeding involving an unauthorized insurer is, in addition to that which is provided in Section 15-9-280 and Section 15-9-285, valid under certain conditions; to amend Chapter 9 of Title 23, relating to the State Fire Marshal, by adding Article 3 so as to provide for a Firemen's Insurance and Inspection Fund; to amend Title 39, relating to trade and commerce, by adding Chapter 61 so as to enact the "Motor Club Services Act"; to amend Section 56-9-480, relating to motor vehicles, proof of financial responsibility, satisfaction of judgments, and payments sufficient to satisfy requirements, so as to provide that judgments referred to in Article 5 of Chapter 9 of Title 56 must, for the purpose of this Article only, be considered satisfied when fifteen, rather than ten, thousand dollars has been credited upon any judgment rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident and when, subject to the limit of fifteen, rather than ten, thousand dollars because of bodily injury to or death of one person, the sum of thirty, rather than twenty, thousand dollars has been credited upon any judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; to amend Section 56-9-580, relating to motor vehicles, certificate of deposit of cash or securities as proof of financial responsibility, amount, and the requirement that the deposit must be held to satisfy execution on a judgment, so as to provide that proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him thirty-five, rather than thirty-six, thousand dollars in cash or securities such as may legally be purchased by savings banks or for trust funds of a market value of thirty-five, rather than thirty-six, thousand dollars; to amend Title 56, relating to motor vehicles, by adding Chapter 10 so as to provide for motor vehicle registration and financial security, including, among other things, provisions involving insurance requirements relating to motor vehicle registration; to amend Section 33-31-10, relating to the authorization to incorporate nonprofit corporations, so as to provide that mutual benevolent aid associations organized solely for the purposes defined in Section 38-35-10, rather than Section 38-23-10, may be incorporated under the provisions of Chapter 31 of Title 33; to amend Section 23-9-20, relating to duties of the State Fire Marshal, so as to delete certain language concerning the transfer to the State Fire Marshal of powers and duties vested in the Chief Insurance Commissioner pursuant to certain Code Sections; to amend Section 23-9-30, as amended, relating to resident fire marshals, so as to delete a reference to Chapter 57 of Title 38; to amend Section 15-9-300, relating to civil remedies and procedures and service on unauthorized insurer, so as to add a reference to Section 15-9-285 and delete a reference to Section 38-53-50; to amend Section 15-9-310, relating to civil remedies and procedures and service on attorney of reciprocal insurance subscribers, so as to delete references to certain Code Sections and add references to other Code Sections; to amend Section 15-9-270, relating to civil remedies and procedures and service on insurance companies, so as to delete certain language, including references to certain Code Sections, and add a reference to Section 38-5-70; to amend Section 56-9-30, relating to the provision that Chapter 9 of Title 56 is inapplicable to certain motor vehicles, so as to delete an exception related to Article 7 of Chapter 9 of Title 56; to amend Section 56-1-110, relating to motor vehicles and imputed liability of person signing application for damages caused by uninsured minor, so as to add a reference to Sections 38-77-140 through 38-77-310 as a basis for exempting a parent or guardian or other responsible adult from the liability otherwise imposed under Section

