

# VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

## CHAPTER 526

*An Act to amend and reenact §§ 38.2-122, 38.2-122.1, 38.2-233, 38.2-317, 38.2-415, 38.2-1601, 38.2-1800, 38.2-1902, 38.2-2001, 38.2-2003, and 52-36 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 38.2-122.2 and 38.2-2006.1, relating to credit property insurance and credit involuntary unemployment insurance.*

[H 716]

Approved April 6, 2000

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

**1. That §§ 38.2-122, 38.2-122.1, 38.2-233, 38.2-317, 38.2-415, 38.2-1601, 38.2-1800, 38.2-1902, 38.2-2001, 38.2-2003, and 52-36 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 38.2-122.2 and 38.2-2006.1 as follows:**

§ 38.2-122. Credit.

"Credit insurance" means indemnifying merchants or other persons extending credit against loss or damage resulting from the nonpayment of debts owed to them. "Credit insurance" includes the incidental power to acquire and dispose of debts so insured and to collect any debts owed to the insurer or to any persons so insured by the insurer. "Credit insurance" does not include any insurance defined in §§ 38.2-103, 38.2-108, 38.2-122.1, 38.2-122.2 or § 38.2-128.

§ 38.2-122.1. Credit involuntary unemployment insurance.

"Credit involuntary unemployment insurance" means insurance on a debtor in connection with a specified loan or other credit transaction to provide payment to a creditor for the installment payments or other periodic payments becoming due (i) while the debtor is involuntarily unemployed, or (ii) while the debtor is on an unpaid leave of absence during which employment does not terminate. Such term shall not mean any insurance defined in §§ 38.2-108, 38.2-109 or § 38.2-122.

§ 38.2-122.2. Credit property insurance.

"Credit property insurance" means insurance against direct physical damage to personal household property used as security for a loan or other credit transaction. Such insurance may insure the creditor as sole beneficiary or may insure both the creditor and the debtor with the creditor as primary beneficiary and the debtor as beneficiary of proceeds not paid to the creditor. For purposes of this definition, "personal household property" does not include motor vehicles, mobile homes, or watercraft. The term "credit property insurance" shall not mean any insurance defined in § 38.2-122.

§ 38.2-233. Credit involuntary unemployment insurance; disclosure and readability.

A. If a creditor makes available to the debtors more than one plan of credit involuntary unemployment insurance as defined in § 38.2-122.1, or more than one plan of credit property insurance as defined in § 38.2-122.2, all debtors must be informed of all such plans for which they are eligible.

B. When elective credit property insurance or elective credit involuntary unemployment insurance is offered, the borrower shall be given written disclosure that purchase of ~~credit involuntary unemployment~~ such insurance is not required and is not a factor in granting credit. The disclosure shall also include notice that the borrower has the right to use alternative coverage or to buy insurance elsewhere.

C. If the debtor is given a contract which includes a single premium payment to be charged for elective credit property insurance or elective credit involuntary unemployment insurance, the debtor shall be given:

1. A contract which does not include the elective ~~credit involuntary unemployment~~ insurance premium premiums; or

2. A disclosure form which shall clearly disclose the difference in premiums charged for a contract with ~~credit involuntary unemployment~~ the elective insurance and one without ~~credit involuntary unemployment~~ the elective insurance. This disclosure shall include the difference between the amount financed, the monthly payment and the charge for insurance. The form shall be signed and dated by the debtor and the agent, if any, soliciting the application or the creditor's representative, if any, soliciting the enrollment request. A copy of this disclosure shall be given to the debtor and a copy shall be made a part of the creditor's loan file.

Nothing contained in this subsection shall be construed to prohibit the creditor from combining such disclosure, in order to avoid redundancy, with other forms of disclosure required under state or federal law.

