

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 26

An Act to amend and reenact § 38.2-317 of the Code of Virginia, relating to insurance; delivery and use of policies and endorsements.

[S 882]

Approved March 1, 1997

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. A~~ *No insurance policy or endorsement of the kind to which Chapter 19 (§ 38.2-1900 et seq.) of this title applies; other than statutory fire insurance policies and standard automobile policy forms and endorsements, and workers' compensation and employers' liability as defined in § 38.2-119, and surety as defined in § 38.2-121 may shall be delivered or issued for delivery in this Commonwealth only if (i) unless the policy form or endorsement is filed with the Commission at least thirty days prior to its effective date; and (ii) the Commission has not disapproved the form or endorsement within the thirty days because it: 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, or surety insurance as defined in § 38.2-121.*

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 Commonwealth.*

C. Within thirty 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 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 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.

~~B.~~ *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.*

~~C.~~ *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.*

~~D.~~ *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.*

~~E.~~ *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.*