

## Session 115 - (2003-2004)

### S\*0549 (Rat #0147, Act #0073 of 2003) General Bill, By Land, Martin, J.V. Smith, Hawkins and McConnell

#### Summary: Second Injury Fund

AN ACT TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 PERTAINING TO INSURANCE, SO AS TO CHANGE THE DEFINITION OF "EXEMPT COMMERCIAL POLICIES" TO DELETE THE REQUIREMENT THAT THE DEFINITION INCLUDE POLICIES FOR WHICH PREMIUMS FOR ONE INSURED IS GREATER THAN FIFTY THOUSAND DOLLARS ANNUALLY; TO AMEND SECTION 38-7-20, RELATING TO INSURANCE PREMIUM TAXES, SO AS TO CHANGE THE BASIS ON WHICH THESE TAXES ARE ASSESSED ON PREMIUMS TO WRITTEN RATHER THAN COLLECTED; TO AMEND SECTION 38-21-170, AS AMENDED, RELATING TO REPORTING DIVIDENDS AND DISTRIBUTIONS TO SHAREHOLDERS TO THE DEPARTMENT, SO AS TO INCREASE FROM TEN TO FIFTEEN THE NUMBER OF DAYS BEFORE PAYMENT THE REPORT MUST BE GIVEN; TO AMEND SECTION 38-21-270, AS AMENDED, RELATING TO THE PAYMENT OF AN EXTRAORDINARY DIVIDEND OR DISTRIBUTION TO THE SHAREHOLDERS OF A DOMESTIC INSURER, SO AS TO CLARIFY THE DEPARTMENT OF INSURANCE REVIEW OF THIS TYPE OF DISTRIBUTION; TO AMEND SECTION 38-41-60, RELATING TO HOLDING IN TRUST FUNDS COLLECTED FROM PARTICIPATING EMPLOYERS UNDER MULTIPLE EMPLOYER SELF-INSURED HEALTH PLANS, SO AS TO CORRECT AN INTERNAL CODE CITATION; TO AMEND SECTION 38-43-10, AS AMENDED, RELATING TO PERSONS CONSIDERED AS INSURANCE AGENTS, SO AS TO CORRECT AN INTERNAL CODE CITATION; TO AMEND SECTION 38-43-40, AS AMENDED, RELATING TO THE RIGHT TO APPOINT PRODUCERS BY A LICENSED INSURER, SO AS TO REMOVE PROVISIONS THAT REQUIRE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO APPROVE THE APPOINTMENT OF PRODUCERS BEFORE THEY TAKE RISK OR TRANSACT BUSINESS; TO AMEND SECTION 38-43-50, AS AMENDED, RELATING TO THE REQUIREMENT THAT APPLICANTS FOR A LIMITED LINE OR SPECIAL PRODUCER'S LICENSE MUST BE VOUCHED FOR BY AN OFFICIAL OR LICENSED REPRESENTATIVE OF THE INSURER FOR WHICH THE APPLICANT PROPOSES TO ACT, SO AS TO DELETE PROVISIONS REQUIRING THE APPLICANT TO BE APPOINTED BY AN OFFICIAL OR AUTHORIZED REPRESENTATIVE OF THE INSURER BEFORE THE APPLICANT CAN ACT AS A PRODUCER; TO AMEND SECTION 38-43-70, AS AMENDED, RELATING TO LICENSING OF A NONRESIDENT PRODUCER BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, SO AS TO CORRECT AN INTERNAL CODE CITATION; TO AMEND SECTION 38-43-100, AS AMENDED, RELATING TO THE APPLICATION FOR AND ISSUANCE OF A PRODUCERS' LICENSE BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, SO AS TO DELETE CONFLICTING PROVISIONS THAT AUTHORIZE THE DIRECTOR TO WAIVE THE EXAMINATION AND ISSUE TEMPORARY LICENSES FOR A PERIOD NOT TO EXCEED NINETY DAYS; TO AMEND SECTION 38-43-105, AS AMENDED, RELATING TO EDUCATION REQUIREMENTS FOR LOCAL AND GENERAL INSURANCE AGENTS, SO AS TO DELETE CONFLICTING PROVISIONS AND CLARIFY WHO MUST COMPLY WITH PRE-LICENSING REQUIREMENTS; TO AMEND SECTION 38-43-106, AS AMENDED, RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR INSURANCE AGENTS, SO AS TO SUBSTITUTE HOME STATE FOR RESIDENT STATE AS THE REQUIREMENT FOR SATISFYING RECIPROCAL CONTINUING INSURANCE EDUCATION REQUIREMENTS FOR NONRESIDENT PRODUCERS; TO AMEND SECTION 38-45-20, RELATING TO REQUIREMENTS FOR A RESIDENT TO BE LICENSED AS AN INSURANCE BROKER, SO AS TO DELETE THE TWO-YEAR WAITING PERIOD FOR RESIDENT SURPLUS LINES INSURANCE BROKERS AND TO REQUIRE SUCCESSFUL COMPLETION OF TWELVE HOURS OF CLASSROOM INSURANCE COURSES; TO AMEND SECTION 38-45-30, RELATING TO REQUIREMENTS FOR A NONRESIDENT INSURANCE BROKER, SO AS TO DELETE THE REQUIREMENT FOR NONRESIDENT BROKERS TO FURNISH A TEN THOUSAND DOLLAR SURETY BOND; TO AMEND SECTION 38-71-880, AS AMENDED, RELATING TO MEDICAL, SURGICAL, AND MENTAL HEALTH BENEFITS OFFERED IN CONNECTION WITH A GROUP HEALTH INSURANCE PLAN, SO AS TO EXTEND THE SUNSET PROVISION TO DECEMBER 31, 2003, TO COMPLY WITH FEDERAL LAW; TO AMEND SECTION 38-77-870, RELATING TO THE AVAILABILITY OF ASSIGNMENT OF RISKS TO NONRESIDENTS, SO AS TO PROVIDE AN EXCEPTION FOR MILITARY RISKS THAT ARE PRINCIPALLY GARAGED IN THIS STATE TO BE ASSIGNED BY THE PLAN; TO AMEND SECTION 38-79-420, RELATING TO THE CREATION OF THE SOUTH CAROLINA PATIENTS' COMPENSATION FUND, SO AS TO INCREASE FROM ONE TO TWO HUNDRED THOUSAND DOLLARS THE AMOUNT THE FUND PAYS IN EXCESS OF FOR EACH INCIDENT AND INCREASES FROM THREE TO SIX HUNDRED THOUSAND DOLLARS THE AMOUNT THE FUND PAYS IN EXCESS OF IN THE AGGREGATE FOR ONE YEAR; TO AMEND SECTION 56-9-20, AS AMENDED, RELATING TO DEFINITIONS USED IN CONNECTION WITH MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT, SO AS TO INCREASE THE MINIMUM LIMITS FOR PROPERTY DAMAGE FROM FIVE TO TEN THOUSAND DOLLARS; TO AMEND ACT 313 OF 2002, RELATING TO MINIMUM VALUES ON CERTAIN ANNUITIES, SO AS TO EXTEND THE EFFECTIVE DATE THROUGH JUNE 30, 2005; TO

