

CHAPTER 62B

CREDIT LIFE AND ACCIDENT AND HEALTH INSURANCE

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62B.01 SCOPE.

All life insurance, accident and health insurance, and involuntary unemployment insurance in connection with loan or other credit transactions are subject to sections 62B.01 to 62B.14, except mortgage life, mortgage accidental death, and mortgage disability insurance. Insurance is not subject to sections 62B.01 to 62B.14 where its issuance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor. Credit life, credit accident and health, and credit involuntary unemployment insurance provided at no additional cost to the borrower are not subject to sections 62B.01 to 62B.14.

History: *Ex1967 c 2 s 1; 1989 c 330 s 21; 1993 c 343 s 8*

62B.02 DEFINITIONS.

Subdivision 1. For the purpose of sections 62B.01 to 62B.14 the following terms have the meanings given to them in this section.

Subd. 2. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

Subd. 3. "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.

Subd. 3a. "Credit involuntary unemployment insurance" means insurance on a debtor in connection with a specified loan or other credit transaction to provide payment to a creditor in the event of involuntary unemployment of the debtor for the installment payments or other periodic payments becoming due while the debtor is involuntarily unemployed.

Subd. 4. "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 successor to the right, title or interest of a lender, vendor, or lessor, and an affiliate, associate or subsidiary of them, director, officer or employee of them or any other person in any way associated with them.

Subd. 5. "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.

Subd. 6. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

Subd. 7. "Commissioner" means the commissioner of commerce.

History: *Ex1967 c 2 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1993 c 343 s 9*

62B.03 FORMS OF CREDIT LIFE INSURANCE, CREDIT ACCIDENT AND HEALTH INSURANCE, AND CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE.

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

- (1) Individual policies of life insurance issued to debtors on the term plan;
- (2) 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) Individual policies of involuntary unemployment insurance issued to debtors on the term plan;
- (4) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;
- (5) 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;
- (6) Group policies of involuntary unemployment insurance issued to creditors on a term plan insuring debtors.

History: *Ex1967 c 2 s 3; 1993 c 343 s 10*

62B.04 AMOUNT OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE.

Subdivision 1. Credit life insurance. (1) The initial amount of credit life insurance shall not exceed the amount of principal repayable under the contract of indebtedness. Thereafter, if the indebtedness is repayable in substantially equal installments according to a predetermined schedule, the amount of insurance shall not exceed the scheduled or actual amount of indebtedness, whichever is greater.

(2) Notwithstanding clause (1), the amount of credit life insurance written in connection with credit transactions repayable over a specified term exceeding 63 months shall not exceed: (i) the actual amount of unpaid indebtedness as it exists from time to time; or (ii) where an indebtedness is repayable in substantially equal installments according to a predetermined schedule, the scheduled amount of unpaid indebtedness, less any unearned interest or finance charges, plus an amount equal to two monthly payments.

(3) Notwithstanding clauses (1) and (2), insurance on educational, agricultural, and horticultural credit transaction commitments may be written on a nondecreasing or level term plan for the amount of the loan commitment.

Subd. 2. Credit accident and health insurance. 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.

Subd. 3. Credit involuntary unemployment insurance. The total amount of periodic indemnity payable by credit involuntary unemployment insurance in the event of involuntary unemployment 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.

History: *Ex1967 c 2 s 4; 1977 c 382 s 3; 1982 c 424 s 13; 1989 c 330 s 22; 1993 c 343 s 11*

62B.05 TERM OF CREDIT INSURANCE.

The term of any credit life insurance, credit accident and health insurance, or credit involuntary unemployment 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 the indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and the 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 that event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of the 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 an indebtedness is prepaid in full before its scheduled maturity, except by performance of the insurer's obligation under the policy, the insurance shall be deemed canceled and a refund shall be paid or credited as provided in section 62B.08. Upon prepayment in full, the creditor shall make the refund of unearned premium, unless the credit insurance was originated by a third party, in which case the creditor shall promptly notify the third party who shall make the refund.

History: *Ex1967 c 2 s 5; 1977 c 382 s 4; 1978 c 641 s 1; 1Sp1985 c 10 s 61; 1986 c 455 s 87; 1993 c 343 s 12*

62B.06 PROVISIONS OF POLICIES AND CERTIFICATES OF INSURANCE; DISCLOSURE TO DEBTORS.

Subdivision 1. All credit life insurance, credit accident and health insurance, and credit involuntary unemployment insurance shall be evidenced by an individual policy, memorandum copy, or in the case of group insurance by a certificate of insurance, which shall be delivered to the debtor.

Subd. 2. Each individual policy or group certificate of credit life insurance, credit accident and health insurance, or credit involuntary unemployment 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 rate or amount of payment, if any, by the debtor separately for credit life insurance, credit accident and health insurance, and credit involuntary unemployment insurance, a description of the amount, term and coverage including 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 the debtor, if living, otherwise to a beneficiary, other than the creditor, named by the debtor, otherwise to the debtor's estate. No individual or group policy of credit accident and health insurance or credit involuntary unemployment insurance issued, amended, renewed, or delivered in this state on or after January 1, 1976 shall contain any provision offsetting, or in any other manner reducing any benefit under the policy by the amount of, or in proportion to, any increase in disability or other benefits received or receivable under the federal Social Security Act, as amended subsequent to the date of commencement of such benefit.

