

Session 116 - (2005-2006)

H*3996 (Rat #0368, Act #0332 of 2006) General Bill, By Cato, Chellis, Tripp, Scarborough and Clemons Similar (S 0792)

Summary: Special Purpose Financial Captive (SPFC)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-90-485 SO AS TO PROVIDE THAT THE CREATION OF A PROTECTED CELL DOES NOT CREATE A LEGAL PERSON SEPARATE FROM A SPECIAL PURPOSE FINANCIAL CAPTIVE (SPFC); BY ADDING SECTION 38-90-515 SO AS TO PROVIDE THAT SECURITIES ISSUED BY A SPFC PURSUANT TO INSURANCE SECURITIZATION MAY NOT BE CONSIDERED TO BE INSURANCE OR INSURANCE CONTRACTS; TO AMEND SECTION 38-13-400, RELATING TO THE REPORT REQUIRED TO BE FILED DISCLOSING MATERIAL ACQUISITIONS AND DISPOSITIONS OF ASSETS OR MATERIAL NONRENEWALS, CANCELLATIONS, OR REVISIONS OF CEDED REINSURANCE, SO AS TO REQUIRE HEALTH MAINTENANCE ORGANIZATIONS DOMICILED IN THIS STATE TO FILE THIS REPORT, TO DELETE THE PROVISION THAT A COPY OF THE REPORT MUST BE FILED WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND TO PROVIDE THAT THE PROVISIONS OF THIS SECTION APPLY TO HEALTH MAINTENANCE ORGANIZATIONS; TO AMEND SECTION 38-13-410, RELATING TO REPORTING AN INSURER'S ACQUISITIONS OR DISPOSITIONS OF ASSETS, SO AS TO ADD HEALTH MAINTENANCE ORGANIZATIONS TO THE REPORTING REQUIREMENTS; TO AMEND SECTION 38-13-420, RELATING TO REPORTING NONRENEWALS, CANCELLATIONS, OR REVISIONS OF CEDED REINSURANCE AGREEMENTS, SO AS TO ADD HEALTH MAINTENANCE ORGANIZATIONS TO THE REPORTING REQUIREMENTS; TO AMEND SECTION 38-71-880, AS AMENDED, RELATING TO MEDICAL AND SURGICAL BENEFITS AND MENTAL BENEFITS COVERAGE, SO AS TO CHANGE THE DATE FOR THE APPLICABILITY OF BENEFITS FOR SERVICES FURNISHED; TO AMEND SECTION 38-71-1410, RELATING TO THE SOUTH CAROLINA SMALL EMPLOYER INSURER REINSURANCE PROGRAM, SO AS TO ESTABLISH CODE REFERENCES FOR SELECTING A LICENSED ADMINISTRATOR INSTEAD OF AN ADMINISTERING INSURER; TO AMEND SECTION 38-73-220, RELATING TO THE APPROVAL PROCESS FOR INSURANCE RATE LEVEL CHANGES, SO AS TO CHANGE CODE REFERENCES FROM THE ARTICLE TO THE CHAPTER; TO AMEND SECTION 38-73-240, RELATING TO RATE FILINGS WHERE THE LINE OF INSURANCE IS DECLARED COMPETITIVE, SO AS TO CHANGE CODE REFERENCES FROM ARTICLE TO CHAPTER; TO AMEND SECTION 38-73-260, RELATING TO THE APPROVAL PROCESS FOR INSURANCE RATE LEVEL CHANGES, SO AS TO CHANGE CODE