AMEND SECTION 38-75-460, RELATING TO THE AUTHORITY OF THE DIRECTOR TO EXPAND THE AREA IN WHICH THE ASSOCIATION MUST PROVIDE ESSENTIAL PROPERTY INSURANCE, SO AS TO REDEFINE THE EXPANSION PARAMETERS AND PROVIDE THE DIRECTOR'S POWERS AND DUTIES; AND TO AMEND SECTION 42-7-310, AS AMENDED, RELATING TO FUNDING OF THE WORKERS' COMPENSATION SECOND INJURY FUND, SO AS TO DELETE THE THIRTY-DAY REQUIREMENT AND PROVIDE THAT FAILURE TO PAY THE ASSESSMENT AND PENALTY BARS RECOVERY FROM THE FUND; TO AMEND SECTION 42-9-400, AS AMENDED, RELATING TO THE MANNER IN WHICH AN EMPLOYER OR INSURANCE CARRIER IS REIMBURSED FROM THE SECOND INJURY FUND WHEN A DISABILITY RESULTS FROM A PREEXISTING IMPAIRMENT AND SUBSEQUENT INJURY, SO AS TO DELETE THE REQUIREMENT THAT THE EXISTENCE OF THE CONDITION BE UNKNOWN TO THE EMPLOYEE; TO AMEND SECTION 42-9-410, RELATING TO NOTICE OF PREEXISTING PERMANENT PHYSICAL IMPAIRMENT TO RECEIVE ADDITIONAL BENEFITS FROM THE SECOND INJURY FUND, SO AS TO CHANGE THE REQUIREMENT FROM NOTICE TO KNOWLEDGE OF THE EMPLOYEE'S PREEXISTING PERMANENT PHYSICAL IMPAIRMENT; TO AMEND SECTIONS 38-90-10, 38-90-20, 38-90-40, 38-90-50, 38-90-60, 38-90-140, ALL AS AMENDED, AND SECTION 38-90-200, RELATING TO CAPTIVE INSURANCE COMPANIES, SO AS TO, AMONG OTHER THINGS, AUTHORIZE CAPTIVE INSURANCE COMPANIES TO FORM AS LIMITED LIABILITY COMPANIES, TO IMPOSE A FEE FOR THE USE OF INTERNAL RESOURCES TO EXAMINE AND INVESTIGATE APPLICATIONS FOR LICENSURE, TO INCREASE THE ANNUAL RENEWAL LICENSE FEE, TO ADD A FEE TO RECOVER REASONABLE COSTS OF PROCESSING CERTIFICATIONS, AND TO LIMIT PREMIUM TAXES TO ONE HUNDRED THOUSAND DOLLARS ANNUALLY FOR DIRECT PREMIUM AND ASSUMED REINSURANCE PREMIUMS; TO AMEND SECTION 38-74-10, AS AMENDED, RELATING TO DEFINITIONS IN THE HEALTH INSURANCE POOL, SO AS TO DEFINE "QUALIFIED TAA ELIGIBLE INDIVIDUAL"; AND TO AMEND SECTION 38-74-30, AS AMENDED, RELATING TO ELIGIBILITY FOR HEALTH INSURANCE POOL COVERAGE, SO AS TO EXCEPT FROM THE THIRTY-DAY REQUIREMENT AND WAIVE THE PREEXISTING CONDITION EXCLUSION FOR A QUALIFIED TAA ELIGIBLE INDIVIDUAL. - ratified title