D. If a creditor offers credit property insurance and requires evidence of insurance coverage on personal household property used as security for an indebtedness or credit involuntary unemployment insurance is required as security for any indebtedness, the debtor shall have the option of (i) furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or (ii) procuring and furnishing the required coverage through any insurer authorized to transact insurance

in this Commonwealth. The creditor shall inform the debtor of this option in writing and shall obtain the debtor's signature acknowledging that he understands this option. Nothing contained in this subsection shall be construed to prohibit the creditor from combining such disclosure, in order to avoid redundancy, with other forms of disclosure required under state or federal law.

E. The disclosure requirements set forth in subsections A, B, C and D shall be ~~separately~~ *separately* disclosed ~~separately from the loan or credit transaction papers in another~~ a form or forms approved by the Commission. ~~Notwithstanding the provisions of § 38.2-1921,~~ When *credit property insurance* or credit involuntary unemployment insurance is offered with credit life insurance or credit accident and sickness insurance, the disclosure requirements set forth in subsections A, B, C and D of § 38.2-233 and the disclosure requirements set forth in subsections A, B, C and D of § 38.2-3735 may be disclosed together in a form which shall be approved by the Commission.

F. The Commission shall not approve any form providing *credit property insurance* or credit involuntary unemployment insurance unless the policy or certificate is written in nontechnical, readily understandable language, using words of common everyday usage. A form shall be deemed acceptable under this section if the insurer certifies that the form achieves a Flesch Readability Score of forty or more, using the Flesch Readability Formula as set forth in Rudolf Flesch, *The Art of Readable Writing* (1949, as revised 1974), and certifies compliance with the guidelines set forth in this section.

*The Commission shall not approve any form providing credit property or credit involuntary unemployment insurance unless the form provides that, in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the debtor. Any unearned premium refund shall be calculated on a pro rata basis.*

*The Commission shall not approve any form providing credit property or credit involuntary unemployment insurance unless the form has printed on it a notice stating in substance that if, during a period of at least ten days from the date the policy or certificate is delivered to the policy owner or certificate holder the policy or certificate is surrendered to the insurer or its agent with a written request for cancellation, the policy or certificate shall be void from the beginning and the insurer shall refund any premium paid for the policy or certificate.*

G. *Premium calculations for credit property insurance involving closed end credit transactions shall not be based on amounts paid for finance charges, service fees, delivery charges, taxes, interest, or any other item not covered under the credit property insurance form. If the premium calculations for credit property insurance involving open end monthly outstanding balance credit transactions are based on amounts paid for finance charges, service fees, delivery charges, taxes, interest, meals, entertainment, or any other item not covered under the credit property insurance form, then at least twice per year the premium notice for such insurance shall be accompanied by a disclosure in no smaller than eight-point boldface type substantially similar to the following:*

*Your credit property insurance premium is based on the entire outstanding balance of this account. However, your insurance coverage applies only to certain tangible personal property. Finance charges, service fees, delivery charges, taxes, interest, meals, and entertainment are not covered under your policy. Therefore, you may be paying premiums on items not covered under your policy.*

*The disclosure described in this subsection, with the same type-size requirements, shall also be included in any written materials provided at the time of invitation to contract and in policies or certificates provided to insureds.*

~~G.~~ H. A *credit property insurance* or credit involuntary unemployment insurance policy or certificate which provides truncated or critical period coverage, or any other type of similar coverage that does not provide benefits or coverage for the entire term or amount of the indebtedness, shall be subject to the following requirements:

1. The ~~credit involuntary unemployment insurance~~ policy or certificate shall include a statement printed on the face of the policy or first page of the certificate which clearly describes the limited nature of the insurance. The statement shall be printed in capital letters and in bold twelve-point or larger type; and

2. The ~~credit involuntary unemployment insurance~~ policy or certificate shall not include any benefits or coverage other than truncated or critical period coverage or any other type of similar coverage that does not provide benefits or coverage for the entire term or amount of the indebtedness.

~~H.~~ I. A portion of the premium charged for *credit property insurance* or credit involuntary unemployment insurance may be allowed by the insurer to the creditor for providing and furnishing such insurance, and no such allowance shall be deemed a rebate of premium or as interest charges or consideration or an amount in excess of permitted charges in connection with the loan or other credit transaction.

