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HOUSE BILL NO. 1972

Offered January 14, 2009

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A BILL to amend and reenact §§ 38.2-233, 38.2-3724, 38.2-3729, 38.2-3735, and 38.2-3737 of the Code of Virginia, relating to credit insurance.

Patron—Ware, R.L.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-233, 38.2-3724, 38.2-3729, 38.2-3735, and 38.2-3737 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-233. Credit involuntary unemployment insurance; credit property 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 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 insurance premiums; or

2. A disclosure form which shall clearly disclose the difference in premiums charged for a contract with the elective insurance and one without 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. *No contract of insurance upon a debtor paid by a single premium shall be made or effectuated unless, at the time of the contract, the debtor is provided with a notice prominently disclosing the right to a refund of premium in the event the insurance is terminated prior to its scheduled maturity date or the insured indebtedness is terminated or paid off early, and of the obligation of the debtor to provide notification to the insurer under subsection G. This notice 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 the signed notice shall be given to the debtor and a copy shall be made part of the insurer's file.*

F. The disclosure requirements set forth in subsections A, B, C ~~and~~ D, ~~and~~ E shall be disclosed separately from the loan or credit transaction papers in a form or forms approved by the Commission. 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, ~~and~~ of § 38.2-3735 may be disclosed together in a form which shall be approved by the Commission.

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59 EG. The Commission shall not approve any form providing credit property insurance or credit
60 involuntary unemployment insurance unless the policy or certificate is written in nontechnical, readily
61 understandable language, using words of common everyday usage. A form shall be deemed acceptable
62 under this section if the insurer certifies that the form achieves a Flesch Readability Score of forty or
63 more, using the Flesch Readability Formula as set forth in Rudolf Flesch, *The Art of Readable Writing*
64 (1949, as revised 1974), and certifies compliance with the guidelines set forth in this section.

65 The Commission shall not approve any form providing credit property or credit involuntary
66 unemployment insurance unless the form provides that, in the event of termination of the insurance prior
67 to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for
68 insurance shall be paid or credited promptly to the debtor. Any unearned premium refund shall be
69 calculated on a pro rata basis includes a provision, separately and prominently captioned, stating in
70 substance the following:

71 *"REFUND OF PREMIUM IN THE EVENT OF EARLY TERMINATION"*

72 *"In the event this insurance policy or certificate is terminated prior to its originally scheduled*
73 *maturity date, or the insured indebtedness is terminated or paid off earlier than scheduled, the insurer*
74 *shall, within 30 days of receipt of notification from the debtor of such termination or early payoff,*
75 *refund or credit any amount paid by the debtor for the insurance beyond the actual date of termination*
76 *or payoff. Early termination of debt includes termination by renewal or refinancing. The debtor's*
77 *notification to the insurer shall include proof of termination or early payoff of the insured*
78 *indebtedness."*

79 *The Commission shall not approve any form providing credit property or credit involuntary*
80 *unemployment insurance unless the insurance policy or certificate states that the unearned premium*
81 *refund will be calculated on an actuarial basis. No refund of five dollars or less need be made.*

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

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

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

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

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

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

110 2. The policy or certificate shall not include any benefits or coverage other than truncated or critical
111 period coverage or any other type of similar coverage that does not provide benefits or coverage for the
112 entire term or amount of the indebtedness.

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

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

Subsections A, B, C, D, ~~EF~~, and ~~LM~~ 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. The insurance 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.

~~LM~~. Subsections A, B, C, D, ~~E F~~, and ~~K L~~ 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 F~~ by subsection ~~K L~~ 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. 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 subject to prior approval by the Commission and shall incorporate the requirements of subsection ~~LM~~ of ~~§ 38.2-233~~ *this section* and subsection F of § 38.2-3737, according to the requirements stated in this paragraph and in subdivision F 3 of § 38.2-3737.

§ 38.2-3724. Policy provisions; disclosure to debtors; delivery of policy or certificate.

A. Credit life insurance and credit accident and sickness insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance. The policy or certificate of insurance shall: (i) be a document separate and apart from the loan or credit agreement, (ii) refer exclusively to the insurance coverage, and (iii) be delivered to the debtor.

