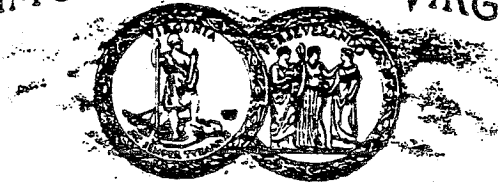


# COMMONWEALTH OF VIRGINIA



JAMES M. THOMSON  
COMMISSIONER OF INSURANCE

BOX 1157  
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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

May 6, 1982

ADMINISTRATIVE  
LETTER 1982-6

- TO: All Companies Licensed to Write Credit Life and Credit Accident and Sickness Insurance in Virginia.
- RE: Changes in the Insurance Code of Virginia Regarding Credit Life Insurance and Credit Accident and Sickness Insurance (House Bill No. 94 (Chapter 223), amending Sections 38.1-327.24, 38.1-480 and 38.1-482.1 through 482.16)

### IMMEDIATE ATTENTION REQUIRED

Important changes in the Virginia law regarding credit life and credit accident and sickness insurance were passed by the Virginia General Assembly during the 1982 Session and signed into law on April 4, 1982. These changes will take effect on July 1, 1982. Many of these changes will have a direct impact on forms used to market credit insurance. It is essential that insurance companies doing credit insurance business in Virginia give careful consideration to these changes to make sure they are in compliance with the amended law.

To assist us in monitoring compliance with the amended law, I am asking you to respond to the attached questionnaire.

The following is a list of changes to the statutes that may require a change in credit life and credit accident and sickness insurance forms to be marketed in Virginia:

- 1) Franchise policies may not be sold on or after July 1, 1982. Under Section 38.1-482.3:1 of the Virginia Insurance Code they are no longer authorized. Existing franchise policies may remain in force until the anniversary date of the policy next following July 1, 1982. (Section 38.1-482.16:2).
- 2) The limit on the amount of an indebtedness that may be covered under a group credit life policy has been increased to \$50,000. (Section 38.1-482.4(a)(4)).
- 3) The policy and certificate forms must state that the debtor may terminate his contract upon written request. Where the insurance is required as security at the time of the credit transaction, the right to terminate is dependent on the debtor's furnishing other insurance. (Section 38.1-482.5F).
- 4) The type size of the text of all forms must not be less than ten point type, one point leaded. (Section 38.1-482.6(c) (5)).

5) A policy or certificate must be issued within 10 business days from the date of the loan. However, the delivery period may be extended to 30 calendar days where a notice of proposed insurance or a signed debtor's application is delivered to the debtor at the time of the loan. (Sections 38.1-482.6(e) and 38.1-482.6(f)). (Before use, notice of proposed insurance forms must be filed and approved as part of the forms review process.)

6) The minimum refund that must be made has been increased to \$2.00. (Section 38.1-482.8(b)).

7) Creditors must inform debtors of their option to furnish insurance through existing policies of insurance or to procure and furnish policies of insurance from other insurers and must obtain the debtor's signature acknowledging that he understands this option. This notice and acknowledgment must be submitted to us as part of our forms review process. (Section 38.1-482.12).

8) Reserve tables must be filed with and approved by the Bureau of Insurance. (Section 38.1-482.12:1).

Individual credit life and credit accident and sickness insurance policy forms must meet the requirements of these statutes as of July 1, 1982. Individual forms that do not meet the requirements in the new statutes may not be marketed on or after July 1, 1982. Group forms must meet the requirements of the new statutes on the anniversary date of the contract following July 1, 1982. As previously noted, franchise policies must be changed to either group or individual policies on their anniversary date as this type of policy is no longer authorized under the Virginia Insurance Code.

In addition to the amendments in the credit laws that may require changes in credit insurance forms, other changes were made regarding credit insurance. Your attention is called to these sections:

Debtor Groups (Section 38.1-480).

Present Section 38.1-480 which applies to debtor group life insurance for credit transactions of more than 10 years has been amended to apply to all debtor group life insurance, including that subject to the credit insurance article. There is no longer a dollar limit for debtor group life insurance for credit transactions over 10 years.