~~I.~~ J. All of the acts necessary to provide and service *credit property insurance* and credit involuntary unemployment insurance may be performed within the same place of business in which is transacted the business giving rise to the loan or other credit transaction.

~~J.~~ K. Subsections A, B, C, D, E and ~~K~~ L shall not apply to *credit property insurance* or credit involuntary unemployment insurance that will insure open end monthly outstanding balance credit

transactions if the following criteria are met:

1. ~~Credit involuntary unemployment~~ *The insurance that will insure the open end monthly outstanding balance credit transaction* is offered to the debtor after the loan or credit transaction it will insure has been approved by the creditor and has been effective at least seven days;

2. The solicitation for the insurance is by mail or telephone. The person making the solicitation shall not condition the future use or continuation of the open end credit upon the purchase of *credit property insurance* or credit involuntary unemployment insurance;

3. The creditor makes available *only one plan of credit property insurance* and only one plan of credit involuntary unemployment insurance to the debtor;

4. The debtor is provided written confirmation of the insurance coverage within thirty days of the effective date of such coverage. The effective date of such coverage shall begin on the date the solicitation is accepted; and

5. The individual policy or certificate has printed on it a notice stating that if, during a period of at least thirty days from the date the policy or certificate is delivered to the policy owner or certificate holder, the policy or certificate is surrendered to the insurer or its agent with a written request for cancellation, the policy or certificate shall be void from the beginning and the insurer shall refund any premium paid for the policy or certificate. This statement shall be prominently located on the face page of the policy or certificate, and shall be printed in capital letters and in bold face twelve-point or larger type.

~~K~~ L. Subsections A, B, C, D, E and ~~J~~ K shall not apply to open end credit transactions by mail, telephone or brochure solicitations that are not excluded from the requirements of subsections A, B, C, D and E by subsection ~~J~~ K where the insurer is offering *only one plan of credit property insurance* and only one plan of credit involuntary unemployment insurance and the following criteria are met:

1. The following disclosures shall be included in solicitations, whether as part of the application or enrollment request or separately:

a. The name and address of the insurer(s) and creditor; and

b. A description of the coverage offered, including the amount of coverage, the premium rate for the insurance coverage offered, and a description of any exceptions, limitations or restrictions applicable to such coverage.

2. The application or enrollment requests shall comply as follows:

a. Notwithstanding requirements set forth elsewhere, the application and enrollment request shall be printed in a type size of not less than eight-point type, one-point leaded;

b. The application or enrollment request shall contain a prominent statement that the insurance offered is optional, voluntary or not required;

c. The application or enrollment request shall contain no questions relating to insurability other than the debtor's age or date of birth and, *if applicable*, active employment status; and

d. If the disclosures required by subdivision 1 of this subsection are not included in the application or enrollment request, the application and enrollment request shall make reference to such disclosures with sufficient information to assist the reader in locating such disclosures within separate solicitation material.

3. Each insurer proposing to utilize an application or enrollment request in such transactions shall file such form for approval by the Commission. If the insurer anticipates utilizing such application or enrollment form in more than one solicitation, the insurer shall submit, as part of its filing of such form, a certification signed by an officer of the insurer, stating that any such subsequent use of the application or enrollment form will utilize the same form number and will not vary in substance from the wording and format in which the form is submitted for approval. Upon approval of such application or enrollment form by the Commission, the insurer shall be permitted to utilize such form in various solicitation materials provided that the application or enrollment form, when incorporated into such solicitation materials, has the same form number and wording substantially identical to that contained on the approved application or enrollment form. ~~Notwithstanding the provisions of § 38.2-1921,~~ When *credit property insurance* or credit involuntary unemployment insurance is offered with credit life insurance or credit accident and sickness insurance, insurers may file one common form which shall be ~~approved~~ *subject to prior approval* by the Commission and shall incorporate the requirements of subsection ~~K~~ L of § 38.2-233 and subsection F of § 38.2-3737, according to the requirements stated in this paragraph and in subdivision F 3 of § 38.2-3737.

§ 38.2-317. Delivery and use of certain policies and endorsements.

