

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 206

An Act to amend and reenact § 38.2-1700 of the Code of Virginia, relating to the Virginia Life, Accident and Sickness Insurance Guaranty Association.

[S 759]

Approved March 24, 2000

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-1700 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-1700. Purpose and applicability of chapter.

A. The purpose of this chapter is to protect, subject to certain limitations, policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, accident and sickness insurance policies, annuity contracts, and supplemental contracts against failure to fulfill contractual obligations due to the impairment or insolvency of the insurers issuing those policies or contracts. To provide this protection, (i) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (ii) members of the Association are subject to assessments to provide funds to carry out the purpose of this chapter, and (iii) the Association is authorized to assist the Commission, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

B. This chapter shall apply to direct life insurance policies, accident and sickness insurance policies, annuity contracts, and contracts supplemental to life, accident and sickness insurance policies and annuity contracts issued by insurers licensed to transact insurance in this Commonwealth at any time.

C. This chapter shall not apply to:

1. That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;

2. That portion or part of any policy or contract under which the risk is borne by the policyholder;

3. Any policy or contract, or part of a policy or contract assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

4. Any policy or contract issued by cooperative nonprofit life benefit companies, mutual assessment life, accident and sickness insurance companies, burial societies, fraternal benefit societies, dental and optometric services plans and health services plans not subject to § 38.2-4213; or

5. Any contract or certificate which is not issued to and owned by an individual, except to the extent of (i) any annuity benefits guaranteed to an individual by an insurer under such contract or certificate, (ii) any annuity benefits payable for the benefit of an individual by an insurer under an annuity contract issued to fund a structured settlement agreement on account of personal injury or sickness, or (iii) any life insurance benefits and accident and sickness insurance benefits guaranteed payable to any person by an insurer.

D. This chapter shall provide coverage for the policies and contracts specified in subsection B:

1. To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under subdivision 2; ~~and~~;

2. To persons who are owners of or certificate holders under such policies or contracts (*other than structured settlement annuities*), and who

a. are residents, or

b. are not residents, but only under all of the following conditions: (i) the insurers which issued such policies or contracts are domiciled in this state; (ii) such insurers at the time of issuance of such policies or contracts did not hold a license or certificate of authority in the states in which such persons reside; and (iii) such persons are not eligible for coverage by an association of another state where such association is similar to the association created by this chapter; *and*

3. *For structured settlement annuities described in clause (ii) of subdivision C 5, subdivisions 1 and 2 of this subsection shall not apply, and this chapter shall provide coverage to a person who is a payee (or beneficiary of a payee if the payee is deceased) under such a structured settlement annuity, if the payee (i) is a resident, regardless of where the contract owner resides, or (ii) is not a resident, but only under both of the following conditions: (a) (1) the contract owner of the structured settlement annuity is a resident or (2) the contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this Commonwealth, and the state in which the contract owner resides has an association similar to the association created by this chapter, and (b) neither the payee (or beneficiary) nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides. In determining the application of the provisions of this subdivision in situations where a person could be covered by the association of*

more than one state, whether as an owner, payee, beneficiary or assignee, this subdivision shall be construed in conjunction with other state laws to result in coverage by only one association.

E. Any member insurer which has been declared insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction prior to July 1, 1991, shall be subject to the provisions of Chapter 17 as this chapter existed prior to July 1, 1991.