Application of Article (Section 38.1-482.1).

Under an amended Section 38.1-482.1 the credit article applies to insurance on credit transactions of ten years or less, except for credit transactions involving first mortgages or deeds of trust on primary residences, mortgage redemption insurance and classes of insurance that are age-rated.

The provision in present Section 38.1-482.1 stating that no provisions of the Insurance Code are to be applicable unless otherwise specifically provided has been deleted.

Readability (Section 38.1-482.6).

The amended law in Section 38.1-482.6(c)(6) gives the Commission authority to make rules and regulations governing readability. It is anticipated that a new credit

insurance regulation containing readability standards (modeled on the NAIC approach and existing Virginia Regulation 18), along with other credit insurance changes would be adopted in the late fall of 1982.

Rates (Section 38.1-482.7:1).

The new rate provision, Section 38.1-482.7:1, lists the factors to be considered by the Commission in determining reasonableness, provides for a deviation procedure and no longer provides for a 50 percent loss ratio test for credit life insurance. The 50 percent loss ratio test still applies to credit accident and sickness insurance.

It is anticipated that an order will be issued extending the current interim rate of \$.55 per \$100 per year until a new regulation is adopted.

Penalties (Section 38.1-482.14:1).

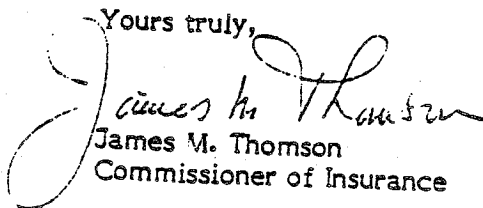
The new penalties provision, Section 38.1-482.14:1, has the same penalties as are contained in the Unfair Trade Practices Provisions so that licenses can be suspended or revoked for violation of the credit article or an order and fines of up to \$50,000 for violation of the credit article and up to \$100,000 for violation of an order may be levied.

Many changes in addition to those described in this letter were made in the amended statutes, and insurers should become thoroughly familiar with all of them. A copy of the legislation containing these changes, House Bill 94 (Chapter 223), is attached.

We need answers to the attached questionnaire from an officer of your company within 20 days of the date of this letter.

Thank you for your cooperation in implementing these new requirements and in providing answers to the questions in the attached questionnaire. If you have any questions concerning this letter please contact Robert L. Wright of my staff.

Yours truly,

  
James M. Thomson  
Commissioner of Insurance

JMT/rt

Attachments (2)

# COMMONWEALTH OF VIRGINIA



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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

May 6, 1982

### Credit Life and Credit Accident and Sickness Insurance Questionnaire

COMPANY NAME AND ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1) Is your company writing any credit life insurance or credit accident and sickness insurance in Virginia?

Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "yes" to question 1, please answer the following questions:

2) Is your company issuing individual policies of credit life insurance or credit accident and sickness insurance in Virginia?

Yes \_\_\_\_\_ No \_\_\_\_\_

3) Is your company issuing franchise credit life insurance or credit accident and sickness insurance policies in Virginia?

Yes \_\_\_\_\_ No \_\_\_\_\_

4) Is your company issuing group credit life insurance or credit accident and sickness insurance policies in Virginia?

Yes \_\_\_\_\_ No \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_  
(Printed or Typed)

Title \_\_\_\_\_

Company Name \_\_\_\_\_

Date \_\_\_\_\_

RESPONSES DUE WITHIN 20 DAYS OF THE DATE OF THIS QUESTIONNAIRE

## 1982 REGULAR SESSION

## CHAPTER 223

An Act to amend and reenact §§ 38.1-327.24, 38.1-480, 38.1-482.1, 38.1-482.2, 38.1-482.4 through 38.1-482.6, 38.1-482.8 through 38.1-482.13 and 38.1-482.15 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 38.1-482.3:1, 38.1-482.7:1, 38.1-482.12:1, 38.1-482.14:1, 38.1-482.16:1 and 38.1-482.16:2, and to repeal §§ 38.1-482.3, 38.1-482.7, 38.1-482.14 and 38.1-482.16 of the Code of Virginia, all regulating certificates of qualification for life and health agents and group life insurance issued on debtor groups and credit life insurance and credit accident and sickness insurance; penalties.

