

MAINE STATE LEGISLATURE

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Legislative Document

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House of Representatives, April 28, 1959

Reported by Mr. Morse from the Committee on Business Legislation, printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

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 to 170-P, additional. Chapter 60 of the Revised Statutes is amended by adding 16 new sections, to be numbered 170-A to 170-P, to read as follows:

'Credit Life and Credit Accident and Health Insurance.

Sec. 170-A. Purpose. The purpose of sections 170-A to 170-P is to promote the public welfare by regulating credit life insurance and credit accident and health insurance.

Sec. 170-B. Scope. All life insurance and accident and health insurance sold in connection with loans or other credit transactions is subject to sections 170-A to 170-P, except when sold in connection with a loan or other credit transaction of more than 5 years duration.

Sec. 170-C. Definitions. The listed terms as used in sections 170-A to 170-P are defined as follows, unless a different meaning is plainly required by the context:

"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;

"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;

“Credit life insurance” means insurance on the life of a debtor in connection with a specific loan or other credit transaction;

“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.

“Indebtedness” means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

Sec. 170-D. Forms of credit life insurance and credit accident and health insurance. Credit life insurance and credit accident and health insurance may 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;
- III. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;
- IV. 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. A combination under subsections I and II or under subsections III and IV.

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

I. Credit life insurance. The amount of credit life insurance may not exceed the original indebtedness. Where an indebtedness repayable in substantially equal installments is secured by an individual policy of credit life insurance the amount of insurance may not exceed the scheduled amount of indebtedness at any time, and where secured by a group policy of credit life insurance may not exceed the amount of unpaid indebtedness at any time.

II. Credit accident and health insurance. The total amount of indemnity payable by credit accident and health insurance in the event of disability as defined in the policy may not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness. The amount of each periodic indemnity payment may not exceed the original indebtedness divided by the number of periodic installments.

Sec. 170-F. 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 or the date from which interest or finance charges accrue if later, except that where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to the 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 the insurance may 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 because of renewal or refinancing prior to the scheduled maturity date, the insurance in force must 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 must be paid or credited as provided in section 170-I, subsection II.

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

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

II. Content of policy. Each individual policy or group certificate of credit life insurance, or credit accident and health insurance shall, in addition to other requirements of law, state the name and home office address of the insurer, the name or names of the debtor, the premium rate or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and health insurance, a description of the amount, term and coverage including any exceptions, limitations or 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 the excess is payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

III. Delivery of policy. The individual policy or group certificate of insurance must be delivered to the insured debtor at the time the indebtedness is incurred, except as provided in subsection IV.

IV. Delivery of application. If the 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 stating the name and home office address of the insurer, the name or names of the debtor, the premium rate or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and health insurance, a description of the amount, term and a brief description of the coverage provided, must be delivered to the debtor at the time the indebtedness is incurred. The copy of the application for the

insurance must refer exclusively to insurance coverage, and must be separate from the loan, sale or other credit statement of account, instrument or agreement unless the information required by this subsection is prominently set forth in it. On acceptance of the insurance by the insurer and within 10 days of the date upon which the creditor receives evidence that the indebtedness is incurred, the insurer shall have the individual policy or group certificate of insurance delivered to the debtor. The application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as of the date the indebtedness is incurred or the date from which interest or finance charges accrue, if later.

A. The notice of proposed insurance shall state that the group certificate of insurance shall be issued within 10 days after the insurance has been accepted by the insurer, and the notice may be included as a part of a loan, sale or other credit statement of account, instrument or agreement.

Sec. 170-H. Filing, approval and withdrawal of forms.

I. Forms filed. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders must be filed with the commissioner of the state in which the policy is issued.

II. Approval of forms. The commissioner shall within 30 days after the filing of the policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided by it are not reasonable in relation to the premium charge, or if it contains provisions which are inequitable, deceptive or contrary to any provision of the insurance laws or of any regulation promulgated under them.

III. Notice of disapproval; waiting period. If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for the insurer to issue or use the form. In the 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. A policy, certificate of insurance, notice of proposed insurance, application or endorsement may not be issued or used until the expiration of 30 days after it has been filed, unless the commissioner gives his prior written approval of it.

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 form on any ground set forth in subsection II. The written notice of the hearing shall state the reason for the proposed withdrawal.

V. Use unlawful after approval withdrawn. It is unlawful for the insurer to issue a form or use it after the effective date of the withdrawal.

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

Sec. 170-I. Premiums and refunds.

I. Rates filed. An insurer issuing credit life insurance or credit accident and health insurance must file with the commissioner its schedules of premium rates for use in connection with such insurance. The insurer may revise the schedules from time to time, and shall file the revised schedules with the commissioner. An insurer shall not 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 the insurer as then on file with the commissioner, except that it may for the second and subsequent years of insurance provided for the debtors of a creditor charge a premium in excess thereof because of unfavorable claim experience, subject to the approval of the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by section 170-H.

II. Refund. Each individual policy, group certificate or notice of proposed insurance must 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 to it. The commissioner may prescribe a minimum refund, and a refund which would be less than the minimum need not be made. The formula to be used in computing the refund must be filed with and approved by the commissioner.

III. Account 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 the debtor and shall promptly make an appropriate credit to the account.

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

V. Authority limited. Sections 170-A to 170-P do not authorize any payments for insurance now prohibited under any statute or regulation governing credit transactions.

Sec. 170-J. Issuance of policies. A policy of credit life insurance and credit accident and health insurance may be delivered or issued for delivery in this state only by an authorized insurance company, and may be issued only through the holder of a license issued by the commissioner.

Sec. 170-K. Claims.

I. Claims reported. All claims must 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 in accordance with the policy provisions, or upon direction of such claimant to one specified.

III. Creditor may not adjust claims. A plan or arrangement may not be used by which any person, firm or corporation other than the insurer or its designated claim representative is authorized to settle or adjust claims. The creditor may not be designated as claim representative for the insurer in adjusting claims. 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-L. 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 may, on request to the creditor, furnish the required amount of insurance through existing policies of insurance owned or controlled by him or may procure and furnish the required coverage through any authorized insurance company.

Sec. 170-M. 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 is binding on the date specified unless withdrawn by the commissioner.

Sec. 170-N. Judicial review. Any party to the proceeding affected by an order of the commissioner is entitled to an appeal as provided in section 350.

Sec. 170-O. 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. The order for suspension or revocation must be on notice and hearing, and is subject to appeal as provided in section 350.

Sec. 170-P. Separability provision. If any provision of sections 170-A to 170-O, or the application of a provision to any person or circumstances, is held invalid, the remainder, or the application of the provision to any person or circumstances other than those as to which it is held invalid, is not affected.'

Sec. 2. Intent. Whenever any provisions of the existing laws of the State of Maine are in conflict with the provisions of this Act, it is the declared intention of the Legislature that the provisions of this Act shall control and supersede all such laws.