VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 72

An Act to amend and reenact §§ 38.2-3723 and 38.2-3729 of the Code of Virginia, relating to credit life and credit accident and sickness insurance; reserve requirements; refunds.

[S 187]

Approved March 4, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3723 and 38.2-3729 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3723. Reserves.

A. Each insurer licensed to write credit life insurance in this Commonwealth shall establish and maintain reserves on all such business written in this Commonwealth. ~~At valuation date the reserves shall be not less than 130 percent of the aggregate reserves on all such business calculated by~~ *The minimum standard for the valuation for such reserves shall be on the basis of* the net premium method ~~on the basis of~~ *and* the Commissioners' ~~1958~~ *1980* Standard Ordinary Mortality Table ~~or, at the option of the insurer, 100 percent of such reserves calculated on the Commissioners' 1958 Standard Ordinary Mortality Table with 130 percent mortality, with interest at five and one-half percent for single premium insurance and four and one-half percent for all other insurance annually~~. *Valuation interest rates shall be the rates determined for life insurance policies pursuant to § 38.2-3132.* Reserves may be calculated on an annual or a monthly basis with a reasonable assumption, subject to statistical proof, as to average ages at issue or at expiration. Tables used in calculating reserves must be filed with and approved by the Commission.

B. Each insurer licensed to write credit accident and sickness insurance in this Commonwealth shall establish and maintain reserves on all such business written in this Commonwealth~~, which shall at all times be no less than~~. *The minimum standard for the calculation of such reserves shall be* the total ~~unearned~~ gross *unearned* premiums calculated by ~~(i) the Rule of 78 for loans with terms of sixty-one months or less or (ii)~~ the actuarial method ~~for loans with terms of more than sixty-one months~~*, but not less than the aggregate amounts calculated as of the valuation date by the refund formulas approved for the policies by the Commission pursuant to subsection C of § 38.2-3729*. It may be assumed that all business written in any calendar month was written as of the fifteenth of such month.

C. In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by a qualified actuary to be necessary to support fully the insurer's obligations under its policies, certificates and contracts.

§ 38.2-3729. Refunds.

A. Each individual policy or group certificate shall provide 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 person entitled thereto.

B. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

C. Refund formulas which any insurer desires to use for decreasing term credit life insurance ~~and credit accident and sickness insurance~~ with terms of more than sixty-one months must develop refunds which are at least as favorable to the debtor as refunds based on the actuarial method. Refund formulas for decreasing term credit life insurance ~~and credit accident and sickness insurance~~ with terms of sixty-one months or less must develop refunds which are at least as favorable to the debtor as refunds based on the Rule of 78 or the actuarial method, whichever method is consistent with the original method of premium calculation. *Refund formulas for credit accident and sickness insurance shall develop refunds that are at least as favorable to the debtor as refunds based on the actuarial method.* The actuarial method will result in refunds equal to the premium cost of scheduled benefits subsequent to the date of cancellation or termination, computed at the schedule of premium rates in effect on the date of issue. The refund of premiums for level term credit life insurance shall be no less than the pro rata unearned gross premium. Refund formulas must be filed with and approved by the Commission prior to use.

D. The requirements of subsection C of this section that refund formulas be filed with the Commission shall be considered fulfilled if the refund formulas are set forth in the individual policy or group certificate filed with the Commission.

E. Refunds may be computed:

1. On a daily basis; or

2. From the end of the loan month if sixteen days or more of a loan month have been earned,

provided that, if fifteen days or less of a loan month have been earned, the refund is computed from the beginning of the loan month.

F. No refund of one dollar or less need be made.

G. Refunds shall be made in accordance with this chapter without regard as to whether or not the refund has been requested by the debtor.

H. Voluntary prepayment of indebtedness. If a debtor prepays the indebtedness other than as a result of death:

1. Any credit life insurance covering such indebtedness shall be terminated and an appropriate refund of the credit life insurance premium shall be paid to the debtor in accordance with this section; and

2. Any credit accident and sickness insurance covering such indebtedness shall be terminated and an appropriate refund of the credit accident and sickness insurance premium shall be paid to the debtor in accordance with this section. If a claim under such coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit accident and sickness benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

I. Involuntary prepayment of indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor, then it shall be the responsibility of the insurer to see that the following are paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or to the debtor's estate:

1. An appropriate refund of the credit accident and sickness insurance premium in accordance with this section; and

2. The amount of benefits in excess of the amount required to repay the indebtedness after crediting any unearned interest or finance charges.