

MAINE STATE LEGISLATURE

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ONE - HUNDRE DTH LEGISLATURE

Legislative Document

No. 1263

S. P. 398

In Senate, February 7, 1961

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Brooks of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Regulating Certain Insurance Sold in Connection with Credit Transactions.

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

Sec. 1. R. S., c. 60, §§ 170-A - 170-N, additional. Chapter 60 of the Revised Statutes, as amended, is further amended by adding 14 new sections, to be numbered 170-A to 170-N, to read as follows:

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

Sec. 170-B. Scope and definitions.

I. Citation and scope.

A. Sections 170-A to 170-N may be cited as "The Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance."

B. 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, and except such insurance in connection with loans or other credit transactions which is issued or provided under a valid group insurance policy issued in accordance with the laws of this State pertaining to group insurance; 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 issued or provided under an individual policy 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 issued or provided under an individual policy 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.

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 policies of life insurance issued to debtors on the term plan;

II. 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.

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

I. Credit life insurance.

A. 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.

B. Notwithstanding 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.

C. Notwithstanding paragraph A or any other 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.

II. Credit accident and health insurance.

A. The total amount of periodic 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. 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 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; disclosure to debtors.

I. Individual policy. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, which individual policy shall be delivered to the debtor.

II. Requirements. Each individual policy of credit life insurance, and 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, 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. Delivery. Said individual policy shall be delivered to the insured debtor at the time the indebtedness is incurred, except as otherwise provided.

IV. Copy of application. If said individual policy 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 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 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. Substituted insurer. If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy 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. Filing. All policies, 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. The commissioner shall within 30 days after the filing of any such policies, 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 this chapter or of any rule or regulation promulgated thereunder.

III. Disapproval. 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, 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. Withdrawal of approval. 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. Forms after withdrawal. It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

VI. Judicial review. Any order or final determination of the commissioner under this section shall be subject to judicial review in accordance with section 350.

Sec. 170-H. Premiums and refunds.

I. Revised schedules. 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. Refunds. Each individual policy 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. Credit. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

IV. Amount charged to debtor. 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. Promptly 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. 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. Settle or adjust. 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.

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, adopt and amend regulations necessary to carry out the purposes of sections 170-B to 170-L. When, after notice and hearing, the commissioner finds that there has been a violation of sections 170-B to 170-L or any regulation adopted under this section, he shall set forth the details of his findings together with an order for compliance by a specified date. The order shall be binding on the date specified unless sooner withdrawn by the commissioner or unless a stay thereof has been ordered by a court of competent jurisdiction.

Sec. 170-M. Judicial review. Any party to the proceeding affected by an order of the commissioner is entitled to judicial review by following the procedure stated in section 170-G, subsection VI.

Sec. 170-N. Penalties. In addition to any other penalty provided by law, any person who 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 may suspend or revoke the license of the person guilty of the violation. An order for suspension or revocation of a license shall be upon notice and hearing, and shall be subject to judicial review as provided for under the procedure stated in section 170-G, subsection VI.'

Sec. 2. Postponement of operative date. Sections 170-E, 170-F, 170-G and 170-H of chapter 60 of the Revised Statutes shall not be operative until January 1, 1962, and the Insurance 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.