REFERENCES FROM ARTICLE TO CHAPTER; TO AMEND SECTION 38-73-270, RELATING TO THE CONSUMER INFORMATION SYSTEM FOR VARIOUS TYPES OF INSURANCE COVERAGE, SO AS TO CHANGE CODE REFERENCES FROM ARTICLE TO CHAPTER; TO AMEND SECTION 38-74-30, AS AMENDED, RELATING TO ELIGIBILITY FOR COVERAGE UNDER THE SOUTH CAROLINA HEALTH INSURANCE POOL, SO AS TO FURTHER DEFINE COVERAGE FOR AN INDIVIDUAL UNDER THE AGE OF SIXTY-FIVE; TO AMEND SECTION 38-74-60, AS AMENDED, RELATING TO COVERAGE UNDER THE POOL'S MAJOR EXPENSE PROVISIONS, SO AS TO PROVIDE MEDICARE SUPPLEMENTAL HEALTH INSURANCE COVERAGE TO AN INDIVIDUAL FOR REASONS OTHER THAN AGE; TO AMEND SECTION 38-77-580, AS AMENDED, RELATING TO THE GOVERNING BOARD OF THE REINSURANCE FACILITY, SO AS TO CHANGE THE COMPOSITION OF THE BOARD; TO AMEND SECTION 38-90-40, AS AMENDED, RELATING TO CAPITALIZATION AND SECURITY REQUIREMENTS FOR A CAPTIVE INSURANCE COMPANY, SO AS TO AUTHORIZE THE DIRECTOR OF INSURANCE TO ISSUE A LICENSE TO A CAPTIVE INSURANCE COMPANY IF THE COMPANY PROVIDES THE DIRECTOR WITH EVIDENCE OF MINIMUM REQUIRED UNIMPAIRED PAID-IN CAPITAL; TO AMEND SECTION 38-90-50, AS AMENDED, RELATING TO FREE SURPLUS REQUIREMENTS FOR A CAPTIVE INSURANCE COMPANY, SO AS TO AUTHORIZE THE DIRECTOR OF INSURANCE TO ISSUE A LICENSE TO A CAPTIVE INSURANCE COMPANY CONDITIONED ON EVIDENCE OF MINIMUM REQUIRED FREE SURPLUS; TO AMEND SECTION 38-90-100, AS AMENDED, RELATING TO APPLICABILITY OF INVESTMENT REQUIREMENTS FOR AN ASSOCIATION CAPTIVE INSURANCE COMPANY AND AN INDUSTRIAL INSURED CAPTIVE INSURANCE COMPANY, SO AS TO CHANGE A REFERENCE FROM AN INDUSTRIAL INSURED CAPTIVE INSURANCE COMPANY TO A CAPTIVE INSURANCE COMPANY AND ADD A REFERENCE TO A SPECIAL PURPOSE CAPTIVE INSURANCE COMPANY; TO AMEND SECTION 38-90-140, AS AMENDED, RELATING TO THE TAX REQUIRED TO BE PAID TO THE DEPARTMENT OF INSURANCE BY A CAPTIVE INSURANCE COMPANY, SO AS TO CLARIFY ON WHAT THE TAX IS PAYABLE AND ESTABLISH A MAXIMUM TAX; TO AMEND SECTION 38-90-175, RELATING TO THE CAPTIVE INSURANCE REGULATORY AND SUPERVISION FUND, SO AS TO INCREASE FROM TEN TO TWENTY PERCENT THE AMOUNT OF FUNDS THE DEPARTMENT OF INSURANCE SHALL TRANSFER INTO THE FUND; TO AMEND SECTION 38-90-420, RELATING TO DEFINITIONS USED REGARDING SPECIAL PURPOSE FINANCIAL CAPTIVE INSURANCE COMPANIES, SO AS TO ADD THE DEFINITIONS OF "ADMINISTRATIVE LAW