A. No insurance policy or endorsement of the kind to which Chapter 19 (§ 38.2-1900 et seq.) of this title applies shall be delivered or issued for delivery in this Commonwealth unless the policy form or endorsement is filed with the Commission at least thirty days prior to its effective date. The provisions of this section shall not apply to statutory fire insurance policies, standard automobile policy forms and endorsements, workers' compensation and employers' liability insurance as defined in § 38.2-119, or surety insurance as defined in § 38.2-121.

B. The Commission may disapprove or withdraw approval of the policy form or endorsement to which the section applies if the policy form or endorsement:

1. Is in violation of any provision of this title;
2. Contains provisions that are contrary to the public policy of this Commonwealth;
3. Contains or incorporates by reference, even where such incorporation is otherwise permissible, any inconsistent, ambiguous or misleading clauses or exceptions and conditions that deceptively affect the risk purported to be assumed in the general coverage of the policy;
4. Has any title, heading or other indication of its provisions that is misleading;
5. Contains provisions that are so unclear or deceptively worded that they encourage misrepresentation; or

6. Provides coverage of such a limited nature that it is contrary to the public interest of this Commonwealth.

C. Within thirty days after the filing of any policy form or endorsement requiring approval pursuant to this section, the Commission shall notify the insurer or rate service organization filing the policy form or endorsement of its approval or disapproval, and in the event of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an additional thirty days the period within which it shall approve or disapprove the policy form or endorsement. Any policy form or endorsement received but neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the thirty days if the period is not extended, or at the expiration of the extended period, if any; however, no policy form or endorsement shall be deemed approved under the provisions of this section unless written notice of the intent to use the policy form or endorsement has been filed with the Commission.

D. If the Commission proposes to withdraw approval previously given or deemed given to the policy form or endorsement to which this section applies, it shall notify the insurer in writing at least ninety days prior to the proposed effective date of withdrawal giving its reasons for withdrawal.

E. The policy and endorsement forms referred to in subsection A of this section in use on October 1, 1976, may continue to be used, subject to disapproval by the Commission.

F. The Commission may by rule exempt any person, class of persons, or market segment from any or all of the provisions of this section. In promulgating an exemption, the Commission may consider the nature of the coverage, the person or persons to be insured or covered, the competence of the buyer or other parties to the contract, and other criteria the Commission considers relevant.

G. The policy and endorsement forms referred to in subsection A of this section shall be open to public inspection. Copies may be obtained by any person on request and upon payment of a reasonable charge for the copies.

H. Any insurer whose rate service organization files on behalf of such insurer shall notify the Commission prior to the effective date of any filing if the insurer is not going to accept the filing made on its behalf.

*I. Notwithstanding anything to the contrary in subsection A, the provisions of this section shall apply to policies and endorsements of credit involuntary unemployment insurance, as defined in § 38.2-122.1, and to policies and endorsements of credit property insurance, as defined in § 38.2-122.2, delivered or issued for delivery in this Commonwealth, and to certificates of credit involuntary unemployment insurance and credit property insurance delivered or issued for delivery in this Commonwealth where the group policy is delivered in another state.*

§ 38.2-415. (Effective until January 1, 2003) Assessment to fund program to reduce losses from insurance fraud.

A. Each licensed insurer doing business in the Commonwealth by writing any type of insurance as defined in §§ 38.2-110 through ~~38.2-122.1~~ 38.2-122.2 and 38.2-124 through 38.2-132 shall pay, in addition to any other assessments provided in this title, an assessment in an amount equal to 0.05 of one percent of the direct gross premium income during the preceding calendar year. The assessment shall be apportioned and assessed and paid as prescribed by § 38.2-403. The Commission shall be reimbursed from the fund for all necessary expenses for the administration of this section.

B. The assessments made by the Commission under subsection A and paid into the state treasury shall be deposited to a special fund designated "Virginia State Police, Insurance Fraud," and out of such special fund and the unexpended balance thereof shall be appropriated the sums necessary for accomplishing the powers and duties assigned to the Virginia State Police under Chapter 9 (§ 52-36 et seq.) of Title 52. All interest earned from the deposit of moneys accumulated in the Fund shall be deposited in the Fund for the same use.