[H 94]

Approved

April 4

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.1-327.24, 38.1-480, 38.1-482.1, 38.1-482.2, 38.1-482.4 through 38.1-482.6, 38.1-482.8 through 38.1-482.13 and 38.1-482.15 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 38.1-482.3:1, 38.1-482.7:1, 38.1-482.12:1, 38.1-482.14:1, 38.1-482.16:1 and 38.1-482.16:2 as follows:

§ 38.1-327.24. Certificate of qualification required of life and health insurance agents.—Every individual who is a resident of this State *Commonwealth* and who desires to obtain a license as a life and health insurance agent shall first pass a written examination prescribed by the Commission and obtain a certificate of qualification from the Commission; ~~provided, however, that any~~. Any individual who desires to obtain a license to solicit, negotiate, or effect insurance for cooperative nonprofit life benefit companies as defined in ~~chapter~~ Chapter 10 (§ 38.1-496 et seq.) of this title, life and casualty cooperative or assessment companies as defined in ~~chapter~~ Chapter 11 (§ 38.1-522 et seq.) of this title, burial societies as defined in ~~chapter~~ Chapter 12 (§ 38.1-550 et seq.) of this title, travel accident insurance sold to individuals at transportation terminal buildings or by ticket-selling agents of a railroad, steamship company, air carrier or public bus carrier, or mortgage redemption insurance or mortgage accident and sickness insurance as a mortgage redemption insurance agent, or credit life insurance or credit accident and sickness insurance as a credit life and health insurance agent shall be permitted to obtain a license without taking a written examination and obtaining a certificate of qualification.

§ 38.1-480. Debtor groups.—A policy of group life insurance may be issued to a creditor; ~~who or its parent holding company or to a trustee, trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent~~ shall be deemed the policyholder, to insure debtors of the creditor or creditors, subject to the following requirements:

(1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments over a period of more than ten years from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness or creditors. The policy may provide that the term "debtors" shall include (i) borrowers of money or purchasers or lessees of goods, services or property for which payment is arranged through a credit transaction; (ii) the debtors of one or more subsidiary corporations; ; (iii) and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him during his lifetime at the time the insurance becomes effective upon his life.

(2) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per centum of the then eligible debtors elect to pay the required charges. Except as provided in paragraph (3) of this section, a policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors; or all except any as to whom evidence of individual insurability is not satisfactory to the insurer

(3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per centum of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age. An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor, or ten thousand dollars, whichever is less greater of the scheduled or actual amount of unpaid indebtedness to the creditor. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of eighteen months except that such insurance may be continued for an additional period not exceeding six months in the case of default, extension or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness, or ten thousand dollars, whichever is less.

(5) The insurance shall be payable to the policyholder creditor, or any successor of the right, title or interest of the creditor. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(6) Notwithstanding the provisions of paragraphs 1 through 5 of this section, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a nondecreasing or level term plan. Insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

(7) The insurance written in connection with credit transactions of ten years or less shall be subject to the provisions of Article 5.1 (§ 38.1-482.1 et seq.) of this chapter.

§ 38.1-482.1. Application of article.—All life insurance and all accident and sickness insurance sold issued in connection with loans or other credit transactions other than first mortgages or deeds of trust on primary residences shall except as provided in § 38.1-482.12 be subject to the provisions of this article except such insurance sold issued in connection with a loan or other credit transaction of more than ten years' duration, mortgage redemption insurance, and classes of insurance that are age-rated. The provisions of this article shall be controlling as to such insurance and no other provisions of this title shall be applicable unless otherwise specifically provided. Credit life insurance and credit accident and sickness insurance shall not be subject to the provisions of this article where the issuance of such insurance is an isolated transaction on the part of the insurer and not related to an agreement or plan for insuring debtors of the creditor. In the event of conflict between the provisions of this article and other provisions of this title, the provisions of this article shall be controlling. Paragraphs 1 and 2 of § 38.1-52.7 shall not apply to the insurance subject to the provisions of this article where application of these paragraphs would conflict with the requirements of any federal agency.

