

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2033

H. P. 1954

House of Representatives, January 6, 1978

Filed by the Joint Standing Committee on Business Legislation under Joint Rule 17.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Amend the Credit Life and Credit Health Insurance laws.

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

Sec. 1. 9-A MRSA § 1-301, sub-§ 19, ¶ A, sub-¶ (i), as enacted by PL 1973, c. 762, § 1, is amended to read:

(i) all charges payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, including any of the following types of charges which are applicable: interest or any amount payable under a point, discount or other system of charges, however denominated; **which amount shall include the cost of premiums for credit life insurance or credit health insurance, or both, if the consumer obtains that insurance from or through the creditor, unless the consumer elects to prepay those costs, as provided in Title 24-A, section 2866, subsection 1, paragraph B;** time price differential, service, carrying or other charge, however denominated; premium or other charge for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss; and

Sec. 2. 9-A MRSA § 2-201, sub § 9, ¶¶ A, B and C, as amended by PL 1975, c. 1, are repealed and the following enacted in their place:

A. On any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, 13% per year on the unpaid balances of the amount financed; provided that, if the creditor includes the cost of premiums for credit life insurance or credit health insurance as part of the finance charge on the underlying debt, as provided in sections 1-301, subsection 19 and 7-106, subsection 2, the finance

charge may exceed 13 % by an amount which is necessary to cover the costs of premiums for that insurance, but in no case shall the finance charge exceed 13.25%;

B. On any new motor vehicle not included in paragraph A and on any used motor vehicle designated by the manufacturer by a year model of the same or not more than 3 years prior to the year in which the sale is made, 20% per year on the unpaid balances of the amount financed; provided that, if the seller includes the cost of premiums for credit life or credit health insurance as part of the finance charge on the underlying debt, as provided in sections 1-301, subsection 19 and 7-106, subsection 2, the finance charge may exceed 20% by an amount which is necessary to cover the costs of premiums for that insurance, but in no case shall the finance charge exceed 20.25% or

C. On any used motor vehicle not included in paragraph B, 23.5% per year on the unpaid balances of the amount financed; provided that, if the seller includes the cost of premiums for credit life or credit health insurance as part of the finance charge on the underlying debt, as provided in sections 1-301, subsection 19 and 7-106, subsection 2, the finance charge may exceed 23.5% by an amount which is necessary to cover the costs of premiums for that insurance, but in no case shall the finance charge exceed 23.75%.

Sec. 3. 9-A MRSA § 2-401, sub-§ 1, as enacted by PL 1973, c. 762, § 1, is repealed and the following enacted in its place:

1. With respect to a consumer loan other than a supervised loan, including a loan pursuant to open end credit, a creditor may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding 12¼ % per year on the unpaid balances of the amount financed; provided that, if the creditor includes the cost of premiums for credit life insurance or credit disability insurance as part of the finance charge on the underlying debt, as provided in sections 1-301, subsection 19 and 7-106, subsection 2, the finance charge may exceed 12¼% by an amount which is required to cover the costs of premiums for the insurance, but in no case shall the finance charge exceed 12½%.

Sec. 4. 9-A MRSA § 7-106, sub-§ 2, as enacted by PL 1975, c. 446, § 2, is repealed and the following enacted in its place:

2. Charges or premiums for credit life or credit health insurance written in connection with any consumer credit transaction shall be included in the finance charge unless:

A. The debtor elects to prepay the cost of premiums for the insurance as provided in Title 24-A, section 2866, subsection 1, paragraph B; or

B. Those charges represent the lender's administrative costs incurred in the processing of the insurance, in which case those costs shall be denominated as a separate charge payable by the consumer, subject to the limitations of Title 24-A, section 2170, subsection 2.

Sec. 5. 9-A MRSA § 7-121, sub-§ 1, ¶ E-1 is enacted to read:

E-1. The percentage by which the finance charge is increased by the inclusion of the costs of premiums for credit life insurance or credit health insurance, when the insurance is obtained by the consumer from or through the creditor;

Sec. 6. 9-B MRSA § 452, sub-§ 2, as enacted by PL 1975, c. 500, § 1, is amended by adding at the end the following new paragraph to read:

If the financial institution handles or processes credit life insurance or credit health

insurance, as provided in Title 24-A, section 2851 et. seq., the books of the financial institution shall denominate a separate account to which all payments by debtors to cover the cost of premiums for the insurance shall be credited. If the financial institution receives a rebate of a premium paid for the insurance, the books of the financial institution shall denominate a separate account to which the rebate shall be credited.

Sec. 7. 24-A MRSA § 1521, sub-§ 5 is enacted to read:

5. Applicants for limited licenses under section 1531, subsection 1, paragraph C to enroll debtors in credit insurance in connection with the extension of credit.