182 B. Each policy or certificate of credit life insurance or credit accident and sickness insurance shall set
183 forth:

- 184 1. The name and address of the insurer;
- 185 2. The name or names of the debtor or, in the case of a certificate, the identity by name or otherwise
186 of the debtor;
- 187 3. The age or date of birth of the debtor(s);
- 188 4. The premium or amount payable by the debtor separately for credit life insurance and credit
189 accident and sickness insurance;
- 190 5. A description of the coverage including the amount and term of the coverage, and any exceptions,
191 limitations or restrictions;
- 192 6. A statement that the benefits shall be paid to the creditor to reduce or extinguish the unpaid
193 indebtedness; and
- 194 7. A statement that if the amount of insurance exceeds the amount necessary to discharge the
195 indebtedness, any such excess shall be payable to a beneficiary, other than the creditor, named by the
196 debtor or to his estate.

197 C. A credit life or credit accident and sickness insurance policy or certificate, which provides
198 truncated or critical period coverage or any other type of similar coverage that does not provide benefits
199 or coverage for the entire term or amount of the indebtedness, shall be subject to the following
200 requirements:

201 1. The credit life or credit accident and sickness insurance policy or certificate shall include a
202 statement printed on the face of the policy or first page of the certificate which clearly describes the
203 limited nature of the insurance. The statement shall be printed in capital letters and in bold twelve-point
204 or larger type; and

205 2. The credit life or credit accident and sickness insurance policy or certificate shall not include any
206 benefits or coverage other than truncated or critical period coverage or any other type of similar
207 coverage that does not provide benefits or coverage for the entire term or amount of the indebtedness.

208 D. No individual or group credit life insurance or credit accident and sickness insurance policy shall
209 be delivered or issued for delivery in this Commonwealth unless the policy complies with the following
210 requirements:

211 1. Each policy shall contain a provision (i) that the policy, or the policy and any application
212 endorsed upon or attached to the policy when issued, shall constitute the entire contract between the
213 parties, and (ii) that all statements made by the creditor or by the individual debtors shall, in the absence
214 of fraud, be deemed representations and not warranties;

215 2. Each policy shall contain a provision that the validity of the policy shall not be contested, except
216 for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no
217 statement made by any person insured under the policy relating to his insurability shall be used in
218 contesting the validity of the insurance with respect to which such statement was made after the
219 insurance has been in force for a period of two years during such person's lifetime, and prior to the date
220 on which the claim thereunder arose;

221 3. Each policy shall contain a provision that when a claim for the death or disability of the insured
222 arises, settlement shall be made upon receipt of due proof of such death or disability;

223 4. On the face of each policy and certificate there shall be a title that briefly and accurately describes
224 the nature and form of the policy;

225 5. Each policy and certificate, including any rider or endorsement, shall be identified by a form
226 number in the lower lefthand corner of the first page of the form. The type size of the text of the policy
227 form or certificate, including any rider and endorsement, shall not be less than ten-point type, one-point
228 leaded;

229 6. Each individual policy or group certificate shall meet the readability standards established by the
230 Commission; and

231 7. Each individual policy and certificate shall have printed on it a notice stating in substance that if,
232 during a period of at least ten days from the date the policy or certificate is delivered to the policyowner
233 or certificateholder the policy or certificate is surrendered to the insurer or its agent with a written
234 request for cancellation, the policy or certificate shall be void from the beginning and the insurer shall
235 refund any premium paid for the policy or certificate.

236 8. Each individual policy or group certificate shall include a provision, separately and prominently
237 captioned, stating in substance the following:

238 *"REFUND OF PREMIUM IN THE EVENT OF EARLY TERMINATION"*

239 *"In the event this insurance policy or certificate is terminated prior to its originally scheduled*
240 *maturity date, or the insured indebtedness is terminated or paid off earlier than scheduled, the insurer*
241 *shall, within 30 days of receipt of notification from the debtor of such termination or early payoff,*
242 *refund or credit any amount paid by the debtor for the insurance beyond the actual date of termination*
243 *or payoff. Early termination of debt includes termination by renewal or refinancing. The debtor's*

notification to the insurer shall include proof of termination or early payoff of the insured indebtedness."

E. An individual credit life insurance or credit accident and sickness insurance policy or certificate of insurance shall be delivered or mailed to the insured debtor at the time the indebtedness is incurred or within ten business days thereafter except as provided in subsection F of this section. For open-end credit transactions, agricultural or educational loan commitments, or where no direct charge is made to the debtor for his insurance, the individual policy or group certificate of insurance may be delivered to the insured debtor at the time he first becomes eligible for the insurance and need not be delivered again each time new indebtedness is added.

