

IC 24-4.5-4

Chapter 4. Insurance

(Part 1. Insurance in General)

IC 24-4.5-4-101

Short title

Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code - Insurance.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-102

Application; relation to credit insurance act

Sec. 102. (1) Except as provided in subsection (2), this chapter applies to insurance provided or to be provided in relation to a consumer credit sale (IC 24-4.5-1-301.5(8)), a consumer lease (IC 24-4.5-2-106), or a consumer loan (IC 24-4.5-1-301.5(9)).

(2) The provision on cancellation by a creditor (IC 24-4.5-4-304) applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

(3) This chapter supplements and does not repeal IC 27-8-4 (the credit insurance act). The provisions of this article concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, and the similar provisions of IC 27-8-4 do not apply to creditors and debtors.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.153-1986, SEC.1; P.L.35-2010, SEC.61.

IC 24-4.5-4-103

"Consumer credit insurance" defined

Sec. 103. In this article, "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:

- (1) insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring debtors of the creditor; or
- (2) insurance indemnifying the creditor against loss due to the debtor's default.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.153-1986, SEC.2.

IC 24-4.5-4-104

Creditor's provisions of and charge for insurance; excess amount of charge

Sec. 104. Creditor's Provisions of and Charge for Insurance; Excess Amount of Charge - (1) Except as otherwise provided in this Chapter and subject to the provisions on additional charges (IC 24-4.5-2-202 and IC 24-4.5-3-202) and maximum charges (Part 2 of Chapter 2 and Chapter 3), 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 a separate charge for insurance provided or required by him. This Article does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

(2) The excess amount of a charge for insurance provided for in agreements in violation of this Chapter is an excess charge for the purposes of the provisions of the Chapter on remedies and penalties (Chapter 5) as to effect of violations on rights of parties (IC 24-4.5-5-202) and of the provisions of the Chapter on administration (Chapter 6) as to civil actions by the department (IC 24-4.5-6-113). *(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.14-1992, SEC.41.*

IC 24-4.5-4-105

Conditions applying to insurance to be provided by creditor

Sec. 105. Conditions Applying to Insurance to be Provided by Creditor — If a creditor agrees with a debtor to provide insurance

(1) the insurance shall be evidenced by an individual policy or certificate of insurance 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; or

(2) the creditor shall promptly notify the debtor of any failure or delay in providing the insurance.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-106

Unconscionability

Sec. 106. Unconscionability — (1) In applying the provisions of the Article on unconscionability (24-4.5-5-108 and 24-4.5-6-111) 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 protection provided by the insurance; and

(c) the relation between the amount and terms of credit granted and the insurance benefits provided.

(2) If consumer credit insurance otherwise complies with this Chapter and other applicable law, neither the amount nor the term of the insurance nor the amount of a charge therefor is in itself unconscionable.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-107

Maximum charge by creditor for insurance; methods for calculating charge

Sec. 107. 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 Insurance Commissioner.

(2) A creditor who provides consumer credit insurance in relation to a revolving charge account (IC 24-4.5-2-108) or revolving loan account (IC 24-4.5-3-108) may calculate the charge to the debtor in each billing cycle by applying the current premium rate to:

(a) the average daily unpaid balance of the debt in the cycle;

(b) the unpaid balance of the debt or a median amount within a specified range of unpaid balances of debt on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the credit service charge (IC 24-4.5-2-207) or loan finance charge (IC 24-4.5-3-201 and IC 24-4.5-3-508), but the specified range shall be the range used for that purpose;

(c) the unpaid balances of principal calculated according to the actuarial method; or

(d) the amount of the insurance benefit for the cycle.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.141-2005, SEC.2.

IC 24-4.5-4-108

Prepayment by proceeds of consumer credit insurance; refund required; documentation; amount; interest; civil penalty

Sec. 108. Refund or Credit Required; Amount — (1) Upon prepayment in full of a consumer credit sale or consumer loan by the proceeds of consumer credit insurance, the debtor or the debtor's estate is entitled to a refund of:

(a) any portion of a separate charge for insurance which by reason of prepayment is retained by the creditor or returned to the creditor by the insurer unless the charge was computed from time to time on the basis of the balances of the debtor's account; and

(b) any portion of an additional charge that is:

(i) assessed in accordance with IC 24-4.5-2-202(1)(c) or IC 24-4.5-3-202(1)(e); and

(ii) subject to rebate upon prepayment.

