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CH. 4 INSURANCE

CHAPTER 4
INSURANCE

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ARTICLE 1
INSURANCE IN GENERAL

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§ 4101. Short Title.

This Chapter shall be known and may be cited as *Uniform Consumer Credit Code-Insurance*.

§ 4102. Scope.

This Chapter applies to insurance provided or to be provided in relation to a consumer credit sale (§ 2104), a consumer lease (§ 2106), or a consumer loan (§ 3104). Except as provided in this Chapter as to cancellation of insurance pursuant to a premium finance loan (§ 4401), it does not apply to insurance the financing of which is the primary purpose of the loan.

§ 4103. Definition.

In this Chapter *consumer credit insurance* means insurance, other than insurance on property, by which the satisfaction of debt in whole or in part is a benefit provided, but does not include insurance issued as an isolated transaction of the part of the insurer not related to an agreement or plan for insuring debtors of the creditor.

§ 4104. Creditor's Provision of and Charge for Insurance.

Except as otherwise provided in this Chapter, a creditor may agree to provide insurance, and may contract for and receive a charge for insurance separate from and in addition to other charges. A creditor need not make separate charge for insurance provided or required by him. This Act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing, the business of insurance.

§ 4105. Conditions Applying to Insurance to be Provided by Creditor.

If a creditor agrees with a debtor that insurance will be provided:

- (1) the insurance shall be evidence by an individual policy or certificate of insurance;
- (2) the policy or certificate of insurance shall be delivered to the debtor, or sent to him at his address as stated by him, within thirty (30) days after the term of the insurance commences under the agreement between the creditor and debtor; and
- (3) the creditor shall promptly notify the debtor of any failure or delay in providing the insurance.

§ 4106. Unconscionability Resulting From Insurance Charge.

(1) In applying the provisions of this Act on unconscionability (§§ 5106 and 6111) to a separate charge for insurance, consideration shall be given among other factors, to:

- (a) potential benefits to the debtor including the satisfaction of his obligations;
- (b) the creditor's need for the security provided by the insurance; and
- (c) the relation between the amount and terms of credit granted and the insurance benefits provided.

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(2) If the consumer credit insurance otherwise complies with this Chapter, neither the term nor the amount of the insurance is of itself unconscionable.

§ 4107. Maximum Charge by Creditor for Insurance.

(1) Except as provided in Subsection (2), if a creditor contracts for or receives a separate charge for insurance, the amount charged to the debtor for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the debtor is determined, conforming to any rate filings required by law and made by the insurer with the Commissioner of Banking and Insurance.

(2) A creditor who provides consumer credit insurance in relation to a revolving charge account (§ 2108) or revolving loan account (§ 3108) may calculate the charge to the debtor by applying, in each billing cycle, the current premium rate to the debtor's unpaid balance upon which the credit service charge (§ 2207) or loan finance charge (§ 3201) is calculated.

(3) The excess amount of a charge for insurance provided for in agreements in violation of this Section is an excess charge for the purposes of the provisions of the Chapter on Remedies and Penalties (Chapter 5) as to the effect of violations on rights of parties (§ 5201) and of the provision of the Chapter on Administration (Chapter 6) as to administrative enforcement orders (§ 6108) and as to civil actions by the Administrator (§ 6113).

SOURCE: Item (1) Amended by P.L. 27-88:5.

§ 4108. Refund or Credit Required; Amount.

(1) This Chapter does not require a creditor to grant a refund or credit to the debtor if all and refund and credits due to the debtor under this Chapter amount to less than One Dollar (\$1.00), and does not require the creditor to account to the debtor for any portion of a separate charge for insurance because:

(a) the insurance is terminated by performance of the insurer's obligation;

(b) the creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them;
or

(c) under any policy of insurance, the creditor receives directly

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or indirectly a gain or advantage not prohibited by law.

(2) Except as provided in Subsection (1), the creditor shall promptly make or cause to be made an appropriate refund or credit to the debtor with respect to any separate charge made to him for insurance if:

(a) the insurance is not provided or is provided for a shorter term than that for which the charge to the debtor for insurance was computed; or

(b) the insurance terminates prior to the term for which it was written because of prepayment in full or otherwise.

(3) A refund or credit required by Subsection (2) is appropriate as to amount if it is computed according to a method prescribed or approved by the Commissioner of Banking and Insurance or a formula filed by the insurer with the Commissioner of Banking and Insurance at least thirty (30) days before the debtor's right to a refund or credit becomes determinable, unless the method or formula is employed after the Commissioner of Banking and Insurance notifies the insurer that he or she disapproves it.

SOURCE: Item (3) amended by P.L. 27-88:5.

§ 4109. Existing Insurance; Choice of Insurer.

If a creditor requires insurance, upon notice to him the debtor shall have the option of providing the required insurance through existing policies of insurance owned or controlled by him, or through policies to be obtained and paid for by him, but the creditor may for reasonable cause decline the insurance provided by the debtor.

§ 4110. Charge for Insurance in Connection With a Deferment, Refinancing or Consolidation; Duplicate Charges.