§ 38.1-482.2. Definitions.—As used in this article, unless the context requires otherwise, the following words or terms shall have the meanings herein ascribed to them, respectively:

(a) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

(b) "Credit accident and sickness insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

(c) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them;

(d) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction;

(e) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction;

(f) "Franchise credit life insurance" and "franchise credit accident and sickness insurance" mean that form of insurance by which a master policy is issued to and in favor of a creditor, under which policy debtors are insured at the option of the creditor, in a manner similar to, but without the necessity of issuance of, individual policies;

(g) "Credit life and health insurance agent" means an agent of an insurance company

licensed in this State, Commonwealth who is authorized to solicit, negotiate or effect credit life insurance or credit accident and sickness insurance, or both, but only to the extent as is authorized and limited in this article:

(h) "Commission" means the State Corporation Commission ; .

(i) "~~Commissioner~~" means the Commissioner of Insurance.

§ 38.1-482.3:1. *Forms of credit life insurance and credit accident and sickness insurance.*—Cred. life insurance and credit accident and sickness insurance shall be issued only in the following forms:

1. Individual policies of life insurance issued to debtors on the term plan;
2. Individual policies of accident and sickness insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;
3. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan, subject to the requirements of § 38.1-480; or
4. Group policies of accident and sickness insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

§ 38.1-482.4. Amount.—(a) (1) The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness, and where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of the unpaid indebtedness, whichever is greater.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, insurance on agricultural credit transaction commitments not exceeding one year in duration may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

(4) In no event shall the amount of credit life insurance on an indebtedness of any debtor insured under a group policy exceed \$50,000.

(b) The total amount of periodic indemnity payable by credit accident and sickness insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness, and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments.

§ 38.1-482.5. Term of insurance; termination.— A. The term of any credit life insurance or credit accident and sickness insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy or a franchise master policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. The term of such insurance shall not extend more than fifteen days beyond the scheduled maturity date of the indebtedness or final installment thereof except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to such maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in § 38.1-482.8.

B. Where evidence of insurability is required and such evidence is furnished more than thirty days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurer determines the evidence to be satisfactory. In such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance.

C. The term of such insurance shall not extend more than fifteen days beyond the scheduled maturity date of the indebtedness, except (i) when extended without additional cost to the debtor or (ii) where the indebtedness on which such insurance is issued is extended by agreement between the creditor and the debtor and does not constitute a discharge of the indebtedness. An additional premium may be charged for the insurance covering such extension under (ii) of this subsection.

D. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness.

E. In cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in § 38.1-482.8.

F. Any policy or certificate for credit life insurance or credit accident and sickness insurance shall contain a provision that such insurance may be terminated upon written request of the debtor except where such insurance is required at the time of the credit

transaction as security for any indebtedness. Where insurance is required the debtor shall have the right to terminate such insurance by furnishing evidence of other insurance at least equal in coverage and protection to the creditor as that required.

§ 33.1-482.6. Policy provisions; disclosure to debtors.—(a) All credit life insurance and credit accident and sickness insurance sold shall be evidenced by an individual policy, or in the case of group insurance or insurance under a franchise master policy where any part of the premium is paid by the debtors or by the creditors from identifiable charges collected from the insured debtors not required of an insured debtor, by a certificate of statement of insurance. The individual policy or group certificate of insurance shall be delivered to the debtor.

(b) Each individual policy or group certificate of statement of credit life insurance, and/or credit accident and sickness insurance shall set forth the name and home office address of the insurer, the name or names of the debtor, or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor the premium or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and sickness insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations or restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness. The policy or certificate shall also state that wherever the amount of insurance may exceed the amount necessary to discharge the indebtedness that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

(c) No individual policy of credit life insurance or credit accident and sickness insurance; and no group policy of credit life insurance or credit accident and sickness insurance; and no franchise master policy of credit life insurance or credit accident and sickness insurance shall be delivered or issued for delivery in this State Commonwealth, unless each contains in substance all of the following provisions:

(1) In each policy there shall be a provision that the policy, or the policy and application therefor, if any and if a copy of the application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements made by the creditor or by the individual debtors shall, in the absence of fraud, be deemed representations and not warranties.