C. The moneys deposited in the Fund shall not be considered general revenue of the Commonwealth but shall be used only to (i) effectuate the purposes enumerated in Chapter 9 (§ 52-36 et seq.) of Title 52 and (ii) reimburse the Commission for its necessary expenses for the administration of this section. The Fund shall be subject to audit by the Auditor of Public Accounts.

D. In the event that the Insurance Fraud Investigation Unit is dissolved by operation of law or otherwise, any balance remaining in the Fund, after deducting administrative costs associated with the dissolution, shall be returned to insurers in proportion to their financial contributions to the Fund in the preceding calendar year.

§ 38.2-1601. Application.

This chapter shall apply to all classes of direct insurance written by member insurers but shall not be

applicable to the following:

1. Life, annuity, health or disability insurance;
2. Mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks;
3. Fidelity or surety bonds, or any other bonding obligations;
4. Credit insurance, *credit property insurance*, and credit involuntary unemployment insurance;
5. Insurance of warranties or service contracts;
6. Title insurance;
7. Insurance of vessels or craft used primarily in a trade or business, their cargoes, and marine builders' risk and marine protection and indemnity;
8. Any transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk; or
9. Any class of insurance written by cooperative nonprofit life benefit companies, mutual assessment life, accident and sickness insurers, burial societies, fraternal benefit societies, captive insurers, risk retention groups, and home protection companies.

§ 38.2-1800. Definitions.

As used in this chapter:

"Agent" or "insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation that solicits, negotiates, procures or effects contracts of insurance or annuity in this Commonwealth.

"Appointed agent" or "appointed insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation licensed in this Commonwealth to solicit, negotiate, procure, or effect contracts of insurance or annuity of the classes authorized within the scope of such license and who is appointed by a company licensed in this Commonwealth to solicit, negotiate, procure, or effect in its behalf contracts of insurance of the classes authorized within the scope of such license and, if authorized by the company, may collect premiums on those contracts.

"Automobile club agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect automobile club contracts on behalf of automobile clubs licensed under Chapter 3.1 (§ 13.1-400.1 et seq.) of Title 13.1.

"Burial insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect burial insurance on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.) of this title.

"Cooperative nonprofit life benefit insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect life insurance, accident and sickness insurance or annuities on behalf of insurers licensed under Chapter 38 (§ 38.2-3800 et seq.) of this title.

"Credit life and health insurance agent" means an agent licensed in this Commonwealth exclusively to solicit, negotiate, procure, or effect credit life insurance and credit accident and sickness insurance on behalf of insurers licensed in this Commonwealth, but only to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.) of this title.

"Credit property and involuntary unemployment insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect insurance as defined in § 38.2-122.1 or ~~insurance against direct physical damage to personal household property used as security for a loan or other credit transaction. Such insurance may insure the creditor as sole beneficiary or may insure both the creditor and the debtor with the creditor as primary beneficiary and the debtor as beneficiary of proceeds not paid to the creditor. As used in this definition, "personal household property" does not include motor vehicles, mobile homes, or watercraft~~ § 38.2-122.2.

"Dental services agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect dental services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500 et seq.) of this title.

"Filed" means received by the Commission.

"Legal services agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect legal services plan contracts on behalf of legal services plans licensed under Chapter 44 (§ 38.2-4400 et seq.) of this title.

"Licensed agent" or "licensed insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation licensed in this Commonwealth to solicit, negotiate, procure or effect contracts of insurance or annuity of the classes authorized within the scope of such license.

"Life and health insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect life insurance, annuity contracts, and accident and sickness insurance as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-106, 38.2-108 and 38.2-109, respectively, and variable contracts as defined in §§ 38.2-105 and 38.2-107, if so qualified, on behalf of insurers licensed in this Commonwealth. Except as otherwise provided, limitations or restrictions as to methods of compensation imposed by this title on agents shall not apply to life and health insurance agents.