(2) This chapter does not require a creditor to grant a refund or credit to the debtor if all refunds and credits due to the debtor under this chapter amount to less than one dollar (\$1), and except as provided in subsection (1) 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) the creditor receives directly or indirectly under any policy

of insurance a gain or advantage not prohibited by law.

(3) Except as provided in subsection (2), the creditor or the creditor's assignee shall promptly make an appropriate refund or credit to the debtor for any separate charge made for insurance or for an additional charge described in subsection (1)(b) if:

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

(b) the insurance or the protection provided in exchange for the additional charge described in subsection (1)(b) terminates prior to the end of the scheduled term of the coverage because of prepayment in full or otherwise.

(4) An initial creditor, a subsequent creditor, or an assignee of an initial or a subsequent creditor, shall maintain documentation of any account that is subject to a refund or credit under this section. The information maintained under this subsection shall be made available to the department as necessary to determine compliance with this section.

(5) A refund or credit required by subsection (3) is appropriate as to amount if it is computed according to a method prescribed or approved by the insurance commissioner or a formula filed by the insurer with the insurance commissioner at least thirty (30) days before the debtor's right to a refund or credit becomes determinable, unless the method or formula is used after the insurance commissioner notifies the insurer that it is disapproved.

(6) If a refund or credit required by subsection (1) or (3) is not made to the debtor within sixty (60) days after the date the debt is terminated, due to prepayment in full or otherwise, the creditor shall pay to the debtor for each day after the sixty (60) day period has expired an amount equal to the daily interest at the contracted annual percentage rate on the amount of the refund required by subsection (1) due at the time of prepayment or termination. The director may impose an additional civil penalty of not greater than one thousand dollars (\$1,000) per occurrence if a creditor engages in a pattern or practice of failing to comply with this subsection.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.122-1994, SEC.29; P.L.172-1997, SEC.7; P.L.213-2007, SEC.13; P.L.217-2007, SEC.12; P.L.90-2008, SEC.12.

IC 24-4.5-4-109

Existing insurance; choice of insurer

Sec. 109. Existing Insurance; Choice of Insurer — If a creditor requires insurance, upon notice to the creditor the debtor shall have the option of providing the required insurance through an existing policy of insurance owned or controlled by the debtor, or through a policy to be obtained and paid for by the debtor, but the creditor may for reasonable cause decline the insurance provided by the debtor.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-110

Charge for insurance connection with a deferral, refinancing, or consolidation; duplicate charges

Sec. 110. (1) A creditor may not contract for or receive a separate charge for insurance in connection with a deferral (IC 24-4.5-2-204 or IC 24-4.5-3-204), a refinancing (IC 24-4.5-2-205 or IC 24-4.5-3-205), or a consolidation (IC 24-4.5-2-206 or IC 24-4.5-3-206), unless:

- (a) the debtor agrees at or before the time of the deferral, refinancing, or consolidation that the charge may be made;
- (b) the debtor is or is to be provided with insurance for an amount or a term, or insurance of a kind, in addition to that to which he would have been entitled had there been no deferral, refinancing, or consolidation;
- (c) the debtor receives a refund or credit on account of any unexpired term of existing insurance in the amount that would be required if the insurance were terminated (IC 24-4.5-4-108); and
- (d) the charge does not exceed the amount permitted by this chapter (IC 24-4.5-4-107).

(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. *(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.152-1986, SEC.66.*

IC 24-4.5-4-111

Cooperation between administrator and insurance commissioner

Sec. 111. Cooperation Between the Department and Insurance Commissioner - The department and the Insurance Commissioner 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 department is informed of a violation or suspected violation by an insurer of this Chapter, or of the insurance laws, rules, and regulations of this State, the department shall advise the Insurance Commissioner of the circumstances.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.14-1992, SEC.42.