F. If the individual policy or certificate of insurance is not delivered or mailed to the debtor at the time indebtedness is incurred, or within ten business days thereafter, a notice of proposed insurance, setting forth (i) the name and address of the insurer, (ii) the name or names of the debtor, (iii) the age of the debtor, (iv) the premium or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and sickness insurance, and (v) the amount, term and a brief description of the coverage provided, shall be delivered to the debtor. The notice of proposed insurance shall refer exclusively to insurance coverage and shall be separate and apart from the loan or credit transaction. Upon acceptance of the insurance by the insurer and within thirty days of the date upon which the indebtedness is incurred, the insurer shall deliver or mail the individual policy or group certificate of insurance to the debtor. The notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in § 38.2-3721.

G. If the policy or certificate is issued by any insurer other than the insurer listed on the application, enrollment request, or notice of proposed insurance, the debtor shall receive a policy or certificate of insurance setting forth the name and address of the substituted insurer and the amount of the premium to be charged. If the amount of the premium is less than that set forth in the notice of proposed insurance, an appropriate refund shall be made.

§ 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 *debtor or* 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 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 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~~ five dollars 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 *or credited* to the ~~debtor~~ person entitled to the refund in accordance with this section; and

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

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

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

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

320 § 38.2-3735. Disclosure and readability.

321 A. If a creditor makes available to the debtors more than one plan of credit life insurance or more
322 than one plan of credit accident and sickness insurance, all debtors must be informed of all such plans
323 for which they are eligible. In the case of credit life insurance:

324 1. If a creditor offers a plan of insurance that insures the actual amount of unpaid indebtedness, the
325 creditor shall also offer to the debtor a plan of insurance that insures only the actual amount of
326 indebtedness less any unearned interest or finance charges; and

327 2. In the event that a plan of insurance that insures the actual amount of unpaid indebtedness is
328 offered, the creditor shall provide to each debtor a disclosure form which shall clearly disclose the
329 difference in premiums charged for a contract wherein the gross indebtedness is insured versus a
330 contract wherein only the net indebtedness is insured. This disclosure shall include the differences
331 between the amount financed, the monthly payment and the total charge for each type of insurance. The
332 form shall be signed and dated by the debtor and the agent, if any, soliciting the application or the
333 creditor's representative, if any, soliciting the enrollment request. A copy of this disclosure shall be
334 given to the debtor, and a copy shall be made a part of the creditor's loan file.

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

338 B. When elective credit insurance is offered, the borrower must be given written disclosure that
339 purchase of credit insurance is not required and is not a factor in granting credit. The disclosure shall
340 also include notice that the borrower has the right to use alternative coverage or to buy insurance
341 elsewhere.

342 C. If the debtor is given a contract which includes a single premium payment to be charged for
343 elective credit insurance, the debtor must be given:

344 1. A contract which does not include the elective credit insurance premium; or

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

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

354 D. If credit life insurance or credit accident and sickness insurance is required as security for any
355 indebtedness, the debtor shall have the option of (i) furnishing the required amount of insurance through
356 existing policies of insurance owned or controlled by him or (ii) procuring and furnishing the required
357 coverage through any insurer authorized to transact insurance in this Commonwealth. The creditor shall
358 inform the debtor of this option in writing and shall obtain the debtor's signature acknowledging that he
359 understands this option. Nothing contained in this subsection shall be construed to prohibit the creditor
360 from combining such disclosure, in order to avoid redundancy, with other forms of disclosure required
361 under state or federal law.

362 E. *No contract of insurance upon a debtor paid by a single premium shall be made or effectuated*
363 *unless, at the time of the contract, the debtor is provided with a notice prominently disclosing his rights*
364 *to a refund of premium in the event the insurance is terminated prior to its scheduled maturity date or*
365 *the insured indebtedness is terminated or paid off early, and of the obligation of the debtor to provide*
366 *notification to the insurer under subdivision D 8 of § 38.2-3724. This notice 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 the signed notice shall be given to the debtor and a copy shall be made part of the insurer's file.

F. Readability. - The Commission shall not approve any form 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.

§ 38.2-3737. Application.

A. No contract of insurance upon a debtor shall be made or effectuated unless at the time of the contract, the debtor, being of lawful age and competent to contract for insurance, applies for the insurance in writing on a form approved by the Commission.

