

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2906

"AN ACT TO AMEND THE MODEL ACT FOR THE REGULATION OF CREDIT LIFE
INSURANCE AND CREDIT DISABILITY INSURANCE."

Amendment No. 1 to House Bill No. 2906.

Amend House Bill No. 2906 as originally introduced:

Page 1, line 5, add the following Representatives as cosponsors of the bill:
Gillespie, House, Smith, P. Bookout

AND

Page 1, line 6, add the following Senator as cosponsor of the bill: T. Smith

AND

Delete everything after the enactment clause and substitute the following:

“SECTION 1. Arkansas Code § 23-87-108 is amended to read as follows:
23-87-108. Amount.

(a) Credit Life Insurance. The amount of credit life insurance shall not exceed the original amount of the indebtedness and any interest included therein.

(b) Credit Disability Insurance. The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness and shall not exceed the original indebtedness and any interest included therein, divided by the number of periodic installments.

SECTION 2. Arkansas Code § 23-87-110 , concerning provisions of policies and certificates of insurance, is amended to add a new subsection to read as follows:

(c)(1) An individual policy, group certificate of insurance for credit life insurance and credit disability insurance, or a related form or document delivered to the debtor shall fully disclose to the debtor that purchase of credit life insurance and credit disability insurance is voluntary and is not required as a condition for the extension of credit.

(2) A credit life insurance and credit disability insurance policy or related form or document shall be filed with the Insurance



Commissioner before it may be used in this state.

(3)(A) The commissioner's approval of a credit life insurance and credit disability policy or related form or document shall be prima facie evidence of the validity of the coverages thereunder.

(B) There shall be no private cause of action challenging the validity or propriety of a policy or related form approved by the commissioner.

(C) Any action or process challenging or questioning the validity of a credit life insurance and credit disability policy or related form approved by the commissioner shall be brought only in the State Insurance Department under applicable provisions of the Arkansas Insurance Code or under procedures established by the Arkansas Administrative Procedure Act.

(d) The sale of credit life insurance or credit disability insurance shall not create a fiduciary relationship between the insurer and the insured.

(e) The insured's signature on an individual policy or group certificate of insurance of credit life insurance and credit disability insurance or a related document provided to the insured, evidencing the insured's election to purchase insurance in connection with a loan, shall be prima facie evidence of the insured's voluntary election to purchase the insurance, absent clear and convincing evidence that fraud was used to procure the insured's signature.

SECTION 3. Arkansas Code § 23-87-111(b), concerning the delivery of a credit life insurance or credit disability insurance policy or certificate, is amended to add a new subdivision to read as follows:

(b)(1) 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 amount of payment by the debtor separately in connection with credit life insurance and credit disability insurance coverage, and a brief description of the coverage provided or to be provided shall be delivered to the debtor at the time the indebtedness is incurred.

(2) 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 section is prominently set forth therein.

(3) Upon approval of the application, if any, or acceptance of the insurance and within thirty (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.

(4) 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.

(5) The insurer may rely upon the representations in the application regarding the health and employment of the applicant without further investigation or examination of the debtor.

(6) If credit life insurance or credit disability insurance is

rescinded due to material misrepresentation on the part of the insurer, agent, creditor, or broker, the insured shall be entitled to a full refund of the premium paid.

SECTION 4. Arkansas Code § 23-87-112(a) and (b), concerning the filing, approval, and withdrawal of insurance policies, certificates, and notices, are amended to read as follows:

(a) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, binders, endorsements, and riders shall be filed with the ~~insurance commissioner~~ Insurance Commissioner in the state in which the policy is issued.

(b) Within thirty (30) days after the filing of all policies, certificates of insurance, notices of proposed insurance, applications for insurance, binders, endorsements, and riders, in addition to other requirements of law, the ~~Insurance Commissioner~~ commissioner may disapprove the form if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of the policy.

SECTION 5. Arkansas Code § 23-87-113 is amended to read as follows:
23-87-113. Premiums and refunds.

(a)(1) Each insurer issuing credit life insurance or credit disability insurance shall file with the Insurance Commissioner its schedules of premium rates for use in connection with the insurance.

(2) Any insurer may revise the schedule from time to time and shall file the revised schedules with the commissioner.

(3) No insurer shall issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then on file with the commissioner.

(4) 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 § 23-87-112.

(5)(A) The commissioner shall have exclusive jurisdiction to approve all credit life insurance and credit disability insurance rates, policies, group certificates of insurance and related notices, applications, binders, endorsements, and riders issued in this state.

(B) Rates regarding credit life insurance or credit disability insurance that have been promulgated or approved by the commissioner are deemed to be valid unless changed under the Arkansas Insurance Code or the Arkansas Administrative Procedure Act.

(C)(1) There shall be no private cause of action for challenging credit life insurance or credit disability insurance rates that have been promulgated or approved by the commissioner.

(2) Any action or process challenging or questioning the validity of credit life insurance and credit disability rates approved by the commissioner shall be brought only in the State Insurance Department under applicable provisions of the Arkansas Insurance Code or under procedures established by the Arkansas Administrative Procedure Act.

(b)(1) Each individual policy, group certificate, or notice of proposed issuance of credit life insurance and credit disability insurance

shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of premium due shall be paid or credited promptly to the person entitled thereto. However, the commissioner shall prescribe a minimum refund, and no refund which would be less than such minimum need be made.

(2)(A) The formula to be used in computing refunds shall be filed with the commissioner.

(B) The Rule of 78s is a permissible method of computing refunds for any kind of credit insurance except for level term life insurance, which shall be computed using the pro rata method.

(C) The formula used for computing refunds shall be disclosed in the policy or group certificate of insurance.

(3)(A) The commissioner shall have the exclusive jurisdiction to promulgate or approve refunds of unearned premiums.

(B) Any formula or method used or approved by the commissioner for determining the return of unearned premium under this section shall be deemed to be fair and reasonable.

(C)(i) There shall be no private cause of action to challenge any method of refunding unearned premium that has been promulgated or approved by the commissioner under this section.

(ii) Any action or process challenging or questioning the method of refunding an unearned credit life insurance and credit disability premium that has been approved by the commissioner shall be brought only in the State Insurance Department under applicable provisions of the Arkansas Insurance Code or under procedures established by the Arkansas Administrative Procedure Act.

(c) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit disability 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.

SECTION 6. Arkansas Code § 23-87-117(a), concerning the maximum compensation payable to agents, brokers, or creditors of credit life or credit disability insurance, is amended to read as follows:

(a)(1) In order to assure that the premium rates charged or to be charged for credit life or credit disability insurance are reasonable in relation to benefits provided, the Insurance Commissioner may, after due notice and hearing, issue rules and regulations establishing the maximum compensation payable to an agent, a broker, or a creditor, or any affiliate, associate, subsidiary, director, officer, employee, or other representative of or for the creditor, for writing or handling the insurance, including commission, dividends, premium adjustments, policy writing fees, underwriting gain, or any compensation or remuneration in whatever form.

(2) An insurer may disclose the amount of commission or compensation payable to an agent, broker, or creditor under this section."

The Amendment was read _____
By: Representative Matayo
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Chief Clerk