(2) In each such policy there shall be a provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force for a period of two years during such person's lifetime, and prior to the date on which the claim thereunder arose.

(3) In each such policy there shall be a provision that when a claim for the death or disability of the insured arises thereunder, settlement shall be made upon receipt of due proof of such death or such disability.

(4) On the face of each such policy there shall be placed a title which shall briefly and accurately describe the nature and form of the policy.

(5) Each such policy, including rider and endorsement, shall be identified by a form number in the lower left-hand corner of the first page thereof; and no restriction, condition or provision in or endorsed on such policy shall be valid unless such provision or condition is printed in type as large as brier or eight-point type, or is written in pen and ink or typewritten in or on such policy. The type size of the text of each such policy form including rider and endorsement or certificate shall not be less than ten-point type, one point leaded.

(6) Each such individual policy or group certificate shall meet the readability standards established by rules and regulations promulgated by the Commission.

(d) No individual policy of credit life insurance or credit accident and sickness insurance; and no group policy of credit life insurance or credit accident and sickness insurance; and no franchise master policy of credit life insurance or credit accident and sickness insurance shall be delivered or issued for delivery in this State Commonwealth if it contains any provision:

(1) Limiting the time within which any action at law or in equity may be commenced to less than one year after the cause of action accrues; or

(2) To the effect that the agent soliciting the insurance is the agent of the person insured under the policy, or making the acts or representations of such agent binding upon the person so insured under the policy; or

(3) With respect to credit life insurance, excluding coverage other than in the event of suicide within one year from the date the indebtedness was incurred or making ineligibility



for coverage debtors under the age of sixty-five at the time the indebtedness is incurred unless such debtors will have attained the age of sixty-five by the maturity date of the indebtedness.

(e) Where any part of the premium is paid by the debtors, or by the creditor from identifiable charges collected from the insured debtors not required of uninsured debtors, then a copy of the individual policy or certificate of insurance shall be delivered or mailed to the insured debtor at the time the insurance indebtedness is effected or within five ten business days thereafter except as provided in subsection (f) of this section. For open-end credit transactions, agricultural or educational loan commitments, or where no direct charge is made of the debtor for his insurance, the individual policy or group certificate of insurance may be delivered to the insured debtor at the time he first becomes eligible for the insurance and need not be delivered again each time new indebtedness is added.

(f) If the individual policy or certificate of insurance is not delivered or mailed to the debtor at the time indebtedness is incurred, or within ten business days thereafter, a copy of the application for such policy signed by the debtor or a notice of proposed insurance, setting forth the name and address of the insurer if available at that time, the name or names of the debtor, the premium or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and sickness insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. If the name and address of the insurer are not furnished as required by this subsection, then such name and address shall be furnished to the debtor within ten business days of the time such indebtedness is incurred. The copy of the application for, or notice of, proposed insurance shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth in the application for the loan agreement or conditional sales contract. Upon acceptance of the insurance by the insurer and within thirty days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered or mailed to the debtor. The application or notice of proposed insurance shall state that upon acceptance by the insurer the insurance shall become effective as provided in § 38.1-482.5.

(g) If the policy or certificate is issued by any insurer other than the insurer listed on the application or notice of proposed insurance, the debtor shall receive a policy or certificate of insurance setting forth the name and address of the substituted insurer and the amount of the premium to be charged. If the amount of the premium is less than that set forth in the notice of proposed insurance, an appropriate refund shall be made.

§ 38.1-482.7:1. Forms of policies, etc., to be filed with Commission; approval or disapproval by Commission.—A. All forms of policies, certificates of insurance, endorsements, notices of proposed insurance, applications for insurance, and riders intended for use in this Commonwealth shall be filed with the Commission and shall not be delivered or issued for delivery in this Commonwealth unless approved pursuant to this section.

