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CHAPTER 9

CREDIT AND TITLE INSURANCE

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SUBCHAPTER I

CREDIT LIFE AND ACCIDENT AND
HEALTH INSURANCE

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§ 1201. Purpose; construction

The purpose of this subchapter is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this subchapter is intended to prohibit or discourage reasonable competition. This subchapter shall be liberally construed.

1961, c. 221.

§ 1202. Scope; definitions

1. Scope. All life insurance and all accident and health insurance in connection with loans or other credit transactions shall be subject to this subchapter, except such insurance in connection with a loan or other credit transaction of more than 5 years duration; nor shall insurance be subject to this subchapter 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.

2. Definitions. For the purpose of this subchapter:

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.
1961, c. 221.

§ 1203. Forms available

Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

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

2. 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.

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

4. 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.

5. Combination. A combination under subsections 1 and 2 or under 3 and 4.

1961, c. 221.

§ 1204. Amount of insurance

1. 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, whichever is greater.

2. Agricultural credit commitments. Notwithstanding subsection 1, paragraph A, 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 non-decreasing or level term plan.

3. Educational credit commitments. Notwithstanding subsection 1, 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.

4. 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.

1961, c. 221.

§ 1205. Term

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 1208.

1961, c. 221.

§ 1206. Policy provisions; delivery or disclosure to debtors

1. 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.

2. 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 a separate identifiable charge is made, 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.

3. 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 otherwise provided.

4. 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 a separate identifiable charge is made, 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 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 1205.

5. 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.

1961, c. 221.

§ 1207. Filing, approval and withdrawal of forms; appeals

1. 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.

2. 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 coverage, or are contrary to any provision of the insurance laws or of any regulation promulgated thereunder. In determining whether to disapprove any such form or premium rates, the commissioner shall give due consideration to past and prospective loss experience and mortality or morbidity rates, based on an appropriate mortality or morbidity table, and claim adjustment expenses, general administrative expenses, including handling cost for return premiums, commissions to agents, cost and compensation to the creditor, branch and field expenses and other acquisition costs, federal, state and local taxes, profit to the insurer, reasonable underwriting judgment, and any and all other factors and trends demonstrated to be relevant. The insurer may support these factors by statistical information, experience, actuarial computations and estimates certified by an executive officer of the insurer, and the commissioner shall give due consideration to such supporting data.

3. 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.

4. 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 2. The written notice of such hearing shall state the reason for the proposed withdrawal.

5. 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.

6. Group policy filing. If a group policy of credit life insurance or credit accident and health insurance has been deliv-

ered in this State before September 16, 1961, 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 1206, subsections 2 and 4, 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 September 16, 1961.

7. Appeal. Any order or final determination of the commissioner under this section is subject to appeal as provided in section 113.

1961, c. 221.

§ 1208. Premium rates; refunds; accounts credited when insurance not issued

1. 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.

2. 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.

3. 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.

4. 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.

1961, c. 221.

§ 1209. Issuance of policies; collection of premiums

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. The premium or cost of such insurance when issued through any creditor shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any other law, general or special, of the State of Maine. The insurance premium or other identifiable charge for such insurance may be collected from the insured or included in the finance charge or principal of any loan or other credit transaction at the time such transaction is completed.

1961, c. 221.

§ 1210. Claims

1. 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.

2. 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.

3. 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.

1961, c. 221.

§ 1211. 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.

1961, c. 221.

§ 1212. Enforcement of provisions

The commissioner may, after notice and hearing, issue such regulations as he deems appropriate for the supervision of this subchapter. Whenever the commissioner finds that there has been a violation of this subchapter or any regulations issued pursuant thereto, 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 person 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.

1961, c. 221.

§ 1213. Appeals from commissioner's orders

Any party to the proceedings affected by an order of the commissioner is entitled to appeal by following the procedure set forth in section 113.

1961, c. 221.

§ 1214. 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

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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 1213.

1961, c. 221.

SUBCHAPTER II

FOREIGN SURETY COMPANIES; CREDIT AND
TITLE INSURANCE

Sec.

- 1251. Authorization to do business.
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- 1262. Acceptance as surety on bonds.
- 1263. Premiums on bonds.
- 1264. Notice of authorization to registers of probate.
- 1265. Estoppel to deny corporate power.