IC 24-4.5-4-112

Administrative action of commissioner of insurance

Sec. 112. (1) To the extent that his responsibility under this chapter requires, the commissioner of insurance shall issue rules with respect to insurers, and with respect to refunds (IC 24-4.5-4-108), forms, schedules of premium rates and charges (IC 24-4.5-4-203), and his approval or disapproval thereof and, in case of violation, may make an order for compliance.

(2) IC 4-21.5-3 applies to and governs all agency action taken by the commissioner of insurance pursuant to this section.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.152-1986, SEC.67; P.L.7-1987, SEC.107.

(Part 2. Consumer Credit Insurance)

IC 24-4.5-4-201

Term of insurance

Sec. 201. Term of Insurance — (1) Consumer credit insurance provided by a creditor may be subject to the furnishing of evidence of insurability satisfactory to the insurer. Whether or not such evidence is required, the term of the insurance shall commence no later than when the debtor becomes obligated to the creditor or when the debtor applies for the insurance, whichever is later, except as follows:

(a) if any required evidence of insurability 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; or

(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; or

(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 deferral; refinancing, or consolidation.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-202

Amount of insurance

Sec. 202. (1) Except as provided in subsection (2):

(a) in the case of consumer credit insurance providing life coverage, the amount of insurance may not initially exceed the debt and, if the debt is payable in instalments, 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 instalments of the debt, and the amount of any periodic benefit may not exceed the original amount of debt

divided by the number of periodic instalments in which it is payable.

(2) If consumer credit insurance is provided in connection with a revolving charge account or revolving loan account, the amounts payable as insurance benefits may be reasonably commensurate with the amount of debt as it exists from time to time. If consumer credit insurance is provided in connection 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 the commitment.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.247-1983, SEC.20.

IC 24-4.5-4-203

Filing and approval of rates and forms

Sec. 203. (1) A creditor may not use a form, or a schedule of premium rates or charges, the filing of which is required by this section, if the insurance commissioner has disapproved the form or schedule and has notified the insurer of his disapproval. A creditor may not use a form or schedule unless:

(a) the form or schedule has been on file with the insurance commissioner for thirty (30) days, or has earlier been approved by him; and

(b) the insurer has complied with this section with respect to the insurance.

(2) Except as provided in subsection (3), 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 this state, and the schedules of premium rates or charges pertaining thereto, shall be filed by the insurer with the insurance commissioner. Within thirty (30) days after the filing of any form or schedule, he shall disapprove it if the premium rates or charges are unreasonable in relation to the benefits provided under the form, or 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 IC 27 or of any rule promulgated under IC 27.

(3) If a group policy has been delivered in another state, the forms to be filed by the insurer with the insurance commissioner are the group certificates and notices of proposed insurance. He shall approve them if:

(a) they provide the information that would be required if the group policy were delivered in this state; and

(b) the applicable premium rates or charges do not exceed those established by his rules.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.152-1986, SEC.68.

(Part 3. Property and Liability Insurance)

IC 24-4.5-4-301

Property insurance

Sec. 301. 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) or more, and the value of the property is three hundred dollar (\$300) or more.

(4) The amounts of three hundred dollars (\$300) in subsection (3) are subject to change pursuant to the provisions on adjustment of dollar amounts (24-4.5-1-106).

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-302

Insurance on creditor's interest only

Sec. 302. 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 loss or damage not willfully caused by the debtor is on 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.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-303

Liability insurance

Sec. 303. 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.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-304

Cancellation by creditor

Sec. 304. Cancellation by Creditor — A creditor shall not request cancellation of a policy of property or liability insurance except after the debtor's default or in accordance with a written authorization by the debtor, and in either case the cancellation does not take effect until written notice is delivered to the debtor or mailed to him at his address as stated by him. The notice shall state that the policy may

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.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-305

Refund of unearned premium for property insurance upon payment of loan

Sec. 305. Upon the payment in full of a consumer credit sale or consumer loan, the creditor or creditor's assignee shall promptly make an appropriate refund of the unearned premium for any property insurance with respect to which the creditor or the credit account of the consumer is a beneficiary.

As added by P.L.122-1994, SEC.30.