Sec. 8. 24-A MRSA § 2161, sub-§1, ¶ H, is enacted to read:

H. Any rebate made to a creditor in connection with any group credit life insurance or credit health insurance as provided in section 2859, subsection 4.

Sec. 9. 24-A MRSA § 2170, sub-§ 2, as enacted by PL 1969, c. 132, § 1, is amended to read:

2. This section shall not prohibit fees paid to a lender for handling or processing credit accident and health or credit life insurance not exceeding 10% of premiumsthe actual administrative costs incurred by the lender in the previous policy year as reported to the Bureau of Insurance pursuant to section 2865. If no report has been filed, the superintendent of the bureau shall fix the costs at a reasonable rate.

Sec. 10. 24-A MRSA § 2855, sub-§ 1, ¶ A, as last amended by PL 1969, c. 177, § 55, is further amended to read:

A. Amount of coverage limited. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness, **exclusive of any finance charge** 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, **exclusive of any finance charge**, whichever is greater; except that the amount of insurance under a group policy on the life of any debtor shall not exceed \$40,000.

Sec. 11. 24-A MRSA § 2858, sub-§ 1, as last amended by PL 1973, c. 585, § 12, is further amended by adding at the end the following new sentence to read:

The applicable commission factor agreed upon between the insurer and those authorized to sell credit insurance by this Title shall also be filed with the superintendent.

Sec. 12. 24-A MRSA § 2859, sub-§ 2, as last amended by PL 1973, c. 585, § 12, is further amended by adding after the first sentence the following new sentence to read:

The superintendent shall disapprove any filing in which the commission factor exceeds 15%.

Sec. 13. 24-A MRSA § 2859, sub-§ 1, as last amended by PL 1973, c. 585, § 12, is further amended to read:

Rates filed. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the superintendent, **however, no upward revision in premium rates may be made which would apply to debtors whose credit insurance is already in force.** No insurer shall issue any credit life insurance policy or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the superintendent. **For group credit insurance the term of**

which is more than 5 years, the bureau shall establish reasonable age group category divisions within the group of debtors, and shall determine maximum allowable premium rates at age of issue for each age group category.

Sec. 14. 24-A MRSA § 2859, sub-§ 4 is enacted to read:

4. **Rebate.** When a rebate of the premium rates for group credit life insurance or group credit health insurance is computed at the end of the policy year and paid to the creditor, it shall be credited to a separate account as required in Title 9-B, section 452, subsection 2. Whenever the amount in the account exceeds 50% of the premium initially charged in any policy year, the amount of the excess shall be divided and paid in equal shares to all debtors participating in the group credit insurance during that policy year.

Sec. 15. 23-A MRSA § 2859, sub-§ 5 is enacted to read:

5. **Termination.** Any policy for credit insurance initially issued subsequent to the enactment of this section shall contain a provision that the insurance provided for may only be terminated under the following conditions:

- A. The date the indebtedness is discharged;
- B. Upon written request of the debtor; or
- C. Nonpayment by the debtor of any required premium over 90 days past due.

Sec. 16. 24-A MRSA § 2860, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2860. Authorized insurer, agent required

All policies of credit life insurance and credit health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to transact such insurance therein, and shall be issued only through holders of licenses or authorizations issued by the superintendent. No creditor or financial institution shall enroll debtors in credit life insurance or credit health insurance programs unless it holds a limited license issued by the superintendent.

Sec. 17. 24-A MRSA §§ 2865 and 2866 are enacted to read:

§ 2865. Statistics

The bureau shall require from all insurers writing credit life and credit health annual reports of credit experience in any form which the superintendent deems necessary for the determination and verification or rate filings.

The bureau shall require from all creditors handling or processing credit insurance annual reports setting forth an itemized accounting of the administrative costs incurred by the creditor in that policy year for handling the insurance.

§ 2866. Debtor's right to prepay; required notice to debtors

1. **Debtor notified.** Any creditor or financial institution which sells or enrolls debtors in credit life insurance or credit health insurance shall, prior to the sale or enrollment, notify the debtor by clear, conspicuous and printed notice, as part of the consumer loan contract, of the debtor's rights under this Title, including, but not limited to, the following:

- A. The fact that the purchase of credit life insurance or credit health insurance is optional, or that the creditor makes the coverage a condition on the extension of credit;

B. The fact that the debtor may elect to prepay the costs of premiums for credit insurance otherwise includable in the finance charge on the debt in a lump sum at the time the indebtedness is incurred, in which case of the premiums shall not be included in the finance charge on the debt;

C. The charge for these premiums if they are prepaid;

D. The difference in the total of payments to be made by the debtor when the finance charge on the debt includes insurance premiums and when it does not; and

E. A description of the coverage, including the amount and term thereof, and any exceptions, limitations and restrictions.

2. Policy provisions reviewed with debtor. The creditor or financial institution which sells or enrolls debtors in credit life insurance or credit health insurance shall review the provisions or individual policies or group certificates or insurance with the debtor at the time the indebtedness is incurred.