§ 1251. Authorization to do business

Any company incorporated and legally organized under the laws of any foreign country or of any state of the United States, other than the State of Maine, for the purpose of transacting business as surety on obligations of persons or corporations, or the business of credit insurance or title insurance, may transact such business in this State upon complying with this subchapter and not otherwise.

R.S.1954, c. 60, § 208.

§ 1252. Commissioner appointed attorney; service of process; certificates of appointment filed

No company as described in section 1251 not incorporated under the authority of this State shall take, directly or indirectly, risks or transact business in this State until it shall have first appointed, in writing, the commissioner to be the true and lawful attorney of such company in and for this State, upon whom all lawful process, in any action or proceeding against the company, may be served with the same effect as if the company existed in this State. Said power of attorney shall stipulate and agree on the part of the company that any lawful process against the company which is served on said attorney shall be of the same legal force and validity as if served on the company and that the authority shall continue in force so long as any liability remains outstanding against the company in this State. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the commissioner and copies certified by him shall be received in evidence in all the courts of this State. Service upon such attorney, or upon any duly appointed agent of the company within this State, shall be deemed sufficient service upon the company.

R.S.1954, c. 60, § 209.

§ 1253. Copy of process mailed to insurer

Whenever lawful process against a company described in section 1251 shall be served upon said commissioner, he shall forthwith forward a copy of the process served on him, by mail, postpaid and directed to the secretary of the company.

R.S.1954, c. 60, § 210.

§ 1254. No agent, unless company has required paid-up capital

No person shall act within this State, as agent or otherwise, in procuring or securing applications for suretyship upon the bond of any person or corporation, or for credit insurance or title insurance, or aid in transacting the business of such suretyship or insurance for any company incorporated or organized under the laws of any other state or country, unless such company is possessed of \$250,000, paid-up, unimpaired capital, exclusive of any obligations of the stockholders of any description, well invested in or well secured by real estate, bonds, stocks or securi-

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ties other than names alone, or if a mutual company, net cash assets of the amount aforesaid.

R.S.1954, c. 60, § 211.

§ 1255. Persons deemed agents; liabilities

Every person who shall so far represent any company described in section 1251 established in any other state or country as to receive or transmit applications for suretyship or insurance, or to receive for delivery bonds or policies founded on applications forwarded from this State or otherwise to procure suretyship to be effected by such company upon the bonds of persons or corporations in this State, or upon bonds given to persons or corporations in this State, or otherwise to procure such insurance in the State, shall be deemed to be acting as agent for said company and shall be subject to the restrictions and liable to the penalties made applicable to agents of such companies.

R.S.1954, c. 60, § 212.

§ 1256. Copy of charter and statement of condition to be deposited

Every company described in section 1251, before transacting any business, shall deposit with the commissioner a copy of its charter and a statement, signed and sworn to by the president and secretary of the company, stating the amount of its capital and the manner of its investments, designating the amount invested in mortgages, in public securities, in the stock of incorporated companies, stating what companies, and the amount invested in other securities, particularizing each item of investment, the amount of existing policies issued by said company or of existing bonds upon which such company is surety, stating what portion thereof is secured by the deposit with such company of collateral security, the amount of premium thereon and the amount of liabilities, specifying therein the amount of outstanding claims adjusted or unadjusted, due or not due and stating the names and addresses of all its attorneys in fact within this State together with the scope of authority of each such attorney in fact. Thereupon said commissioner may grant a license, authorizing said company to transact surety business or the business of credit insurance or title insurance in this State subject to its laws, until the first day of July next following, and such license may be renewed annually thereafter.

R.S.1954, c. 60, § 213.

§ 1257. Annual statement to be filed

Every company described in section 1251 shall, in the month of January, annually, deposit with the commissioner a similar statement of its capital, assets and liabilities, and the investments and risks as required in section 1256, to be made up to the 31st day of December next preceding, signed and sworn to by the president and secretary of the company, and the commissioner in his annual report shall publish an abstract thereof.

R.S.1954, c. 60, § 214.

§ 1258. Agents not to act until law complied with

No person shall act as agent of any company described in section 1251 until such company and such agent shall have complied with all the requirements of the laws of the State relating to such companies and their agents, and every person acting without such compliance shall be punished by a fine of \$100.

R.S.1954, c. 60, § 215.