B. The Commission shall disapprove or withdraw approval previously given to the form of any such policy, contract, certificate, application, rider or endorsement if:

1. It does not comply with the requirements of the laws of this Commonwealth;
2. It contains any provisions or has any title, heading, backing or other indication of the contents of any or all of its provisions which encourage misrepresentation or are unjust, unfair, misleading, deceptive or contrary to the public policy of this Commonwealth; or

3. The premium rates or charges are not reasonable in relation to the benefits provided.

C. The benefits provided by any credit life insurance form shall be deemed reasonable in relation to the premium charged or to be charged based on rates not in excess of those adopted by the Commission in accordance with the criteria herein set forth. Such rates may be amended by the Commission after allowing an opportunity for all interested parties to be heard. In adopting any rate and in establishing reasonableness, the Commission shall give due consideration to the following factors: (i) past and prospective loss experience and mortality rates, (ii) necessary and reasonable costs and expenses attributable to the credit life insurance business, and (iii) any other relevant factors, including a fair return to the creditor and insurer. No change in the rate shall be made unless it is established by a preponderance of the evidence that such rate is not reasonable.

D. The benefits provided by any credit accident and sickness insurance form shall be

deemed reasonable in relation to the premium charged or to be charged if the rate charged therefor produces a ratio of losses incurred to premiums earned, based on credible data, of not less than fifty percent or may reasonably be expected to produce at least such a loss ratio. The ratio of losses incurred to premiums earned may be amended by the Commission after allowing an opportunity for all interested parties to be heard. In adopting any rate and in establishing reasonableness, the Commission shall give due consideration to the following factors: (i) past and prospective loss experience and morbidity rates, (ii) necessary and reasonable costs and expenses attributable to the credit accident and sickness insurance business, and (iii) any other relevant factors, including a fair return to the creditor and insurer.

E. Upon the filing by any insurer writing credit life or credit accident and sickness insurance in Virginia of a petition to increase its rate for a specific category of insurance which can, in the opinion of the Commission, reasonably be placed in a specific category for this purpose and the filing of evidence to support such an increase, the Commission, after a public hearing which shall be promptly scheduled, and a review of the credible evidence filed and credible evidence adduced at the hearing, shall grant an increase in the rate for such category of insurance if it be shown that the insurer writing such business in Virginia is not receiving a fair return considering the factors set forth in subsections C and D of this section with respect to such category of insurance.

F. The Commission shall, within thirty days after the filing of any form requiring approval, notify the insurer filing the form of its approval or disapproval of such form. In the event of disapproval the Commission shall also notify the insurer of its reasons therefor. The Commission, at its discretion, may extend by not more than an additional thirty-day period, the period within which it must indicate its approval or disapproval of such form, and in the event of disapproval its reason therefor. Any form received but not approved or 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.

G. If the Commission proposes to withdraw approval previously given to the form of any policy, certificate of insurance, notice of proposed insurance, application for insurance, rider, or endorsement, it shall notify the insurer in writing not less than thirty days prior to the proposed effective date of withdrawal and give its reasons therefor. No insurer shall issue such forms or use them after the effective date of such withdrawal, except as provided in subsection H of this section.

H. Any insurer aggrieved by the disapproval or withdrawal of approval of any form may proceed as indicated in § 38.1-279.54.

§ 38.1-482.8. Schedule of premium rates to be filed; refund of premiums; payments by debtor.—(a) Each insurer issuing credit life insurance or credit accident and sickness insurance shall file with the Commission its schedules of premium rates for use in connection with such insurance. Any insurer may revise such schedules from time to time, and shall file such revised schedules with the Commission. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that shown by the schedules of such insurer as then on file with the Commission.

(b) Each individual policy, or certificate or statement of insurance shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that the Commission shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the Commission. The refund of premiums in the case of decreasing term credit life or credit accident and sickness insurance shall be no less than the amount computed by the Rule of 78. The refund of premiums in the case of level term credit life insurance shall be no less than the pro rata unearned gross premium. No refund need be made if the amount to be refunded is less than two dollars.

(c) If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or certificate or statement of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

(d) The amount charged by the creditor to the debtor for any credit life or credit accident and sickness insurance shall not exceed the premium rate filed with the Commission for the coverage provided premiums charged by the insurer, as computed according to its schedule of premium rates then on file with the Commission for the coverage provided.

