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Indicates New Matter

AMENDED

May 14, 2009

**S. 202**

Introduced by Senator Thomas

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Read the first time March 25, 2009.

**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.

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 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. Section 38‑73‑737 of the 1976 Code is amended to read:

“Section 38‑73‑737. (A) Premium rates charged for liability coverages and collision coverage under a private passenger automobile insurance policy are subject to an appropriate driver training course credit once satisfactory evidence is presented that an applicant for the credit~~, who is not subject to the youthful operator approved driver training course credit mandated by Regulation 69‑13.2(C),~~ has completed successfully an approved driver training course. The amount of the credit may be determined by each individual insurer based upon factually or statistically supported data and is subject to prior approval by the commissioner. The credit must be afforded to the operator for thirty‑six months from the date the approved driver training course was completed. The insurer may require as a condition of providing and maintaining the credit, that the insured for a three‑year period after course completion not be involved in an accident for which the insured is at fault. The credit must be afforded by each insurer in a nondiscriminatory manner to all applicants~~, other than those considered within Regulation 69‑13.2(C)~~.

(B) ‘An approved driver training course’ for purposes of this section is a driver training course which has been approved by the Department of Motor Vehicles and was conducted by:

(1) a recognized college or university;

(2) instructors certified by the Department of Motor Vehicles; or

(3) any other school approved and supervised by the Department of Motor Vehicles.

(C) The requirements of the course, in order to qualify for the insurance credit, must include the following minimum criteria:

(1) ~~eight~~ six hours of classroom instruction;

(2) the teaching method must include group discussion, lecture, and visual presentations;

(3) the course materials must include age‑related physical changes affecting older drivers, accident prevention measures, and a basic review of the rules‑of‑the‑road including, but not limited to, rights of way, backing, entering, and leaving interstate highways; and

(4) a relevant test on the course material.

(D) For purposes of this section ‘satisfactory evidence’ is a certificate signed by an official of the school or the Department of Motor Vehicles, which certifies that:

(1) the person achieved a passing grade on a relevant test on the course material;

(2) the course was approved by and the instructors were certified by the Department of Motor Vehicles; and

(3) the school was approved and supervised by the Department of Motor Vehicles.

(E) Only the vehicle driven by drivers who have completed successfully the driver training course qualifies for the insurance credit. In order for the credit to apply, the certificate must be furnished by the named insured~~,~~ or principal operator of the insured vehicle~~, and all occasional operators named in the policy as provided in Department of Insurance Regulation 69‑13.1(II)(C)~~. Other vehicles which may be operated by other family members who have not completed the driver training course do not qualify for the insurance credit unless the primary driver of the additional vehicle has successfully completed the driver training course.

(F)(1) An applicant meeting the requirements of this section and receiving a driver training course credit may renew the insurance credit by completing a four hour driver training refresher course that has been approved by the Department of Motor Vehicles and furnishing satisfactorily evidence to the insurer within sixty days from the termination of the preceding thirty‑six months effective period.

(2) An applicant that fails to renew the insurance credit as provided for in item (1) of this subsection shall complete successfully an approved driver training course as provided for in subsection (C) in order to qualify for the insurance credit.

(G) Only driver training courses taken on a voluntary basis qualify for the insurance credit. Driver training courses taken as a requirement of a driving offense including, but not limited to, ADSAP or driver training courses taken to reduce the number of traffic violation points against a driver’s license, do not qualify for the insurance credit provided in this section.”

SECTION 9. Section 38‑77‑112 of the 1976 Code is amended to read:

“Section 38‑77‑112. Notwithstanding Section 38‑77‑280, ~~no~~ an automobile insurer is not required to write coverage for automobile insurance as defined in Section 38‑77‑30 for ~~any~~ an applicant or existing policyholder. An insurer or an agent shall retain, for a period of three years, the driver’s license numbers for all persons who have submitted an application for insurance but who were refused coverage and shall furnish ~~such~~ this information upon the request of the director of the Department of Insurance or his designee. This section does not apply to an individual who is handicapped and who owns a vehicle in this State but who does not have a valid driver’s license. If an automobile is principally garaged and operated in this State, the owner of the vehicle can be offered coverage ~~thereon~~ on it regardless of whether or not he possesses a valid South Carolina driver’s license if he designates to the insurer who the principal operator of the vehicle will be and this person has a valid South Carolina driver’s license or otherwise meets the requirements of this section. This requirement does not apply to personnel of the Armed Forces of the United States on active duty and officially stationed in this State who possess a valid motor vehicle driver’s license issued by another state or territory of the United States or the District of Columbia or to an individual exempt from licensing requirements by Section 56‑1‑30. This requirement is waived ninety days for individuals who move into South Carolina with the intent of making South Carolina their place of residence if they possess a valid driver’s license issued by another state or territory of the United States or the District of Columbia.”

SECTION 10. Section 38‑71‑1730(A)(3) of the 1976 Code is amended to read:

“(3) Differences between coinsurance percentages for in‑network and out‑of‑network covered health care services or supplies in a point‑of‑service option may not exceed a maximum differential of ~~twenty~~ thirty percent. The coinsurance percentage for in‑network and out‑of‑network covered health care services or supplies provided by dentists may not exceed a maximum difference of five percent.”

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

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