

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/18/03 H3/31/03*

# A Bill

HOUSE BILL 2906

5 By: Representatives Matayo, Gillespie, House, R. Smith, P. Bookout  
6 By: Senator T. Smith  
7

## For An Act To Be Entitled

10 AN ACT TO AMEND THE MODEL ACT FOR THE REGULATION  
11 OF CREDIT LIFE INSURANCE AND CREDIT DISABILITY  
12 INSURANCE; AND FOR OTHER PURPOSES.  
13

### Subtitle

15 AN ACT TO AMEND THE MODEL ACT FOR THE  
16 REGULATION OF CREDIT LIFE INSURANCE AND  
17 CREDIT DISABILITY INSURANCE.  
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 *SECTION 1. Arkansas Code § 23-87-108 is amended to read as follows:*  
23 *23-87-108. Amount.*

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

27 *(b) Credit Disability Insurance. The amount of periodic indemnity*  
28 *payable by credit disability insurance in the event of disability, as defined*  
29 *in the policy, shall not exceed the aggregate of the periodic scheduled*  
30 *unpaid installments of indebtedness and shall not exceed the original*  
31 *indebtedness and any interest included therein, divided by the number of*  
32 *periodic installments.*  
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34 *SECTION 2. Arkansas Code § 23-87-110 , concerning provisions of*  
35 *policies and certificates of insurance, is amended to add a new subsection to*  
36 *read as follows:*



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

6           (2) A credit life insurance and credit disability insurance  
7 policy or related form or document shall be filed with and approved by the  
8 Insurance Commissioner before it may be used in this state.

9           (3)(A) The commissioner's approval of a credit life insurance  
10 and credit disability policy or related form or document shall be prima facie  
11 evidence that the language of the policy is not contrary to the Arkansas  
12 Insurance Code.

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

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

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

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

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

36           (b)(1) If the individual policy or group certificate of insurance is

1 not delivered to the debtor at the time the indebtedness is incurred, a copy  
2 of the application for the policy or a notice of proposed insurance, signed  
3 by the debtor and setting forth the name and home office address of the  
4 insurer, the name or names of the debtor, the amount of payment by the debtor  
5 separately in connection with credit life insurance and credit disability  
6 insurance coverage, and a brief description of the coverage provided or to be  
7 provided shall be delivered to the debtor at the time the indebtedness is  
8 incurred.

9 (2) The copy of the application for, or notice of, proposed  
10 insurance shall refer exclusively to insurance coverage and shall be separate  
11 and apart from the loan, sale, or other credit statement of account,  
12 instrument, or agreement unless the information required by this section is  
13 prominently set forth therein.

14 (3) Upon approval of the application, if any, or acceptance of  
15 the insurance and within thirty (30) days of the date upon which the  
16 indebtedness is incurred, the insurer shall cause the individual policy or  
17 group certificate of insurance to be delivered to the debtor.

18 (4) The application or notice of proposed insurance shall state  
19 that, upon acceptance by the insurer, the insurance shall become effective as  
20 of the date the indebtedness is incurred.

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

24 (6) If credit life insurance or credit disability insurance is  
25 rescinded due to material misrepresentation on the part of the insured, the  
26 insured shall be entitled to a full refund of the premium paid.

27

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

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

35 (b) Within thirty (30) days after the filing of all policies,  
36 certificates of insurance, notices of proposed insurance, applications for

1 insurance, binders, endorsements, and riders, in addition to other  
2 requirements of law, the ~~Insurance Commissioner~~ commissioner may disapprove  
3 the form if the table of premium rates charged or to be charged appears by  
4 reasonable assumptions to be excessive in relation to benefits or if it  
5 contains provisions which are unjust, unfair, inequitable, misleading,  
6 deceptive, or encourage misrepresentation of the policy.

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8 SECTION 5. Arkansas Code § 23-87-113 is amended to read as follows:  
9 23-87-113. Premiums and refunds.

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

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

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

19 (4) The commissioner may require the filing of the schedule of  
20 premium rates for use in connection with and as a part of the specific policy  
21 filings as provided by § 23-87-112.

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

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

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

33 (2) Any action or process challenging or questioning  
34 the validity of credit life insurance and credit disability rates approved by  
35 the commissioner shall be brought only in the State Insurance Department  
36 under applicable provisions of the Arkansas Insurance Code or under

1 procedures established by the Arkansas Administrative Procedure Act.

2 (b)(1) Each individual policy, group certificate, or notice of  
3 proposed issuance of credit life insurance and credit disability insurance  
4 shall provide that in the event of termination of the insurance prior to the  
5 scheduled maturity date of the indebtedness, any refund of premium due shall  
6 be paid or credited promptly to the person entitled thereto. However, the  
7 commissioner shall prescribe a minimum refund, and no refund which would be  
8 less than such minimum need be made.

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

11 (B) The Rule of 78s is a permissible method of computing  
12 refunds for reducing term credit life insurance or reducing credit disability  
13 insurance on which the insurance charges to the debtor are paid in a single  
14 sum.

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

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

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

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

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

31 (c) If a creditor requires a debtor to make a payment in connection  
32 with credit life insurance or credit disability insurance and an individual  
33 policy or group certificate of insurance is not issued, the creditor shall  
34 immediately give written notice to the debtor and shall promptly make an  
35 appropriate credit to the account.

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

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

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

15                                       /s/ Matayo, et al  
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