(1) A creditor may not contract for or receive a separate charge for insurance in connection with a deferment (§ 2204 or § 3204), a refinancing (§ 2205 or § 3205), or a consolidation (§ 2206 or § 3206), unless:

(a) the debtor agrees at or before the time of the deferment, refinancing or consolidation that the charge may be made;

(b) coverage is provided or to be provided to the debtor, as to term, amount or kind of insurance, in addition to that to which he would have been entitled had there been no deferment, refinancing

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or consolidation;

(c) the debtor receives the refund or credit on account of any unexpired term of existing insurance that would be appropriate as to amount if the insurance were terminated (§ 4108); and

(d) the charge does not exceed the amount permitted by this Chapter (§ 4107).

(2) A creditor may not contract for or receive a separate charge for insurance which duplicates insurance with respect to which the creditor has previously contracted for or received a separate charge.

§ 4111. Cooperation Between Administrator and Commissioner of Banking and Insurance.

The Administrator and the Commissioner of Banking and Insurance are authorized and directed to consult and assist one another in maintaining compliance with this Chapter. They may jointly pursue investigations, prosecute suits and take other official action, as may seem to them appropriate, if either of them is otherwise empowered to take the action. If the Administrator is informed of a violation or supposed violation by an insurer of this Chapter, or of the insurance laws and regulations of Guam, he or she shall advise the Commissioner of Banking and Insurance of the circumstances.

SOURCE: Amended by P.L. 27-88:5.

ARTICLE 2
CONSUMER CREDIT INSURANCE

§ 4201. Term of Insurance.

§ 4202. Amount of Consumer Credit Insurance.

§ 4203. Filing and Approval of Rates and Forms.

§ 4201. Term of Insurance.

(1) Consumer credit insurance provided by a creditor may be subject to the furnishing of evidence of incurability satisfactory to the insurer. Whether or not such evidence is required, the term of the insurance shall commence no later than at the time when the debtor becomes obligated to the creditor or on the date the debtor applies for the insurance,

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whichever is later, except as follows:

(a) if any required evidence of incurability is not furnished until more than thirty (30) days after the term would otherwise commence, the term may commence on the date when the insurer determines the evidence to be satisfactory; and

(b) if the creditor provides insurance not previously provided covering debts previously created, the term may commence on the effective date of the policy.

(2) The originally scheduled term of the insurance shall extend at least until the due date of the last scheduled payment of the debt except as follows:

(a) if the insurance relates to a revolving charge account or revolving loan account, the term need extend only until the payment of the debt under the account and may be sooner terminated after at least thirty (30) days' notice to the debtor; and

(b) if the debtor is advised in writing that the insurance will be written for a specified shorter time, the term need extend only until the end of the specified time.

(3) The term of the insurance shall not extend more than fifteen (15) days after the originally scheduled due date of the last scheduled payment of the debt unless it is extended without additional cost to the debtor or as an incident to a deferment, refinancing or consolidation.

§ 4202. Amount of Consumer Credit Insurance.

(1) Except as provided in Subsection (2):

(a) in the case of credit life insurance, the amount of insurance may not initially exceed the debt and, if the debt is payable in installments, may not at any time exceed the greater of the scheduled or actual amount of the debt; or

(b) in the case of any other consumer credit insurance, the total amount of periodic benefits payable may not exceed the total of scheduled unpaid installments of the debt, and the amount of any periodic benefit may not exceed the original amount of debt divided by the number of periodic installments in which it is payable.

(2) If consumer credit insurance is provided in connection with a revolving charge account or revolving loan account, or in connection

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with a commitment to grant credit in the future, the amounts payable as insurance benefits may be reasonably commensurate with the total from time to time of the amount of debt and the amount of any commitment. If the debt or commitment is primarily for an agricultural purpose, and there is no regular schedule of payments, the amounts payable as insurance benefits may equal the total of the initial amount of debt and the amount of any commitment.

(3) The excess amount of a charge for insurance provided for in agreements in violation of this Section is an excess charge for the purposes of the provisions of the Chapter on Remedies and Penalties (Chapter 5) as to the effect of violations on rights of parties (§ 5201) and of the provisions of the Chapter on Administration (Article 6) as to administrative enforcement orders (§ 6108) and as to civil actions by the Administrator (§ 6113).

§ 4203. Filing and Approval of Rates and Forms.

(1) A creditor may not provide consumer credit insurance upon a form delivered or issued for delivery in Guam or at a premium rate or charge unless the form and premium rate or charge have been approved by the Commissioner of Banking and Insurance or have been on file with him or her for thirty (30) days and he or she has not notified the insurer of his/her disapproval.

(2) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders relating to consumer credit insurance delivered or issued for delivery in Guam and the schedules of premium rates or charges pertaining thereto shall be filed by the insurer with the Commissioner of Banking and Insurance.

(3) If a group policy of consumer credit insurance has been or is delivered in another state before or after the effective date of this Act, the insurer shall file with the Commissioner of Banking and Insurance the group certificate of insurance and notice of proposed insurance delivered or issued for delivery in Guam and the schedules of premium rates or charges pertaining thereto.

