

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 202

An Act to amend and reenact § 38.2-3737 of the Code of Virginia, relating to credit life, accident and sickness insurance; applications; effective date of insurance.

[H 572]

Approved April 2, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3737 of the Code of Virginia is amended and reenacted as follows:

§ 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 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 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 twenty-five 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 each plan of insurance 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 application or enrollment request utilized as part of such transaction:

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

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

c. Contains 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, makes reference to such disclosures with sufficient information so as to assist the reader in locating such disclosures within the solicitation.

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.

G. Notwithstanding the provisions of subsection A, a contract of insurance may be made or effectuated in connection with a credit transaction between a creditor regulated pursuant to Chapter 4.01 (§ 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, competent to contract for the insurance and a member of the creditor if:

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

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

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

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