

MODEL ACT FOR THE REGULATION OF CREDIT LIFE INSURANCE AND CREDIT  
ACCIDENT AND HEALTH INSURANCE

Act of Sep. 2, 1961, P.L. 1232, No. 540

Cl. 40

AN ACT

Providing for the regulation of credit life insurance and credit accident and health insurance; conferring powers and imposing duties on the Insurance Commissioner and prescribing penalties.

**Compiler's Note:** Section 5(b) of Act 147 of 2002 provided that Act 540 is repealed insofar as it is inconsistent with Act 147.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Purpose.--The purpose of this act is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this act is intended to prohibit or discourage reasonable competition. The provisions of this act shall be liberally construed.

Section 2. Scope of Act; Short Title; Definitions.--(a)

(1) This act shall be known and may be cited as the "Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance."

(2) All life insurance and all accident and health insurance in connection with loans or other credit transactions shall be subject to the provisions of this act, except such insurance in connection with a loan or other credit transaction of more than twenty years duration; and except such insurance in connection with a first real estate mortgage, provided however, that such insurance in connection with a first real estate mortgage on a new or used mobile home or dwelling trailer shall be subject to the provisions of this act regardless of the duration of the underlying loan or other credit transaction; nor shall insurance be subject to the provisions of this act where the issuance of such insurance is an isolated transaction

on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor. ((a)(2) amended Dec. 10, 1974, P.L.847, No.284)

(b) As used in this act:

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

(2) "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.

(3) "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 employe of any of them or any other person in any way associated with any of them.

(4) "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.

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

(6) "Commissioner" means the Insurance Commissioner.

(7) "Mobile home" means any portable structure or movable unit equipped to be drawn or travel on the public highways and streets that is used either temporarily or permanently as a residence home, dwelling unit, apartment or other housing accommodation or as an office. ((b)(7) added Dec. 10, 1974, P.L.847, No.284)

(8) "Dwelling trailer" means any portable dwelling structure or movable dwelling unit designed, constructed and equipped for human use with a chassis or undercarriage as an integral part thereof, with or without independent motive power, capable of being drawn or driven upon the public highways and streets.

((b)(8) added Dec. 10, 1974, P.L.847, No.284)

Section 3. Forms of Credit Life Insurance and Credit Accident and Health Insurance.--Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

(1) Individual policies of life insurance to insure the lives of debtors on the term plan.

(2) Individual policies of accident and health insurance to insure debtors on a term plan or disability benefit provisions in individual policies of credit life insurance.

(3) Group policies of life insurance issued for delivery to creditors providing insurance upon the lives of debtors on the term plan.

(4) Group policies of accident and health insurance issued for delivery to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

Section 4. Amount of Credit Life Insurance and Credit Accident and Health Insurance.--(a) The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness.

Where an indebtedness repayable in substantially equal installments is secured by an individual policy of credit life insurance, the amount of insurance shall at no time exceed the scheduled amount of indebtedness or the amount of unpaid indebtedness, whichever is the greater, and where secured by a

group policy of credit life insurance shall at no time exceed the amount of unpaid indebtedness.

(b) Notwithstanding any other provisions of this act, insurance on agricultural credit transaction commitments not exceeding one year in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan.

(c) Notwithstanding any other provisions of this act or any other section, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

(d) 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.

Section 5. 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 such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than thirty 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 such insurance shall not extend more than fifteen days beyond the scheduled maturity date of the indebtedness, except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall 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 shall be paid or credited as provided in section 8.

Section 6. Provisions of Policies and Certificates of Insurance Disclosure to Debtors.--(a) All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

(b) Each individual policy or group certificate of credit life insurance or credit accident and health 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 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 any such

excess shall be payable to a beneficiary other than the creditor named by the debtor or to his estate.

(c) Said individual policy or group certificate of insurance shall be delivered to the insured debtor within thirty days after the date the indebtedness is incurred.

(d) If a separate identifiable charge is made to the debtor for the insurance and an 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 shall be delivered to the debtor at such time, which shall set forth the identity by name or otherwise of the person or persons insured, the rate or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and health insurance, and a statement that subject to acceptance by the insurer and within thirty days, there will be delivered to the debtor a policy or certificate of insurance naming the insurer and fully describing the insurance. 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 subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within thirty 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. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 5.

(e) If the named insurer does not accept the risk, then and in such event, 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 notice of proposed insurance, an appropriate refund shall be made.

Section 7. Filing Approval and Withdrawal of Forms.--(a) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State, together with the premium rates therefor, shall be filed with the commissioner for approval. Forms and rates so filed shall be approved at the expiration of thirty days after filing unless earlier approved or disapproved by the commissioner. The commissioner by written notice to the insurer may, within such thirty day period, extend the period for approval or disapproval for an additional thirty days.

