

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 306

An Act to amend and reenact § 38.2-233 of the Code of Virginia, relating to credit involuntary unemployment insurance; disclosure requirements.

[H 1368]

Approved April 4, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-233 of the Code of Virginia is amended and reenacted as follows:

§ 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, all debtors must be informed of all such plans for which they are eligible.

B. When elective credit involuntary unemployment insurance is offered, the borrower shall be given written disclosure that purchase of credit involuntary unemployment 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 involuntary unemployment insurance, the debtor shall be given:

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

2. A disclosure form which shall clearly disclose the difference in premiums charged for a contract with credit involuntary unemployment insurance and one without credit involuntary unemployment 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 soliciting the application or the creditor's representative 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.

D. If 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.

E. The disclosure requirements set forth in subsections A, B, C and D shall be separately disclosed in another form or forms approved by the Commission. *Notwithstanding the provisions of § 38.2-1921, when 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. Readability. The Commission shall not approve any form providing credit involuntary unemployment insurance unless the policy or certificate is written in nontechnical, readily understandable language, using words of common everyday usage:

1. Each insurer is required to test the readability of its policies or certificates by use of the Flesch Readability Formula, as set forth in Rudolf Flesch, *The Art of Readable Writing* (1949, as revised 1974);

2. A total readability score of forty or more on the Flesch score is required; and

3. All policies or certificates within the scope of this section shall be filed with the Commission, accompanied by a certificate setting forth the Flesch score and certifying compliance with the guidelines set forth in this section.

G. Truncated coverage. A 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. A portion of the premium charged for 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. All of the acts necessary to provide and service 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. Subsections A, B, C, D, E and K shall not apply to credit involuntary unemployment insurance that will insure open end monthly outstanding balance credit transactions if the following criteria are met:

1. Credit involuntary unemployment 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 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 involuntary unemployment insurance;

3. The creditor makes available 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. Subsections A, B, C, D, E and J 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 where the insurer is offering 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 each plan of insurance 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 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 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 by the Commission and shall incorporate the requirements of subsection K of § 38.2-233 and subsection F of § 38.2-3737, according to the requirements stated in this paragraph and in § 38.2-3737 F 3.