Subd. 3. The 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.

Subd. 4. 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 the 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, credit accident and health insurance, and credit involuntary unemployment insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time the 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 subdivision is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date on which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be 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 provided in section 62B.05. If an application for a policy or a notice of proposed insurance is not delivered at the time the indebtedness is incurred as required by this subdivision, the creditor shall assume all of the liabilities under such insurance until an insurer accepts the risk.

Subd. 5. If the insurer named in either the application or notice of proposed insurance does not accept the risk, then 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 application or notice of proposed insurance an appropriate refund shall be made.

History: Ex1967 c 2 s 6; 1975 c 323 s 2; 1986 c 444; 1993 c 343 s 13-15

62B.07 FILING, APPROVAL AND WITHDRAWAL OF FORMS.

Subdivision 1. 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.

Subd. 2. The commissioner shall within 60 days after the filing of policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the premium rates charged or to be charged are excessive in relation to benefits, 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 rule promulgated thereunder. In order to determine whether the premium to be charged under a particular policy form submitted by an insurer is excessive in relation to benefits, and to facilitate the submission and approval of policy forms and premium rates to be used in connection therewith, the commissioner shall give full consideration to and make reasonable allowances for underwriting expenses including, but not limited to, claim adjustment expenses, general administrative expenses including costs for handling return premiums, compensation to agents, expense allowances to creditors, if any, branch and field expenses and other acquisition costs, the types of policies actually issued and authorized as defined in section 62B.03, clauses (1), (2), (3), (4), (5), and (6), and any and all other factors and trends demonstrated to be relevant. An insurer may support these factors by statistical information, experience, actuarial computations, and/or estimates certified by an executive officer of the insurer, and the commissioner shall give due consideration to such supporting data.

Subd. 3. If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for the insurer to issue or use it. In the notice, the commissioner shall specify the reason for disapproval and state that a hearing will be granted within 20 days after a request in writing by the insurer. No policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued or used until the expiration of 60 days after it has been filed, unless the commissioner gives prior written approval thereto.

Subd. 4. The commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw approval of a form on any ground set forth in subdivision 2 above. The written notice of the hearing shall state the reason for the proposed withdrawal.

Subd. 5. It is not lawful for the insurer to issue forms after the effective date of their withdrawal by the commissioner.

Subd. 6. If a group policy of credit life insurance, credit accident and health insurance, or credit involuntary unemployment insurance

(1) has been delivered in this state before May 28, 1967, or

(2) has been or is delivered in another state before or after May 28, 1967, 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 subdivisions 2 and 4 of section 62B.06 and the forms shall be approved by the commissioner if they conform to the requirements specified in those subdivisions and if the schedules of premium rates applicable to the insurance evidenced by the certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner; provided, however, the premium rate in effect on existing group policies may be continued until the first policy anniversary date following May 28, 1967, as provided in section 62B.12.

Subd. 7. Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

Subd. 8. **Annual report.** Each insurer that sold insurance regulated under this chapter in this state or to a Minnesota resident during the preceding calendar year shall file, as a supplement to its annual statement, a report covering that calendar year. The report must include the following data for coverage regulated by this chapter and sold in this state or to a Minnesota resident, all shown separately for each rate for each policy form or certificate form used for credit insurance regulated under this chapter:

(1) claims incurred;

(2) premiums earned;

(3) expenses other than claims;

(4) the data described in clauses (1), (2), and (3), shown separately for policies sold at each premium rate used by the insurer;

(5) a statement as to whether the insurer applies or has applied underwriting criteria to coverage sold under this chapter, a description of any such criteria and the specific policies or certificates to which the criteria are applied;

(6) information as to the compensation paid in regard to the sale of credit insurance regulated under this chapter as follows:

(i) the name and address of each person or company to whom compensation was paid;

(ii) the total compensation paid to each person or company; and

(iii) the total premiums written by each person or company for which the compensation in clause (2) was paid; and

(7) any other information requested by the commissioner.

For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, awards, dividends, experience refunds, retrospective commissions, finder's fees, and increased or decreased prices for other transactions with the insurer.

History: *Ex1967 c 2 s 7; 1985 c 248 s 70; 1986 c 444; 1986 c 455 s 11,12; 1992 c 564 art 5 s 1; 1993 c 343 s 16,17*

62B.08 PREMIUMS AND REFUNDS.

Subdivision 1. An insurer may revise its schedules or premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy, credit accident and health insurance policy, or credit involuntary unemployment insurance policy for which the premium rate exceeds that determined by the schedules of the insurer then on file with the commissioner.

Subd. 2. 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; provided, however, that 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 the refund shall be filed with and approved by the commissioner.

Subd. 3. If a creditor requires a debtor to make a payment for credit life insurance, credit accident and health insurance, or credit involuntary unemployment 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.

