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SENATE BILL NO. 622  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Marsden)

*A BILL to amend and reenact § 38.2-4608 of the Code of Virginia, relating to title insurance; schedule of risk rates.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-4608 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-4608. Title insurance rates.**

*A. Each title insurance company shall publish its schedule of risk rates, including policies, endorsements, closing protection letter fees, any rate classifications or groupings, and any modifications or amendments thereof.*

*B. No title insurance company or title insurance agency or agent thereof shall charge a policy rate for a title insurance policy that exceeds those set forth in the title insurance company's published schedule of policy rates. However, a title insurance company or title insurance agency or agent thereof may make charges in excess of the rates set forth in the published schedule of policy rates if (i) unusual insurance risks are assumed or unusual services are performed in connection with the title insured or because of uncertainty regarding the proper interpretation or application of the relevant law, (ii) the rates comply with the provisions of subsection C, and (iii) the published schedule includes a statement indicating that such charges may apply in the event of circumstances described in clause (i).*

*C. Title insurance risk rates shall be reasonable and adequate for the class of risks to which they apply. Risk rates shall not be unfairly discriminatory between risks involving essentially the same hazards and expense elements. The rates may shall be fixed in an amount sufficient to furnish a reasonable margin for profit after provision for (i) probable losses as indicated by experience within and without this the Commonwealth; (ii) exposure to loss under policies, endorsements, and closing protection letters; (iii) allocations to reserves; (iv) costs of participating insurance; (v) operating costs; and (vi) other items of expense fairly attributable to the operation of a title insurance business.*

~~*B. Policies may be grouped into classes for the establishment of rates. A title insurance policy that is unusually hazardous to the title insurance company because of an alleged defect or irregularity in the title insured or because of uncertainty regarding the proper interpretation or application of the law involved, may be classified separately according to the facts of each case.*~~

33 ~~C. D.~~ Title insurance risk rates shall not include charges for abstracting, record searching, certificates  
34 regarding the record title, escrow services, closing services, and other related services that may be offered or  
35 furnished, or the cost and expenses of examinations of titles.

36 ~~D. E.~~ Any title insurance company may issue, publish, and use price schedules ~~for title insurancee and~~ for  
37 any *charges related to* separate or related services, or schedules setting forth one price covering the risk rate  
38 and the charges for any separate or related services.

39 ~~E. A title insurancee company or title insurancee agent may charge risk rates that it negotiates with any~~  
40 ~~potential insured. Such negotiated rates shall be presumed not to be unfairly discriminatory and not to violate~~  
41 ~~§ 38.2-509 if such rates comply in all other respects with subsection A.~~

42 *F. A title insurance company shall not be required to file its schedule of risk rates with the Commission*  
43 *but shall publish its schedule of risk rates to its agents and shall provide a copy of such rates to the*  
44 *Commission.*

45 *G. Notwithstanding any provision of this section, a title insurance company or its agent, with the express*  
46 *written consent of the title insurance company with which the title insurance agent holds an active*  
47 *appointment, may charge policy rates that it negotiates on policies insuring an owner-occupied primary*  
48 *residence in which a natural person or estate planning entity is in title. Such negotiated rates shall be*  
49 *presumed not to be unfairly discriminatory and not to violate § 38.2-509 if such rates comply in all other*  
50 *respects with subsection A.*