STATEMENT OF FACT

This bill amends the insurance laws and the consumer credit code in those parts of the laws which deal with credit life and credit health insurance. Credit insurance is purchased by consumers to repay their loans if they die (credit life), to make the payments on their loans if they become too disabled or sick to work (credit health), or both. The purchase of credit insurance is generally optional for Maine consumers. It is reported that over \$10 million is spent on credit insurance premiums in Maine each year.

The consumer, concentrating on the amount and terms of the loan, may pay little attention to the credit insurance transaction or cost. A 1973 study by the College of Business Administration of Ohio University showed that 25% of the small loan customers who purchased credit insurance thought it was required and 9% of the purchasers were not even aware that they had purchased it.

Since creditors contract for the group coverage for their loan customers, the consumer who wants credit insurance must take the group policy offered by the creditor or purchase non-group credit insurance from an insurance agent, the latter coverage is not generally available and, if it is, it may be prohibitively expensive. The inability of the consumer to "shop" for group coverage may lead to a phenomena known as reverse competition. Some creditors receive a payment from the insurance carrier at the end of the year. This payment, called a retroactive adjustment (rebate), represents the amount of premiums collected in excess of that required by the insurance carrier to cover losses on claims, expenses and profits. Creditors who are insurance agents holding limited licenses to sell credit insurance may make a sales commission of up to 35% of the premiums paid. In these 2 examples, the higher the premium is, the greater the retroactive adjustment (rebate) or commission will be. If the creditor or agent can make a larger profit (through retroactive adjustments or commissions) by purchasing the group insurance with a higher premium, he might seek out the insurance carrier with the highest premium. Thus, the insurers might compete for the creditor's business by increasing the premiums, which increases the creditor's or agent's profit, and increases the cost to the debtor-consumer. This result is termed "reverse competition." Last year, the United States Department of Justice concluded that "...competitive forces cannot be relied upon to control the price of credit life and health insurance. The problem is similar to that experienced in title insurance — reverse competition."

This bill will eliminate the reverse competition aspects of credit insurance and better inform the consumer of his options. Reverse competition would be eliminated as follows: Creditors who offer credit insurance on their credit transactions must include the cost of that insurance, except administrative costs and pre-paid insurance, as a part of the interest rate (finance charge) of the loan. (Some creditors currently offer credit life insurance "free," absorbing the cost of the group policy as an expense of doing business). Since these premium charges will become a part of the interest rate (finance charge) a creditor offers for his loans, the consumer who wants credit insurance can compare the total interest rate (finance charge) among competing creditors and "shop" for the best bargain available. For example, a consumer who wants credit insurance in connection with his loan could compare creditor X's rate of 12½% and creditor Y's rate of 12¾% and decide which creditor he would prefer to borrow from. (Creditor Y could, of course, point out where his credit insurance policy is better than creditor X's policy and induce the consumer to deal with him.) Creditors will be encouraged to obtain the best coverage at the lowest premium, to reduce their total finance charge to attract customers. At the same time, it will not hinder the financial institutions which are providing credit insurance for their customers at a competitive price or at no additional separate charge.

The following sectional analysis is offered:

Sections 1 — 5 require the creditor to include the cost of credit insurance in the finance charge, unless the consumer prepays or unless the only cost to the consumer is an administrative processing fee. Since the cost of credit insurance must be included in the finance charge, the permissible maximum finance charges on consumer loans and automobile sales have been increased accordingly to permit this additional cost to be recouped.

Sections 6, 8 and 14 provide for a separate account to be established for excess premiums which are rebated to the creditor by the insurer. When the accumulated funds in this account exceed 50% of the premiums paid in during any one year, the excess of this rebate over 50% shall be distributed to the policy holders. Such a rebate shall not be deemed an unfair practice. Currently, excess premiums returned to the creditor need not be accounted for.

Sections 7 and 16 require institutions or creditors who enroll debtors in a group policy to hold a limited license for these purposes. No examination will be required for that limited license.

Sections 9 and 17 (Title 24-A, Section 2865) allow creditors to recover administrative costs incurred in selling credit insurance or enrolling customers in a group credit insurance plan. Administrative costs must be reported to the Bureau of Insurance, annually.

Section 10 prohibits insurance coverage which exceeds the actual amount of the indebtedness, excluding specifically any coverage of the finance charge.

Sections 11 and 12 set the maximum commission rate at 15%.

Sections 13 prohibits increases in cost of the insurance during the life of that policy once it is in force. Section 13 also requires that the premium rate vary with long-term loans by basing the rates on standardized age groupings.

Sections 15 states the 3 conditions upon which insurance already in force can be terminated.

Section 17 (Title 24-A, Section 2866) requires notice to the debtor of his rights under the insurance laws.