56-1-110; to amend Section 56-9-20, as amended, relating to definitions under the Motor Vehicle Financial Responsibility Act, so as to alter the definitions of "Insured Motor Vehicle", "Motor Vehicle Liability Policy", "Proof of Financial Responsibility", and "Uninsured Motor Vehicle" principally by deleting references to certain provisions or Sections of the Code of Laws and adding references to different Code Sections; to authorize and direct the Code Commissioner to place appropriate provisions of Acts dealing with insurance enacted in 1987 in the appropriate area covered by this Act, to eliminate or delete from this Act certain provisions of law, and to amend provisions of this Act corresponding to amendments of the insurance laws as may have been passed by the General Assembly during 1987 in other Acts; to amend Section 42-7-200, relating to the State Workers' Compensation Insolvency Fund, so as to delete a reference to Section 42-5-140 and replace it with a reference to Section 38-7-50; and to repeal the following: Article 7 of Chapter 9 of Title 56 relating to motor vehicles and coverage limitations, uninsured motorist provisions, and the like; Chapter 11 of Title 56 relating to the South Carolina Automobile Reparation Reform Act of 1974; Chapter 13 of Title 56 relating to motor vehicle physical damage appraisers; Chapter 9 of Title 35 relating to insider trading in securities of domestic stock insurance companies; Sections 42-5-90, 42-5-100, 42-5-110, 42-5-120, 42-5-140, 42-5-150, 42-5-160, 42-5-170, and 42-5-180 relating to various provisions on insurance and self-insurance under Workers' Compensation; Act 306 of 1975 relating to providing a contingency plan for the writing of medical malpractice liability insurance through a joint underwriting association upon the finding of an emergency by the Insurance Commission; Act 767 of 1976 relating to the writing of medical malpractice liability insurance through a joint underwriting association, including, among other things, placing pharmacists in the definition of health care provider and placing per claim and aggregate limits on the amount of insurance which may be paid to a claimant upon enactment of a Patient Compensation Fund Act; Act 104 of 1977 relating to the writing of medical malpractice liability insurance through a joint underwriting association and the creation of a Board of Governors to administer the Patients' Compensation Fund, including, among other things, increasing the membership of the Board of Directors of the Joint Underwriting Association and the membership of the Board of Governors to administer the Patients' Compensation Fund; Act 258 of 1977 relating to prohibiting the Insurance Commission, Commissioner, or Joint Underwriting Association from implementing any assessment that may be prescribed by the Joint Resolution establishing the Joint Underwriting Association for the purpose of writing medical malpractice liability insurance until July 1, 1978; Act 645 of 1978 relating to the writing of medical malpractice insurance through a Joint Underwriting Association, the establishment of a Patients' Compensation Fund, and a contingency plan for writing legal professional malpractice insurance through a Joint Underwriting Association, including, among other things, providing for an appeal from a ruling or action by the medical or legal association or the Patients' Compensation Fund to the Insurance Commission; Act 257 of 1977, Act 662 of 1978, Act 221 of 1979, and Act 200 of 1981 relating to the writing of medical malpractice liability insurance through a Joint Underwriting Association and the extension of the expiration date of the Underwriting Association; Act 199 of 1983 relating to the writing of medical malpractice liability insurance through a Joint Underwriting Association and deletion of the requirement that the Association expire on December 31, 1983; Act 440 of 1986 relating to the provision that no health maintenance organization may prohibit any licensed physician, podiatrist, optometrist, or oral surgeon from participating as a provider in the organization on the basis of his profession and to the provision that nothing in Act 440 of 1986 may be construed to interfere with the medical decision of the primary health care provider to use or not use any health professional on a case-by-case basis; Act 518 of 1986 relating to the adding of a Section to the Code of Laws so as to provide for educational requirements for applicants for insurance agents' licenses and to make exceptions; Subsection A of Section 31 of Part II of Act 540 of 1986 (The General Appropriations Act) relating to, among other things, the requirement that every insurance company of any class, except certain benevolent institutions, shall, before transacting any business in this State, pay a license fee of four hundred dollars to the Chief Insurance Commissioner and shall thereafter pay an annual license fee of four hundred dollars; Subsection B of Section 31 of Part II of Act 540 of 1986 relating to the levy upon each insurance company licensed by the Commissioner of an insurance premium tax based upon total premiums, other than Workers' Compensation insurance premiums, and annuity considerations, collected by the company in the State during each calendar year; Subsection C of Section 31 of Part II of Act 540 of 1986 relating to, among other things, the requirement that, not later than March first of each year, every insurance company licensed by the Commissioner shall file with him a return of premiums collected by the company in the State during the immediately preceding calendar year ending on December thirty-first; Subsection D of Section 31 of Part II of Act 540 of 1986 relating to, among other things, the provision that one-fourth of the insurance premium taxes collected under Subsection B of this Section 31, and one-fourth of the retaliatory collections made under Subsection E of this Section 31 which are attributable to the tax levied in Subsection B, are allotted to the several counties, respectively, in proportion to the latest official United States Census of the counties, and are appropriated to ordinary county purposes; Subsection E of Section 31 of Part II of Act 540 of 1986 relating to, among other things, the requirement that, under certain conditions, similar insurance companies of other states establishing or having theretofore established an agency or agencies in South Carolina shall make a particular deposit for a particular purpose with the Commissioner; Subsection F of Section 31 of Part II of Act 540 of 1986 relating to an

amendment of a Section of the Code of Laws concerning a return to the Chief Insurance Commissioner by fire insurance companies; Subsection G of Section 31 of Part II of Act 540 of 1986 relating to, among other things, the provisions that any insurer or rating organization affected by certain provisions of law may, at any time up until April 1, 1987, make a filing with the Commissioner requesting a change in rates solely to reflect changes in certain imposed tax liabilities; Subsection H of Section 31 of Part II of Act 540 of 1986 relating to the provision that each license issued under Article 1 of Chapter 5 of Title 38 is for an indefinite term unless sooner revoked or suspended; Subsection J of Section 31 of Part II of Act 540 of 1986 relating to the provision that the quarterly payments required of insurance companies for June 1, 1986, and September 1, 1986, are due and payable to the Chief Insurance Commissioner on or before September 1, 1986; Subsection K of Section 31 of Part II of Act 540 of 1986 relating to an amendment of a Section of the Code of Laws concerning the payment of an annual license fee; Subsection L of Section 31 of Part II of Act 540 of 1986 relating to an amendment of a Section of the Code of Laws concerning the fee for an adjuster's license under the insurance laws; Subsection M of Section 31 of Part II of Act 540 of 1986 relating to an amendment of a Section of the Code of Laws concerning fees for insurance agents' licenses and the issuance of semiannual licenses; and Subsection N of Section 31 of Part II of Act 540 of 1986 relating to an amendment of a Section of the Code of Laws concerning licenses for appraisers for motor vehicle physical damage claims, the license fee, and regulations; and Act 513 of 1986, relating to motor vehicle theft and motor vehicle insurance fraud reporting immunity.

**01/28/87 Senate Introduced, read first time, placed on calendar without reference SJ-320**  
**02/05/87 Senate Read second time SJ-460**  
**02/05/87 Senate Unanimous consent for third reading on next legislative day SJ-467**  
**02/06/87 Senate Read third time and sent to House SJ-484**  
**02/10/87 House Introduced and read first time HJ-451**  
**02/10/87 House Referred to Committee on Labor, Commerce and Industry HJ-458**  
**05/06/87 House Committee report: Favorable Labor, Commerce and Industry HJ-2446**  
**05/14/87 House Read second time HJ-1728**  
**05/14/87 House Unanimous consent for third reading on next legislative day HJ-1736**  
**05/15/87 House Read third time and enrolled HJ-2831**  
**06/04/87 Ratified R 221**  
**06/05/87 Signed By Governor**  
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