"Mortgage accident and sickness insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mortgage accident and sickness insurance on behalf of insurers licensed in this Commonwealth.

"Mortgage guaranty insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mortgage guaranty insurance on behalf of insurers licensed in this Commonwealth.

"Mortgage redemption insurance agent" means an employee of a lending institution, whether or not the institution accepts deposits from the public, licensed in this Commonwealth to solicit, negotiate, procure, or effect mortgage redemption insurance and mortgage accident and sickness insurance. "Mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing term life insurance policy written in connection with a mortgage transaction for a period of time coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the indebtedness outstanding at the time the insurance becomes effective, rounded up to the next \$1,000.

"Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a motor vehicle rental company that is in the business of providing primarily private motor vehicles to the public under a rental agreement for a period of less than six months, and receives no direct or indirect commission from the insurer, the renter or the vehicle rental company.

"Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than six months and (ii) is licensed in the Commonwealth as an agent to solicit, negotiate, procure, or effect the following insurance coverages solely in connection with and incidental to the rental contract:

1. Personal accident insurance which provides benefits in the event of accidental death or injury occurring during the rental period;
2. Liability coverage sold to the renter in excess of the rental company's obligations under §§ 38.2-2204, 38.2-2205, or Title 46.2, as applicable;
3. Personal effects insurance which provides coverages for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period;
4. Roadside assistance and emergency sickness protection programs; and
5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.

The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental contract enrollers.

"Mutual assessment life and health insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mutual assessment life and accident and sickness insurance on behalf of insurers licensed under Chapter 39 (§ 38.2-3900 et seq.) of this title.

"Mutual assessment property and casualty insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect mutual assessment property and casualty insurance on behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.) of this title.

"Ocean marine insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect those classes of insurance classified in § 38.2-126, except those kinds specifically classified as inland marine insurance, on behalf of insurers licensed in this Commonwealth.

"Optometric services agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect optometric services plan contracts on behalf of optometric services plans licensed under Chapter 45 (§ 38.2-4500 et seq.) of this title.

"Pet accident, sickness and hospitalization insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure or effect pet accident, sickness and hospitalization insurance on behalf of insurers licensed in this Commonwealth.

"Property and casualty insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect insurance as defined in §§ 38.2-110 through ~~38.2-122.1~~ 38.2-122.2, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in this Commonwealth.

"Resident" means (i) an individual domiciled and residing in Virginia; (ii) a partnership duly formed and recorded in Virginia; (iii) a corporation incorporated and existing under the laws of Virginia; or (iv) a limited liability company organized and existing under the laws of Virginia.

"Single interest insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect single interest insurance on behalf of insurers licensed in this Commonwealth.

"Solicit, negotiate, procure, or effect" means and includes the selling or attempted selling, placing or attempted placing of insurance or coverage, whether directly or indirectly, in this Commonwealth, and for which action the agent receives, or would receive, direct or indirect compensation in the form of commissions, fees, or other inducements or benefits.

"Title insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect title insurance on behalf of title insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.) of this title.

"Travel accident insurance agent" means an individual at transportation terminal buildings, or a ticket-selling agent of a railroad, steamship company, air carrier, or public bus carrier, who is licensed in this Commonwealth solely to act as an agent in the sale of travel accident insurance to individuals.

"Travel baggage insurance agent" means the ticket-selling agent of a railroad or steamship company, air carrier, or public bus carrier who is licensed in this Commonwealth solely to act as an agent in the sale of travel baggage insurance to individuals.

"Variable contract agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect variable contracts on behalf of insurers licensed in this Commonwealth.

§ 38.2-1902. Scope of chapter.

A. Except as provided in subsection B of this section, this chapter applies to the classes of insurance defined in §§ 38.2-110 through ~~38.2-122.1~~ 38.2-122, 38.2-124 through 38.2-128 and 38.2-130 through 38.2-133.

