

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 *As Engrossed: H3/18/03 H3/31/03 S4/9/03*

2 84th General Assembly

A Bill

3 Regular Session, 2003

HOUSE BILL 2906

4

5 By: Representatives Matayo, Gillespie, House, R. Smith, P. Bookout

6 By: Senator T. Smith

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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

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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.*

33

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:*



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.

31
32 SECTION 3. Arkansas Code § 23-87-111(b), concerning the delivery of a
33 credit life insurance or credit disability insurance policy or certificate,
34 is amended to add a new subdivision to read as follows:

35 (b)(1) If the individual policy or group certificate of insurance is
36 not delivered to the debtor at the time the indebtedness is incurred, a copy

1 of the application for the policy or a notice of proposed insurance, signed
2 by the debtor and setting forth the name and home office address of the
3 insurer, the name or names of the debtor, the amount of payment by the debtor
4 separately in connection with credit life insurance and credit disability
5 insurance coverage, and a brief description of the coverage provided or to be
6 provided shall be delivered to the debtor at the time the indebtedness is
7 incurred.

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

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

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

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

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

26

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

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

34 (b) Within thirty (30) days after the filing of all policies,
35 certificates of insurance, notices of proposed insurance, applications for
36 insurance, binders, endorsements, and riders, in addition to other

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

6
7 SECTION 5. Arkansas Code § 23-87-113 is amended to read as follows:
8 23-87-113. Premiums and refunds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35
36 SECTION 6. Arkansas Code § 23-87-117(a), concerning the maximum

1 compensation payable to agents, brokers, or creditors of credit life or
2 credit disability insurance, is amended to read as follows:

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

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

15 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that current Arkansas law
17 regulating the purchase of credit life insurance and credit disability
18 insurance does not provide adequate notice to insurance consumers and does
19 not allow the Insurance Commissioner to adequately regulate the issuance of
20 credit life insurance and credit disability policies; that this act protects
21 consumers by requiring certain notice to insurers, by granting to the
22 Insurance Commissioner the exclusive jurisdiction to regulate the issuance of
23 credit life and credit disability insurance policies and to approve credit
24 life and credit disability insurance rates, and by clarifying the formula
25 that may be used to determine refunds for reducing term credit life insurance
26 or reducing credit disability insurance; and that this act is immediately
27 necessary to protect consumers purchasing credit life insurance and credit
28 disability insurance. Therefore, an emergency is declared to exist and this
29 act being immediately necessary for the preservation of the public peace,
30 health, and safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,
33 the expiration of the period of time during which the Governor may veto the
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is
36 overridden, the date the last house overrides the veto.

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/s/ Matayo