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SENATE BILL NO. 726

Offered January 12, 1995

A BILL to amend and reenact § 38.2-513 of the Code of Virginia, relating to cancelling insurance policy at time of refinancing.

Patron—Colgan

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-513 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-513. Favored agent or insurer; coercion of debtors.

A. No person shall:

1. Require, as a condition precedent to the extension of credit, or any subsequent renewal thereof, that the borrower purchase an insurance policy through a particular insurer, agent or broker.

2. a. Unreasonably disapprove the insurance policy provided by a borrower or debtor for the protection of the property securing the credit or lien or unreasonably disapprove the insurance policy provided by a borrower or debtor on his own life to protect the loan. A disapproval shall be deemed unreasonable if it is not based solely on reasonable standards uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for disapproval of an insurance policy because the policy contains coverage in addition to those required by the creditor. Use of the ratings of a nationally recognized rating service shall not be deemed unreasonable provided such ratings are based on reasonable standards uniformly applied. If an insurer, duly licensed in Virginia, does not possess the required rating of a nationally recognized rating service, no person who lends money or extends credit shall refuse to accept from the insurer a certificate of 100 percent reinsurance issued by another insurer pursuant to § 38.2-136, which does possess the required rating.

b. Every person who lends money or extends credit and who solicits insurance on real or personal property shall explain to the borrower in writing that the insurance related to such credit extensions may be purchased from an insurer or agent of the borrower's choice.

3. Require directly or indirectly that any debtor, borrower, mortgagor, purchaser, insurer, broker, or agent (i) pay a separate charge or consideration of any kind in connection with the handling of any insurance policy required as security for a loan or real estate, or (ii) pay a separate charge or consideration of any kind for substituting the insurance policy of one insurer for that of another. However, this does not include the interest which may be charged on premium loans or premium advancements in accordance with the security instrument.

4. Use or disclose information including, but not limited to, policy information and policy expiration dates on policies insuring any kind of real property being conveyed or used as collateral security to a loan and required by a borrower, mortgagor or purchaser (i) when such information is to the advantage of the mortgagee, vendor, or lender, or any subsidiary of the mortgagee, vendor, or lender; or (ii) when the information is to the detriment of the borrower, mortgagor, purchaser, insurer, agent or broker complying with this requirement, except as required by local, state or federal law or regulation.

5. *Require a borrower or debtor, for the protection of property securing the credit or lien, to cancel an existing insurance policy on such property at the time of a refinancing solely to change the effective dates of coverage under the policy. Nothing herein shall prevent a lender from requesting a new policy when the coverage under the existing policy is inadequate or there is reasonable concern over the soundness or services of the insurer.*

B. The Commission may investigate the affairs of any person to whom this section applies to determine whether that person has violated this section. If a violation of this section is found, the person in violation shall be subject to the same procedures and penalties as are applicable to other provisions of this chapter.

C. No person who lends money or extends credit shall solicit insurance on real or personal property, after a person indicates interest in securing a first mortgage credit extension, until the person has received a commitment in writing from the lender as to a loan or credit extension.

D. No lending institution, bank holding company, savings institution holding company or subsidiary or affiliate of either the lending institution or holding company, including any officer or employee thereof, licensed as an insurance agency or insurance agent in this Commonwealth shall obtain or utilize in any manner or for any purpose related to the sale of insurance any information, including policy expiration dates, contained in any insurance contract covering a customer of the institution, subsidiary,

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60 or affiliate or the customer's property, if the contract was sold to the customer by a broker or agent not
61 affiliated with the institution, subsidiary, or affiliate, and if the contract or information was obtained by
62 the institution, subsidiary, or affiliate from the customer in connection with a request for an extension of
63 credit.

64 E. Notwithstanding the provisions of this section, life insurance and accident and sickness insurance
65 shall continue to be governed by §§ 38.2-3301, 38.2-3342, 38.2-3502, 38.2-3604, and 38.2-3724 as to
66 the right of rescission and refund of premium. Any lending institution, bank holding company, savings
67 institution holding company or subsidiary or affiliate licensed to sell insurance shall provide an
68 individual who purchases insurance the right to cancel the purchase of such insurance and receive a
69 refund or credit on a pro rata basis until midnight of the tenth day following the consummation of the
70 insurance purchase transaction or the effective date of the coverage, whichever is later. The individual
71 shall effect such cancellation by notifying in writing the lending institution, bank holding company,
72 savings institution holding company or subsidiary or affiliate that made the insurance sale of the intent
73 to cancel. The lending institution, bank holding company, savings institution holding company or
74 subsidiary or affiliate shall (i) clearly and conspicuously disclose to any individual the rights of the
75 individual under this section and (ii) provide appropriate forms for the exercise by the individual of his
76 right to cancel any insurance subject to this section. Such forms shall contain a clear and specific
77 statement setting forth:

78 1. The cost of the insurance;

79 2. That the individual may choose the person through which insurance can be obtained and that the
80 availability of an account or loan relationship and the interest rates paid or charged for a loan or an
81 extension of credit may not be made contingent upon the purchase of insurance;

82 3. The individual's right to use the cancellation period to obtain price quotations for insurance from
83 other sources;

84 4. The actions necessary for the individual to cancel the insurance; and

85 5. The individual's right to receive a refund or a credit of the unearned pro rata portion of the
86 insurance premium after cancellation.

87 F. All premiums as a result of an insurance transaction pursuant to this section shall be accounted for
88 in accordance with § 38.2-1813.