B. This chapter does not apply to:

1. Insurance written through the Virginia Workers' Compensation Plan pursuant to Chapter 20 (§ 38.2-2000 et seq.) of this title;

2. Insurance on a specific risk as provided in § 38.2-1920;

3. Reinsurance, other than joint reinsurance, to the extent stated in § 38.2-1915;

4. Life insurance as defined in § 38.2-102;

5. Annuities as defined in §§ 38.2-106 and 38.2-107;

6. Accident and sickness insurance as defined in § 38.2-109;

7. Title insurance as defined in § 38.2-123;

8. Insurance of vessels or craft used primarily in a trade or business, their cargoes, marine builders' risks and marine protection and indemnity;

9. Insurance against loss of or damage to hulls of aircraft, including their accessories and equipment, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

10. Automobile bodily injury and property damage liability insurance issued to: (i) any motor carrier of property who is required to file such insurance with the Department of Motor Vehicles pursuant to § 46.2-2028 or any amendment to that section; or (ii) any motor carrier of property required by 49 U.S.C.A. § 315, or any rule or regulation prescribed by the Interstate Commerce Commission pursuant to 49 U.S.C.A. § 315, to file such insurance with the Interstate Commerce Commission;

11. Uninsured motorist coverage required by subsection A of § 38.2-2206;

12. Insurance written through the Virginia Automobile Insurance Plan. However, § 38.2-1905 shall apply to insurance written through the Plan;

13. Insurance provided pursuant to Chapter 27 (§ 38.2-2700 et seq.) of this title;

14. Home protection contracts as defined by § 38.2-2600 and their rates until such time as the Commission determines there is sufficient competition in the industry as provided by § 38.2-2608.

C. This chapter shall not apply to any class of insurance written (i) by any mutual assessment property and casualty insurance company organized and operating under the laws of this Commonwealth and doing business only in this Commonwealth; or (ii) by any mutual insurance company or association organized under the laws of this Commonwealth, conducting business only in this Commonwealth, and issuing only policies providing for perpetual insurance.

§ 38.2-2001. Insurance to which chapter applies.

This chapter applies only to (i) insurance written through the Virginia Workers' Compensation Insurance Plan, (ii) the coverages provided in the Virginia Automobile Insurance Plan, (iii) the coverages provided pursuant to Chapter 27 (§ 38.2-2700 et seq.) of this title, (iv) uninsured motorist coverage as required by subsection A of § 38.2-2206, ~~and~~ (v) home protection contracts as defined by § 38.2-2600, *and (vi) policies and endorsements of credit involuntary unemployment insurance, as defined in § 38.2-122.1, and policies and endorsements of credit property insurance, as defined in § 38.2-122.2, delivered or issued for delivery in this Commonwealth, and certificates of credit involuntary unemployment insurance and certificates of credit property insurance delivered or issued for delivery in this Commonwealth where the group policy is delivered in another state.*

§ 38.2-2003. Rate filings by insurer; supporting information.

A. Each insurer writing in this Commonwealth a class of insurance to which this chapter applies shall file with the Commission every manual of classifications, minimum rate, class rate, rating schedule, rating plan, rating rule, and every modification of any of the foregoing that it proposes to use. Every filing shall indicate the character and extent of coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing, and the Commission does not have sufficient information to determine whether the filing meets the requirements of this chapter, the Commission may require the insurer to furnish the information upon which it supports the filing. A filing and any supporting information shall be a public record. Upon filing any rate to which this chapter is applicable, the insurer shall give notice to the Division of Consumer Counsel of the Office of the Attorney General that such rate has been filed with the Commission and such insurer shall so certify to the Commission in its rate filing. For the purposes of this section, a group or fleet of insurers

operating under the same general management may be considered an insurer.