B. The application or enrollment request shall be required to:

1. Contain the name and signature of the agent or creditor's representative, if any, who solicited the application or enrollment request;

2. Contain the name and address of the insurer and creditor; the name and age of the debtor(s); the premium, rate or amount payable by the debtor separately for credit life insurance and credit accident and sickness insurance; the type of insurance coverage provided; the date of application; and separately, the amount and term, including the effective and cancellation dates, of the insurance and loan contracts; and

3. Include the disclosure requirements set forth in subsections A, B, C and D, and E of § 38.2-3735 unless such requirements have been separately disclosed in another form or forms approved by the Commission.

C. The application or enrollment request form shall be separate and apart from the loan or credit transaction papers and will refer exclusively to insurance coverage.

D. No individual or group credit life insurance or credit accident and sickness insurance application form shall contain a question of general good health unless the application form contains appropriate specific questions concerning the applicant's health history or medical treatment history.

E. Neither this section nor subsection B of § 38.2-3735 shall apply to credit life or credit accident and sickness insurance that will insure open-end monthly outstanding balance credit transactions if the following criteria are met:

1. The credit life insurance and credit accident and sickness insurance that will insure the open-end monthly outstanding balance credit transaction are offered to the debtor after the loan or credit transaction that 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 life or credit accident and sickness insurance;

3. The creditor makes available only one plan of credit life insurance and one plan of credit accident and sickness 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 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 that the policy or certificate is delivered to the policyowner 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 included on the face page of the policy or certificate, and shall be printed in capital letters and in bold 12-point or larger type.

F. The following shall be applicable to open-end credit transactions by mail, telephone, or brochure solicitations, that are not excluded from the requirements of this section and of subsection B of § 38.2-3735 by subsection E, where the insurer is offering only one plan of credit life insurance or one plan of credit accident and sickness insurance:

1. Section 38.2-3735 shall not apply to such transactions, provided that the following disclosures are included in such 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. Subsections B and D of this section shall not apply to such transactions, provided that the

428 application or enrollment request utilized as part of such transaction:

429 a. Is printed in a type size of not less than eight-point type, one point leaded, notwithstanding the
430 requirements set forth in subdivision D 5 of § 38.2-3724 regarding minimum type size for policies and
431 certificates;

432 b. Contains a prominent statement that the insurance offered is optional, voluntary, or not required;

433 c. Contains no questions relating to insurability other than the debtor's age or date of birth and, if
434 applicable, active employment status; and

435 d. If the disclosures required by subdivision 1 of this subsection are not included in the application
436 or enrollment request, makes reference to such disclosures with sufficient information so as to assist the
437 reader in locating such disclosures within the solicitation.

438 3. Each insurer proposing to utilize an application or enrollment request in such transactions shall file
439 such form for approval by the Commission. If the insurer anticipates utilizing such application or
440 enrollment form in more than one solicitation, the insurer shall submit, as part of its filing of such form,
441 a certification signed by an officer of the insurer, stating that any such subsequent use of the application
442 or enrollment form will utilize the same form number and will not vary in substance from the wording
443 and format in which the form is submitted for approval. Upon approval of such application or
444 enrollment form by the Commission, the insurer shall be permitted to utilize such form in various
445 solicitation materials, provided that the application or enrollment form, when incorporated into such
446 solicitation materials, has the same form number and wording substantially identical to that contained on
447 the approved application or enrollment form.

448 G. Notwithstanding the provisions of subsection A, a contract of insurance may be made or
449 effectuated in connection with a credit transaction between a creditor regulated pursuant to Chapter 4.01
450 (§ 6.1-225.1 et seq.) of Title 6.1 or 12 U.S.C. § 1751 et seq. and a debtor who is of lawful age,
451 competent to contract for the insurance and a member of the creditor if:

452 1. The credit transaction and the solicitation for such insurance is effected by mail, telephone or
453 other electronic means;

454 2. The purchase of credit insurance is not required by the creditor and is not a factor in granting the
455 credit;

456 3. The creditor or insurer, within three business days after the credit transaction is effected, transmits
457 to the debtor, either separately or with the documents that pertain to the credit transaction, an application
458 or enrollment request form approved by the Commission which includes or to which is attached a
459 prominent notice that clearly advises the debtor that unless he mails the completed and signed
460 application or enrollment request to the creditor within forty-five days following the date of the credit
461 transaction, all such coverage requested in connection with the credit transaction will be void from the
462 beginning; and

463 4. In the event the debtor does not transmit the completed and signed application or enrollment
464 request to the creditor within the time specified in subdivision 3, the full amount of the premium
465 charged for the insurance is returned to or credited to the account of the debtor and written notice
466 thereof is sent to the debtor within fifteen days of the date the policy or certificate is cancelled.