

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 138

An Act to amend and reenact § 38.2-317 of the Code of Virginia, relating to approval of property and casualty insurance policy forms and endorsements.

[H 1892]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-317 of the Code of Virginia is amended and reenacted as follows:

§ 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 the~~ 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, surety insurance as defined in § 38.2-121, or insurance of large commercial risks as defined in § 38.2-1903.1.

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 the~~ Commonwealth.

C. *No policy form or endorsement specified in subsection A shall be delivered, issued for delivery, or used in the Commonwealth unless the policy form or endorsement has been approved in writing by the Commission as conforming to the requirements of this title and not inconsistent with law.* Within ~~thirty~~ 30 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~~ 30 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~~ 30 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.