(b) The commissioner shall, within the waiting period or any extension thereof after the filing of any such policies, certificates of insurance, notices of proposed insurance applications for insurance endorsements, riders and premium rates, disapprove any such form or premium rates if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits, or if such form contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentations of the coverage or are contrary to any provision of the insurance laws or of any rule or regulation promulgated thereunder. In determining whether to disapprove any such form or premium rates, the commissioner shall give due consideration to past and prospective loss experience within and outside this Commonwealth to underwriting practice and judgment to the extent

appropriate to a reasonable margin for underwriting profit and contingencies to past and prospective expenses, both countrywide and those specially applicable to this Commonwealth, and to all other relevant factors within and outside this Commonwealth.

(c) If the commissioner notifies the insurer that the form or premium rate is disapproved, it is unlawful thereafter for such insurer to issue or use such form or rates. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance nor any application, endorsement, rider or premium rate shall be issued or used until the expiration of thirty days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

(d) The commissioner may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw his approval of any such form or premium rate on any ground set forth in subsection (b) above. The written notice of such hearing shall state the reason for the proposed withdrawal.

(e) It is not lawful for the insurer to issue or use such forms or rates after the effective date of such withdrawal.

(f) Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

(g) With regard to group policies of credit life insurance or credit accident and health insurance:

(i) delivered in this State before the effective date of this act, or

(ii) delivered in another state before or after the effective date of this act, 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 subsections (b) and (d) of section 6 of this act and such forms shall be approved by the commissioner if they contain the information specified therein and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates on file with the commissioner.

Section 8. Premiums and Refunds.--(a) Any insurer may revise its schedules of premium rates from time to time and shall file such revised schedules with the commissioner. No insurer shall 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 such insurer as then on file with the commissioner: Provided, however, That the premium rate in effect on existing group policies may be continued until the first policy anniversary date following the date this act becomes operative as provided in section 12.

(b) The following shall apply:

(1) Each individual policy or group certificate paid by single premium shall provide a notice that in the event of termination of the insurance, including by renewing or refinancing the covered indebtedness, prior to the scheduled maturity date of the indebtedness that:

(i) the debtor may be entitled to a refund of unearned premium;

(ii) the person who is the holder of the underlying debt instrument on the date the debt terminates shall provide notice to the insurer of the termination of the debt no later than sixty days after the termination, which notice shall include

the name of the debtor and the payoff date of the underlying debt and any relevant contact information for the debtor known to the holder, or may alternatively provide notice directly to the debtor with instructions on how to obtain a refund from the insurer; and

(iii) any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto after receipt of notice by the insurer.

(2) No refund for any amount less than five dollars (\$5) need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

((b) amended Mar. 29, 2010, P.L.172, No.17)

(c) 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 such debtor and shall promptly make an appropriate credit to the account.

(d) The amount charged to a debtor for any credit life or credit health and accident insurance shall not exceed the aggregate of the premiums to be charged by the insurer as computed at the time the charge to the debtor is determined.

(e) Nothing in this act shall be construed to authorized any payments for credit life or credit accident and health insurance now prohibited under any statute or rule thereunder governing credit transactions: Provided, however, That where payment for credit life or credit accident and health insurance is not prohibited under any statute or rule thereunder governing credit transactions, the commissions, dividends or other returns to the creditor therefrom shall not be deemed a violation of this or any other law, general or special, civil or criminal of the Commonwealth of Pennsylvania.

**Compiler's Note:** Section 2 of Act 17 of 2010, which amended subsec. (b), provided that the amendment shall apply to individual policies or group certificates of credit insurance delivered, issued for delivery or renewed on and after the effective date of section 2.

Section 9. Issuance of Policies.--All 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 therein and shall be issued only through holders of licenses or authorizations issued by the commissioner.

Section 10. Claims.--(a) All claims shall 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.

(b) 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 such claimant to one specified.

(c) 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 creditor 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.

Section 11. 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 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 him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

Section 12. Enforcement.--The commissioner may, after notice and hearing, promulgate such rules and regulations as he finds to be appropriate and necessary for the supervision of this act. Whenever the commissioner finds that there has been a violation of this act or any rules and regulations promulgated thereunder and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings, together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner, or a stay thereof has been ordered by a court of competent jurisdiction. The provisions of sections 5, 6, 7, and 8 of this act shall not be operative until ninety days after the effective date of this act, and the commissioner in his discretion may extend by not more than an additional ninety days the initial period within which the provisions of said sections shall not be operative. The provisions of subsection (b) of section 7 of this act with respect to approval of rates shall not be operative as applied to individual decreasing term credit life insurance until March 1, 1963.

Section 13. Judicial Review.--Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review by following the procedure set forth in the "Administrative Agency Law," approved June 4, 1945 (P.L.1388), and in the Rules of Civil Procedure promulgated by the Supreme Court of Pennsylvania and in any amendments of either thereof.

Section 14. Penalties.--In addition to any other penalty provided by law, any insurer or 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 Commonwealth of Pennsylvania a sum not to exceed two hundred fifty dollars (\$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 one thousand dollars (\$1000). The commissioner in his discretion may revoke or suspend the license or certificate of authority of the insurer or the person 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 13 of this act.

Section 15. Separability Provision.--If any provision of this act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the act and the application of such provision to any person or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Section 16. All acts and parts of acts are repealed in so far as inconsistent herewith.