Subd. 4. The amount charged to a debtor for credit life insurance, credit accident and health insurance, or credit involuntary unemployment insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined, and any premium charged or collected on a single premium basis shall be submitted to the insurer within 90 days of the month in which said premium is charged or collected.

Subd. 5. With respect to credit involuntary unemployment insurance only, an insurer, subsidiary, or parent of the insurer shall not pay compensation to a creditor or a group policyholder offering credit involuntary unemployment insurance in excess of 30 percent of the net written premiums.

Subd. 6. "Compensation" means any valuable consideration, direct or indirect, paid by or on behalf of the insurer, or by any subsidiary or parent, or subsidiary of the parent of the insurer, or by any other person to whom or on behalf of any group policyholder or creditor or withheld from an insurer by any group policyholder or creditor, including but not limited to: commissions, retrospective commissions, retrospective rate credits, experience refunds, dividends, service fees, expense allowances or reimbursements, gifts, equipment, facilities, goods or services, or any other form of remuneration resulting directly from the sale of credit involuntary unemployment insurance.

History: *Ex1967 c 2 s 8; 1993 c 343 s 18-22*

62B.09 ISSUANCE OF POLICIES.

Subdivision 1. 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 in this state and shall be issued only through holders of licenses or authorizations issued by the commissioner.

Subd. 2. The premiums for individual policies of credit life or credit accident and health insurance issued to debtors or the cost to debtors under group policies of credit life or credit accident and health insurance issued to creditors, whether or not written by or through any lender or other creditor, its affiliate, associate or subsidiary or a director, officer or employee of any of them, shall not be deemed interest or charges nor consideration or any amount whatsoever for any examination, service, brokerage, commission, compensation for services, incidental expenses or other thing or otherwise, in addition to or in excess of permitted interest or charges in connection with the loan or credit transaction. Any gain, participation or advantage to any lender or other creditor, its affiliate, associates or subsidiary or to a director, officer or employee of any of them arising out of such premium or cost by way of commission, dividend or otherwise, shall not be deemed interest or charges nor consideration or any amount whatsoever for any examination, service, brokerage, commission, compensation for services, incidental expenses or other thing or otherwise, in addition to or in excess of permitted interest or charges in connection with the loan or credit transaction.

Subd. 3. Any creditor doing business in the state of Minnesota may, in the same office or place of business where such creditor transacts business, take applications or enrollments for credit life insurance, credit accident and health insurance, or credit involuntary unemployment insurance upon a borrower or purchaser or one of them if there are two or more in connection with the making of a loan or sale.

History: *Ex1967 c 2 s 9; 1993 c 343 s 23*

62B.10 CLAIMS.

Subdivision 1. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. Claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

Subd. 2. 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 the claimant to one specified.

Subd. 3. 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 creditors 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.

History: Ex1967 c 2 s 10

62B.11 EXISTING INSURANCE; CHOICE OF INSURER.

When credit life insurance, credit accident and health insurance, or credit involuntary unemployment 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 the debtor or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.

History: Ex1967 c 2 s 11; 1986 c 444; 1993 c 343 s 24

62B.12 RULEMAKING.

The commissioner may, after notice and hearing, issue rules the commissioner deems appropriate for the supervision of sections 62B.01 to 62B.14. The commissioner shall promulgate rules to establish rates for credit involuntary unemployment insurance prior to its issuance, and to enact the other provisions of Laws 1993, chapter 343, and the commissioner shall report by February 15, 1994, to the house of representatives committee on financial institutions and insurance and to the senate commerce and consumer protection committee on the rules or status of the rulemaking, including the expected loss ratio. The commissioner is not obligated to promulgate a rule unless and until four or more insurers who plan to write credit involuntary unemployment insurance in Minnesota agree to pay for the cost of the promulgation of any rules authorized by this section. Companies selling credit involuntary unemployment insurance shall be assessed by the department to pay the costs of rulemaking.

Moneys collected pursuant to this provision must be deposited in the state treasury and credited to a special account and are appropriated to the commissioner for the rulemaking purposes authorized by this section.

For the purposes of chapter 62B, any insurer authorized to offer the coverage specified by section 60A.06, subdivision 1, clause (1) or (4), shall be authorized to sell credit involuntary unemployment insurance pursuant to this chapter.

History: Ex1967 c 2 s 12; 1985 c 248 s 70; 1986 c 444; 1993 c 343 s 25; 1994 c 425 s 11

62B.13 JUDICIAL REVIEW.

Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review in accordance with chapter 14.

History: Ex1967 c 2 s 13; 1982 c 424 s 130

62B.14 PENALTIES.

In addition to any other penalty provided by law, any person, firm or corporation

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which violates an order of the commissioner after it has become final, and while it is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state a sum not to exceed \$250 which may be recovered in a civil action, except that if the violation is found to be willful, the amount of the penalty shall be a sum not to exceed \$1,000. The commissioner 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 62B.13.

History: *Ex1967 c 2 s 14; 1986 c 444*