COURT", "CONTESTED CASE", AND "THIRD PARTY", AND CHANGE THE DEFINITION OF "INSOLVENCY"; TO AMEND SECTION 38-90-430, RELATING TO THE RELATIONSHIP OF ARTICLE 3, CHAPTER 90, TITLE 38 (SPECIAL PURPOSE FINANCIAL CAPTIVES) TO OTHER TITLE 38 PROVISIONS, SO AS TO ADD A REFERENCE TO A SPFC'S PROTECTED CELL; TO AMEND SECTION 38-90-440, AS AMENDED, RELATING TO THE REQUIREMENTS OF A SPFC TO TRANSACT BUSINESS IN THIS STATE, SO AS TO CHANGE AND ADD CERTAIN REQUIREMENTS; TO AMEND SECTION 38-90-450, RELATING TO ORGANIZATIONAL REQUIREMENTS OF A SPFC, SO AS TO DELETE THE REQUIREMENT THAT CAPITAL STOCK OF A SPFC MUST BE ISSUED AT NOT LESS THAN PAR VALUE; TO AMEND SECTION 38-90-480, RELATING TO THE ESTABLISHMENT OF PROTECTED CELLS BY A SPFC, SO AS TO CHANGE THE PROCEDURE FOR ESTABLISHING PROTECTED CELLS; TO AMEND SECTION 38-90-550, RELATING TO A MATERIAL CHANGE OF A SPFC'S PLAN OF OPERATION, SO AS TO REQUIRE A STATEMENT OF OPERATIONS BE FILED IF APPROVED OR REQUIRED RATHER THAN REQUESTED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-90-570, RELATING TO THE EXPIRATION OF AUTHORITY GRANTED BY THE DIRECTOR OF INSURANCE ON CESSATION OF BUSINESS, SO AS TO AUTHORIZE THAT THE DIRECTOR SUSPEND OR REVOKE THE LICENSE OF A SPFC FOR FAILURE TO MEET THE PROVISIONS OF SECTION 38-90-480(D); TO AMEND SECTION 38-90-600, RELATING TO THE AUTHORITY OF THE DIRECTOR OF INSURANCE TO PETITION THE CIRCUIT COURT FOR AN ORDER TO CONSERVE, REHABILITATE, OR LIQUIDATE A SPFC DOMICILED IN THIS STATE FOR CERTAIN GROUNDS, SO AS TO ADD ADDITIONAL GROUNDS; TO AMEND SECTION 38-90-620, RELATING TO STANDARDS AND CRITERIA APPLICABLE IN A CONTESTED CASE BROUGHT BY A THIRD PARTY BASED ON THE DECISION OF THE DIRECTOR OF INSURANCE INVOLVING A SPFC, SO AS TO MODIFY THE STANDARDS AND CRITERIA; TO AMEND ACT 291 OF 2004, RELATING TO VARIOUS AMENDMENTS TO THE INSURANCE LAW, SO AS TO DELAY THE EFFECTIVE DATE OF SECTION 38-43-106(H) OF THE 1976 CODE FROM MAY 1, 2006 TO MAY 1, 2010; TO AMEND SECTION 38-75-370, RELATING TO DUTIES OF THE MEMBERS OF THE SOUTH CAROLINA WIND AND HAIL UNDERWRITING ASSOCIATION, SO AS TO REVISE THE PERIOD OF TIME IN WHICH THE MEMBERS OF THE ASSOCIATION SHALL PARTICIPATE IN ITS WRITINGS, EXPENSES, PROFITS, AND LOSSES IN THE PROPORTION THAT THE NET DIRECT PREMIUM OF THE MEMBER WRITTEN IN THIS STATE; AND TO REPEAL SECTION 38-71-120 WHICH PROVIDES CERTAIN HOSPITAL SERVICE DISCOUNTS TO INSURERS. - ratified title

04/27/05	House	Introduced and read first time HJ-1
04/27/05	House	Referred to Committee on Labor, Commerce and Industry HJ-2
05/03/06	House	Committee report: Favorable with amendment Labor, Commerce and Industry HJ-5
05/09/06	House	Amended HJ-34
05/09/06	House	Read second time HJ-37
05/10/06	House	Read third time and sent to Senate HJ-19
05/16/06	Senate	Introduced, read first time, placed on calendar without reference
05/24/06	Senate	Amended SJ-38
05/24/06	Senate	Read second time SJ-38
05/25/06	Senate	Read third time and returned to House with amendments SJ-10
05/30/06	House	Concurred in Senate amendment and enrolled HJ-45
05/31/06		Ratified R 368
06/01/06		Signed By Governor
06/12/06		Copies available
06/12/06		Effective date 06/01/06
06/16/06		Act No. 332