(4) The Commissioner of Banking and Insurance shall, within thirty (30) days after the filing, according to Subsection (2) or (3), of any form or schedule of premium rates or charges, disapprove the form or schedule of premium rates or charges and notify the insurer of his/her disapproval:

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(a) if the premium rates or charges are unreasonable in relation to the benefits provided under the form; or

(b) if the form contains provisions which are unjust, unfair, inequitable or deceptive or encourage misrepresentation of the coverage or are contrary to any provision of the Insurance Code Division 2 of Title 22, Guam Code Annotated, or of any rule or regulation promulgated thereunder.

(5) A term of consumer credit insurance of ten (10) years or less is presumed not to be unjust, unfair or inequitable.

SOURCE: Items (1) – (4) amended by P.L. 27-88:5.

ARTICLE 3
PROPERTY AND LIABILITY INSURANCE

§ 4301. Property Insurance.

§ 4302. Insurance on Creditor's Interest Only.

§ 4303. Liability Insurance.

§ 4304. Cancellation by Creditor.

§ 4301. Property Insurance.

(1) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless:

(a) the insurance covers a substantial risk of loss of or damage to property related to the credit transaction;

(b) the amount, terms and conditions of the insurance are reasonable in relation to the character and value of the property insured or to be insured; and

(c) the term of the insurance is reasonable in relation to the terms of credit.

(2) The term of the insurance is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.

(3) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless the amount financed or principal exclusive of charges for the insurance is Three Hundred Dollars (\$300.00), or more, or the value of the property is Three

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Hundred Dollars (\$300.00), or more.

(4) The excess amount of charge for insurance provided for agreements in violation of this Section is an excess charge for the purposes of the provisions of the Chapter on Remedies and Penalties (Chapter 5) as to the effect of violations on rights or parties (§ 5201) and of the provisions of the Chapter on Administration (Chapter 6) as to administration enforcement orders (§ 6108) and as to civil actions by the Administrator (§ 6113).

(5) The amounts of Three Hundred Dollars (\$300.00) in Subsection (3) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 4302. Insurance on Creditor's Interest Only.

If a creditor contracts for or receives a separate charge for insurance against loss of or damage to property, the risk of accidental loss or damage is in the debtor only to the extent of any deficiency in the effective coverage of the insurance, even though the insurance covers only the interest of the creditor.

§ 4303. Liability Insurance.

A creditor may not contract for or receive a separate charge for insurance against liability unless the insurance covers a substantial risk of liability arising out of the ownership or use of property related to the credit transaction. The excess amount of a charge for insurance provided for in agreements in violation of this Section is an excess charge for the purposes of the provisions of the Chapter on Remedies and Penalties (Chapter 5) as to the effect of violations on rights of parties (§ 5201) and of the provisions of the Chapter on Administration (Article 6) as to administrative enforcement orders (§ 6108) and as to civil actions by the Administrator (§ 6113).

§ 4304. Cancellation by Creditor.

A creditor shall not request cancellation of a policy of property or liability insurance except in accordance with a written authorization by the debtor and with a written notice delivered to him or mailed to him at his address as stated by him. The notice shall state that the policy is to be cancelled on a date not less than ten (10) days after the notice is delivered, or, if the notice is mailed, not less than thirteen (13) days after it is mailed.

ARTICLE 4
INSURANCE PURSUANT TO A PREMIUM FINANCE LOAN

§ 4401. Cancellation of Insurance Pursuant to a Premium Finance Loan.

§ 4401. Cancellation of Insurance Pursuant to a Premium Finance Loan.

(1) With respect to a premium finance loan, the debtor may give the lender authority to cancel insurance contracts obtained for the debtor pursuant to the premium finance loan agreement.

(2) A lender may not cancel unless he gives the debtor fifteen (15) days written notice that cancellation of a specified insurance contract will become effective on a stated date and at a stated time unless the debtor before that date cures his default with respect to the premium finance loan. The debtor may cure his default by paying to the lender the amount of the installment payments due, without acceleration of the unpaid balance of the principal, at the time notice is given, together with the amount of delinquency or deferral charges due at that time.

(3) Upon cancellation the lender shall rebate or refund to the debtor the amount of any unearned loan finance charge. The amount of the rebate shall be equal to the amount of the unearned loan finance charge that would have been rebated or refunded pursuant to § 3210 if the loan had been prepaid in full at the date of cancellation.

(4) All laws of this Territory relating to cancellation of insurance contracts must be complied with, when cancellation occurs pursuant to this Section.

(5) If the insurance contract cancelled provides motor vehicle liability insurance:

(a) the notice of cancellation shall briefly inform the debtor of the consequences under the law of this Territory of operating a motor vehicle without liability insurance; and

(b) a copy of the notice of cancellation shall be sent to the Division of Licenses and Registration of the Department of Revenue

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and Taxation.

NOTE: Reference to "Department of Finance" amended to *Revenue and Taxation* by Compiler pursuant to P.L. 9-228, effective August 7, 1968.