04/02/03 Senate Introduced and read first time SJ-8  
04/02/03 Senate Referred to Committee on Judiciary SJ-8  
04/23/03 Senate Committee report: Favorable Judiciary SJ-23  
04/24/03 Senate Read second time SJ-51  
04/24/03 Senate Ordered to third reading with notice of amendments SJ-51  
04/30/03 Senate Read third time and sent to House SJ-27  
04/30/03 House Introduced and read first time HJ-103  
04/30/03 House Referred to Committee on Labor, Commerce and Industry HJ-103  
05/29/03 House Committee report: Favorable with amendment Labor, Commerce and Industry HJ-1  
06/02/03 Scrivener's error corrected  
06/03/03 House Requests for debate-Rep(s). FN Smith, Allen, Breeland, Hosey, Cato, Clyburn, J Hines and JE Brown HJ-94  
06/04/03 House Requests for debate removed-Rep(s). JE Brown, Breeland, Allen, FN Smith, Clyburn, Hosey and J Hines HJ-50  
06/04/03 House Debate adjourned HJ-51  
06/04/03 House Amended HJ-76  
06/04/03 House Read second time HJ-85  
06/05/03 House Read third time and returned to Senate with amendments HJ-7  
06/05/03 Senate House amendment amended SJ-119  
06/05/03 Senate Returned to House with amendments SJ-119  
06/05/03 House Non-concurrence in Senate amendment HJ-210  
06/05/03 Senate Senate insists upon amendment and conference committee appointed Martin, McGill, Malloy SJ-214  
06/05/03 House Conference committee appointed Reps. Tripp, Scarborough and Young HJ-247  
06/05/03 House Conference report received and adopted HJ-283  
06/05/03 Senate Conference report received and adopted SJ-213  
06/05/03 House Ordered enrolled for ratification HJ-352  
06/05/03 Ratified R 147  
06/09/03 Scrivener's error corrected  
06/25/03 Signed By Governor

07/01/03  
07/01/03  
07/02/03

**Copies available**  
**Effective date See Act for Effective Date**  
**Act No. 73**