§ 38.1-482.9. Portion of premium may be allowed to creditor; insurance may be provided and serviced at creditor's place of business.— Credit life insurance and credit accident and sickness insurance is usually effected when the creditor deems it is essential to the making of the loan or other extension of credit giving rise to such insurance, and such insurance is necessarily arranged for simultaneously with the entering into such credit transaction. In recognition of the foregoing conditions, and Notwithstanding the provisions of any other statutes of this State *Commonwealth* which expressly or by construction may provide otherwise:

(a) A portion of the premium of credit life insurance or credit accident and sickness insurance may be allowed by the insurer to a creditor, its affiliate or associate or subsidiary or a director, officer or employee of any of them for providing and servicing such insurance, and such portion of the premium so allowed shall not be deemed as a rebate of premium or as interest or charges or consideration or an amount in excess of permitted charges in connection with the loan or other credit transaction; and

(b) All of the acts necessary to provide and service credit life insurance and credit accident and sickness 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.

§ 38.1-482.10. Issuance of policies.—(a) All policies of credit life insurance and or credit accident and sickness insurance shall be delivered or issued for delivery in this State *Commonwealth* only by an insurer authorized under §§ 38.1-85 to 38.1-98 inclusive to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the Commission under §§ 38.1-301.1 to 38.1-301.9 inclusive or under subsection (b) of this section *Chapter 7.1 (§ 38.1-327.1 et seq.) of this title*.

(b) Every individual who desires to obtain a license as a credit life insurance agent shall make written application to the Commission in such form and containing such information as the Commission shall prescribe. Each applicant shall pay a fee as prescribed by § 38.1-313 of the Code of Virginia. The fee shall not be refundable. Upon the Commission being satisfied that an applicant is of good character, that he bears a good reputation, is honest and his application shows he has sufficient knowledge of the requirements of this article to intelligently conduct the insurance business as authorized thereunder, then such applicant shall be entitled to and shall receive from the Commission a license as a credit life insurance agent. The contents and duration of such license, the annual fee therefor and the grounds and procedure for refusing, suspending or revoking such license shall be subject to the applicable provisions of §§ 38.1-302 to 38.1-314 inclusive.

§ 38.1-482.11. Claims.—(a) All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

(b) All claims shall be paid or credited either by electronic means or by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

(c) No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group or franchise policyholder may, by arrangement with the insurer, draw drafts or checks or credit by electronic means in payment of claims due to the group or franchise policyholder subject to audit and review by the insurer. *The insurer shall make periodic review of claims payments made on its behalf by claim representatives or group policyholders.*

§ 38.1-482.12. Debtor to have option of furnishing insurance through existing policies or other insurers.—When credit life insurance or credit accident and sickness insurance is required as security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State *Commonwealth*. *The creditor shall inform the debtor of his option in writing and shall obtain the debtor's signature acknowledging that he understands this option.*

§ 38.1-482.12:1. Reserves.—A. Each insurance company licensed to write credit life insurance shall establish and maintain reserves on all such business written in this *Commonwealth* which, at valuation date, shall be not less than 130 percent of the aggregate reserves on all such business calculated by the net premium method on the basis of the Commissioners' 1958 Standard Ordinary Mortality Table (or, at the option of the company, 100 percent of such reserves calculated on the Commissioners' 1958

Standard Ordinary Mortality Table with 130 percent mortality) with interest at five and one-half percent for single premium insurance and four and one-half percent for all other insurance annually. Such reserves may be calculated on either an annual or a monthly basis with a reasonable assumption, subject to statistical proof, as to average ages at issue or at expiry. Tables used in calculating such reserves must be filed with and approved by the Commission.

B. Each insurance company licensed to write credit accident and sickness insurance shall establish and maintain reserves on all such business written in this Commonwealth which shall at all times be not less than the total unearned gross premiums calculated by the pro rata method or by the Rule of 78, except that it may be assumed that all business written in any calendar month was written as of the fifteenth of such month.

