

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 1205

H. P. 870

House of Representatives, February 2, 1961

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Hughes of St. Albans.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT to Regulate Credit Life and Credit Accident and Health Insurance.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 60, §§ 170-A - 170-N, additional. Chapter 60 of the Revised Statutes is amended by adding 14 new sections to be numbered 170-A to 170-N, to read as follows:

'Credit Life and Credit Accident and Health Insurance.

Sec. 170-A. Purpose. The purpose of sections 170-A to 170-N is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in sections 170-A to 170-N is intended to prohibit or discourage reasonable competition. Sections 170-A to 170-N shall be liberally construed.

Sec. 170-B. Scope and definitions:

I. Scope. All life insurance and all accident and health insurance in connection with loans or other credit transactions shall be subject to sections 170-A to 170-N, except such insurance in connection with a loan or other credit transaction of more than 5 years duration; nor shall insurance be subject to sections 170-A to 170-N where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

II. Definitions. For the purpose of sections 170-A to 170-N:

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 health 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 or 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. "Commissioner" means the Insurance Commissioner.

Sec. 170-C. Forms of credit life insurance and credit accident and health insurance. Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

I. Individual life. Individual policies of life insurance issued to debtors on the term plan.

II. Individual accident and health. Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance.

III. Group life. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan.

IV. Group accident and health. Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

V. Combination. A combination under subsections I and II or under III and IV.

Sec. 170-D. Amount of credit life insurance and credit accident and health insurance.

I. Credit life insurance:

A. Amount of coverage limited. 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 unpaid indebtedness, which ever is greater.

II. Agricultural credit commitments. Notwithstanding subsection I, paragraph A, insurance on agricultural credit transaction commitments not exceed-

ing one year in duration may be written up to the amount of the loan commitment, on a non-decreasing or level term plan.

III. Educational credit commitments. Notwithstanding subsection I, paragraph A, 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.

IV. Credit accident and health insurance:

A. Coverage limited. The total amount of indemnity payable by credit accident and health 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.

Sec. 170-E. Term of credit life insurance and credit accident and health insurance. The term of any credit life insurance or credit accident and health 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 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. Where evidence of insurability is required and such evidence is furnished more than 30 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 insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than 15 days beyond the original or revised scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. 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. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 170-H.

Sec. 170-F. Provisions of policies and certificates of insurance; disclosure to debtors:

I. Policy or certificate delivered. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

II. Content of policy or certificate. Each individual policy or group certificate of credit life insurance, or credit accident and health insurance shall, in addition to other requirements of law, 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 health insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

III. When delivered. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

IV. Application or notice if proposed insurance delivered. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, 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 health 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. 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 other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 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 to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 170-E.

V. Risk not accepted. If the named insurer does not accept the risk, the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance, an appropriate refund shall be made.

Sec. 170-G. Filing, approval and withdrawal of forms:

I. Forms filed. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the commissioner.

II. Approval of forms. The commissioner shall within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the cov-

erage, or are contrary to any provision of the insurance laws or of any regulation promulgated thereunder.

III. Notice of disapproval; waiting period. If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider shall be issued or used until the expiration of 30 days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

IV. Approval withdrawn. The commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection II. The written notice of such hearing shall state the reason for the proposed withdrawal.

V. Use unlawful after approval withdrawn. It is unlawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

VI. Group policy filing. If a group policy of credit life insurance or credit accident and health insurance has been delivered in this State before the effective date of sections 170-A to 170-N, or has been or is delivered in another state before or after they become effective, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in section 170-F, subsections II and IV and such forms shall be approved by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner. The premium rate in effect on existing group policies may be continued until the first policy anniversary date following the date sections 170-A to 170-N become effective.

VII. Appeal. Any order or final determination of the commissioner under this section is subject to appeal as provided in section 350.

Sec. 170-H. Premiums and refunds:

I. Rates filed. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

II. Refund. Each individual policy or group certificate 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. The commissioner 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 commissioner.

III. Accounts credited where insurance not issued. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate 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.

IV. Premium rate observed. The amount charged to a debtor for any credit life or credit health and accident insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

Sec. 170-I. Issuance of policies. All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner.

Sec. 170-J. Claims:

I. Claims reported. 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.

II. Claims paid. All claims shall be paid either 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.

III. Creditor may not adjust claims. 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 policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

Sec. 170-K. Existing insurance; choice of insurer. When credit life insurance or credit accident and health insurance is required as additional 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.

Sec. 170-L. Enforcement. The commissioner may, after notice and hearing, issue such regulations as he deems appropriate for the supervision of sections 170-A to 170-N. Whenever the commissioner finds that there has been a violation of sections 170-A to 170-N or any regulations issued pursuant there-

to, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other persons authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction. Sections 170-E to 170-H shall not be operative until 90 days after the effective date of this act, and the commissioner in his discretion may extend by not more than an additional 90 days the initial period within which said sections shall not be operative.

Sec. 170-M. Appeal. Any party to the proceedings affected by an order of the commissioner is entitled to appeal by following the procedure set forth in section 350.

Sec. 170-N. Penalties. In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Maine a sum not to exceed \$250 which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed \$1,000. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in section 170-M.'