B. Each insurer shall submit with each rate filing so much of the following information as deemed appropriate by the Commission:

1. Number of exposures;
2. Direct premiums written;
3. Direct premiums earned;
4. Direct losses paid identified by such period as the Commission may require;
5. Number of claims paid;
6. Direct losses incurred during the year, direct losses incurred during the year which occurred and were paid during the year, and direct losses incurred during the year which were reported during the year but were not yet paid;
7. Any loss development factor used and supporting data thereon;
8. Number of claims unpaid;
9. Loss adjustment expenses paid identified by such period as the Commission may require;
10. Loss adjustment expenses incurred during the year, loss adjustment expenses incurred during the year for losses which occurred and were paid during the year, and loss adjustment expenses incurred during the year for losses which were reported during the year but were not yet paid;
11. Other expenses incurred, separately by category of expense, excluding loss adjustment expenses;
12. Investment income on assets related to reserve and allocated surplus accounts;
13. Total return on allocated surplus;
14. Any loss trend factor used and supporting data thereon;
15. Any expense trend factor used and supporting data thereon; and
16. Such other information as may be required by rule of the Commission, including statewide rate information presented separately for Virginia and each state wherein the insurer writes the line, subline or rating classification for which the rate filing is made and which the Commission deems necessary for its consideration.

C. Where actual experience does not exist or is not credible, the Commission may allow the use of estimates for the information required by subdivisions 1 through 15 of subsection B of this section and may require the insurer to submit such information as the Commission deems necessary to support such estimates.

D. The Commission shall develop uniform statements or formats specifying the information categories specified in this section. Such statements or formats shall be utilized by all insurers in all rate filings.

*E. In determining the appropriateness of rates for credit involuntary unemployment insurance and credit property insurance, the Commission may not approve any rate that is calculated based upon loss experience producing a loss ratio of less than forty percent on and after January 1, 2001, forty-five percent on and after January 1, 2003, and fifty percent on and after January 1, 2005. For the purposes of this subsection, loss experience includes: paid losses, paid loss adjustment expense, any change in case reserves, change in incurred but not reported losses, and any special considerations for catastrophe or comprehensive coverage.*

*§ 38.2-2006.1. Approval by the Commission for credit property and credit involuntary unemployment insurance rates.*

*No rate charged in connection with a credit involuntary unemployment insurance policy, endorsement, or certificate issued in this Commonwealth, and no rate charged in connection with a credit property insurance policy, endorsement, or certificate issued in this Commonwealth, shall be used unless it has been filed with the Commission pursuant to the provisions of this chapter to be approved for use on or after April 1, 2001, April 1, 2003, and April 1, 2005, as set forth in subsection E of § 38.2-2003.*

§ 52-36. (Effective until January 1, 2003) Definitions.

As used in this chapter, the following words shall have the following meanings:

"Commission" means the State Corporation Commission.

"Insurance fraud" means any commission or attempted commission of the criminal acts and practices defined in § 18.2-178 which involve any type of insurance as defined in §§ 38.2-110 through 38.2-122.4 38.2-122.2 and 38.2-124 through 38.2-132.

"Insurance policy" means a contract or other written instrument between an insured and insurer setting forth the obligations and responsibilities of each party.

"Insurance premium finance company" has the same meaning as specified in § 38.2-4700.

"Insurance professional" means adjusters, agents, managing general agents, surplus lines brokers, reinsurance intermediaries, insurance consultants, brokers, and attorneys-in-fact.

"Insurance transaction," "insurance business," and "business of insurance" include solicitation, negotiations preliminary to execution of an insurance contract, execution of an insurance contract and the transaction of matters subsequent to execution of a contract and arising out of it, and matters arising out of any relationship among or between an insured, an insurer and a third party for which an insurance policy provides coverage.



"Insured" means any person covered by an insurance policy.

"Insurer" means any person subject to regulation pursuant to Title 38.2, 46.2, or 65.2 engaged in the business of making, or purporting to make contracts of insurance; however, this term shall not include (i) any person licensed by or subject to regulation pursuant to Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2, (ii) title insurers subject to regulation pursuant to Chapter 46 (§ 38.2-4600 et seq.) of Title 38.2, (iii) continuing care providers subject to registration pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, and (iv) purchasing groups authorized by Chapter 51 (§ 38.2-5100 et seq.) of Title 38.2.