§ 38.1-482.13. Rules and regulations of Commission; order for compliance with article.—  
 (a) The Commission may, after notice and hearing opportunity for all interested parties to be heard, may, issue such rules and regulations consistent with as are necessary and proper to carry out the provisions of this article as it deems appropriate for the supervision of the regulatory provision of this article. Every such regulation, every administrative ruling, and every requirement of general application shall be in writing and maintained as a public record in an indexed permanent book with date of each suitably indicated. A copy of each regulation and order promulgating it shall be mailed by the Commission to all insurers licensed to write insurance under this article.

(b) Whenever the Commission finds that there has been a violation of this article or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the Commission, it shall set forth the details of its findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the Commission on the date specified unless sooner withdrawn by the Commission or a stay thereof has been ordered by the Supreme Court of Appeals.

§ 38.1-482.14:1. Enforcement and penalties.—A. 1. Whenever the Commission has reason to believe that a person has been or is engaged in conduct which violates this article, or any rule or regulation issued or promulgated pursuant thereto, the Commission may issue and serve upon such person a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than ten days after the date of service.

2. At the time and place fixed for such hearing the person charged shall have an opportunity to answer the charges and present evidence on his behalf. Upon good cause shown, the Commission shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

3. In all matters in connection with such investigation, charge, or hearing, the Commission shall have the jurisdiction, power and authority granted or conferred upon it by Title 12.1 (§ 12.1-1 et seq.).

B. If, after a hearing pursuant to subsection A of this section, the Commission determines that the person charged has engaged in conduct or practices in violation of this article, or any rule or regulation issued or promulgated pursuant thereto, it may issue an order requiring such person to cease and desist from such conduct or practices.

1. In any case where a hearing pursuant to subsection A of this section results in the finding of a violation of this article, or any rule or regulation issued or promulgated pursuant thereto, the Commission, in addition to the issuance of a cease and desist order as prescribed in this section, may order any one or more of the following:

a. Payment of a monetary penalty of not more than \$1,000 for each act or violation but not to exceed an aggregate penalty of \$10,000 unless the Commission finds that the person knew or reasonably should have known that he was in violation of this article, in which case the penalty shall be no more than \$5,000 for each act or violation but not to exceed an aggregate penalty of \$50,000 in any six-month period; or

b. Suspension or revocation of a person's license if he knew or reasonably should have known that he was in violation of this article, or any rule or regulation promulgated pursuant thereto.

2. Any person who violates a cease and desist order of the Commission after notice and hearing and upon order of the Commission, may be subject to one or more of the following penalties, at the discretion of the Commission:

a. A monetary fine of not more than \$10,000 for each violation but not to exceed an aggregate penalty of \$100,000; or

b. Suspension or revocation of such person's license.

§ 38.1-482.15. Appeal from action of Commission.—From any action taken by the Commission hereunder, whether upon petition from action taken by the Commission

Commission, or otherwise, any insurer, or any other person in interest considering himself aggrieved, may, as a matter of right, appeal to the Supreme Court of Appeals Virginia in the manner provided by law.

§ 38.1-482.16:1. Severability clause.—If any section, subsection, sentence, part or application of this article shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this article but shall be confined in its operation to the section, subsection, sentence, part or application directly involved in the controversy in which such judgment shall have been rendered.

§ 38.1-482.16:2. Effective date.—This article shall become effective July 1, 1982. Previous regulations promulgated by order of the Commission relating to credit insurance shall remain in effect to the extent that they are not in conflict with this article or until they are superceded. Franchise policies currently in force as of the effective date of this law shall remain in effect until the anniversary date of the policy next following the effective date of this article. All certificates, policy forms and premiums shall conform to the requirements of this article not later than the anniversary date of the policy next following the effective date of this article. Any policy issued to replace or supplement an existing policy of credit insurance shall be ignored for purposes of determining the anniversary date if such change is made after the date of enactment of this article. All certificates, policy forms and premium rates in connection with credit insurance policies issued on and after the effective date of this article shall conform to the requirements of this article.

2. That §§ 38.1-482.3, 38.1-482.7, 38.1-482.14 and 38.1-482.16 of the Code of Virginia are repealed.

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President of the Senate

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Speaker of the House of Delegates

Approved:

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Governor