§ 1259. Clarification of annual returns; refusal to answer

The commissioner shall annually examine the statements and returns required to be made as provided for in sections 1251 to 1258 by the companies described in section 1251, and if in his opinion any return shall be obscure, defective or unsatisfactory, he shall immediately require answers under oath from the officer or officers by whom such obscure, defective or unsatisfactory return shall have been made, to such interrogatories as he may deem necessary or proper in order to explain such return and exhibit a full and accurate view of the business and resources of the company. Every such company, the officers of which shall refuse or neglect to answer such interrogatories for the space of 30 days may be suspended from transacting business in this State until satisfactory answers are made by them.

R.S.1954, c. 60, § 216.

§ 1260. Examinations; publication of results; revocation of license; expenses

The commissioner, either personally or by a committee appointed by him, consisting of one or more persons not directors, officers or agents of any company described in section 1251 doing business in this State, may at any time examine into the affairs of such companies. The officers or agents of such companies shall

exhibit their books to said commissioner or committee and otherwise facilitate such examination, and the commissioner or committee may examine, under oath, the officers and agents of such companies in relation to their affairs. Said commissioner shall, if he deems it necessary or proper, publish the result of such investigation in one or more newspapers published in the State. Whenever it shall appear to the said commissioner, from the statement or from an examination of the affairs of any such company, not incorporated under the authority of this State, that such company is insolvent, or is conducting its business fraudulently or refuses or neglects to comply with the laws of the State relating to such companies, he shall revoke the license issued to such company and its agents and shall cause a notice thereof to be published in one or more newspapers published in this State, and the agent or agents of such company, after such notice, shall transact no further business in this State. All the expenses of an examination made under this section shall be paid to the commissioner by the company examined.

R.S.1954, c. 60, § 217.

§ 1261. Violations to be reported to Attorney General

The commissioner shall report to the Attorney General any violation of the law relating to companies described in section 1251 which shall come to his knowledge and the Attorney General shall institute proper legal proceedings in the name of the State against any person or company violating any such law.

R.S.1954, c. 60, § 218.

§ 1262. Acceptance as surety on bonds

Any company with a paid-up capital of not less than \$250,000, duly incorporated and organized for the purpose of transacting business as surety on obligations of persons or corporations, and which has complied with all the requirements of the law regulating the admission of such companies to transact business in the State, may be accepted as surety upon the bond of any person or corporation required by the laws of the State to execute a bond, and if such surety company shall furnish satisfactory evidence of its ability to provide all the security required by law, no additional surety may be exacted, but other surety or sureties may, in the discretion of the official authorized to approve such bond, be required, and such surety company may be released from its liability on the same terms and conditions as are by law prescribed for the release of individuals, it being

the true intent and meaning of this section to enable corporations created for that purpose to become surety on bonds required by law, subject to all the rights and liabilities of private individuals.

R.S.1954, c. 60, § 219.

§ 1263. Premiums on bonds

Any court or officer whose duty it is to pass upon the account of any person or corporation required by law to give a bond may, whenever such person or corporation has given any such surety company as surety upon said bond, allow in the settlement of such account a reasonable sum for the expense of procuring such surety. The premiums on account of all official bonds required by law to be given by county officials shall be paid from the treasuries of their several counties.

R.S.1954, c. 60, § 220.

§ 1264. Notice of authorization to registers of probate

Whenever any foreign or domestic surety company complies with all the requirements of law regulating the admission of such companies to transact business in this State and is authorized to transact business therein, the commissioner shall forthwith transmit to each register of probate the name of such company and the names of all agents of such company who have been licensed by him, their places of residence and the dates when their licenses will expire, and the names and addresses of all attorneys in fact registered with him whose addresses are in the county of such register. He shall on the first days of February and August of each year forward to each register of probate a list containing the names of all surety companies, foreign and domestic, which are then licensed or qualified to transact business in the State, the names of all agents of said companies who have been licensed by him, and their places of residence and the dates when their respective licenses will expire. He shall from time to time communicate to the registers of probate the names of all surety companies which cease to qualify to transact business in this State. The registers shall preserve such lists on the files of the courts.

R.S.1954, c. 60, § 221.

§ 1265. Estoppel to deny corporate power

Any company which shall execute any bond as surety under section 1262 shall be estopped in any proceedings to enforce

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the liability which it shall have assumed to incur, to deny its corporate power or the authority of its attorney in fact within the scope of his power of attorney filed in accordance with section 1256, to execute such instrument or assume such liability or the authority of any licensed agent to countersign such instrument.

R.S.1954, c. 60, § 222.