

1 IN THE HOUSE

BY MR. GREUEL

2

HOUSE BILL NO. 307

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIRST LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act to provide for the regulation of
7 credit life insurance and credit accident
8 and health insurance."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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Section 1. PURPOSE. The purpose of this Act is to promote
11 the public welfare by regulating credit life insurance and credit
12 accident and health insurance. Nothing in this Act is intended to
13 prohibit or discourage reasonable competition. The provisions of
14 this Act shall be liberally construed.

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Sec. 2. SCOPE AND DEFINITIONS. a. This Act may be cited
16 as "The Model Act for the Regulation of Credit Life Insurance and
17 Credit Accident and Health Insurance."

18

b. All life insurance and all accident and health insurance
19 sold in connection with loans or other credit transactions shall
20 be subject to the provisions of this Act except such insurance
21 sold in connection with a loan or other credit transaction of more
22 than five years duration.

23

c. For the purpose of this Act:

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

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(2) "credit accident and health insurance" means in-
28 surance on a debtor to provide indemnity for payments becoming
29 due on a specific loan or other credit transaction while the

1 debtor is disabled as defined in the policy;

2 (3) "creditor" means the lender of money or vendor or
3 lessor of goods, services, property, rights or privileges, for
4 which payment is arranged through a credit transaction or any
5 successor to the right, title or interest of any such lender,
6 vendor, or lessor, and an affiliate, associate, or subsidiary of
7 any of them or any director, officer, or employee of any of them
8 or any other person in any way associated with any of them;

9 (4) "debtor" means a borrower of money or a purchaser
10 or lessee of goods, services, property, rights, or privileges for
11 which payment is arranged through a credit transaction.

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

15 (6) "commissioner" means Commissioner of Commerce of the
16 State of Alaska.

17 Sec. 3. FORMS OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT
18 AND HEALTH INSURANCE. Credit life insurance and credit accident
19 and health insurance shall be issued only in the following forms:

20 (1) Individual policies of life insurance issued to
21 debtors on the term plan;

22 (2) Individual policies of accident and health insur-
23 ance issued to debtors on a term plan or disability benefit pro-
24 visions in individual policies of credit life insurance;

25 (3) Group policies of life insurance issued to credit-
26 ors providing insurance upon the lives of debtors on the term
27 plan;

28 (4) Group policies of accident and health insurance
29 issued to creditors on a term plan insuring debtors or disability

1 benefit provisions in group credit life insurance policies to
2 provide such coverage.

3 Sec. 4. AMOUNT OF CREDIT LIFE INSURANCE AND CREDIT ACCI-
4 DENT AND HEALTH INSURANCE. a. The amount of credit life insur-
5 ance shall not exceed the initial indebtedness. Where an in-
6 debtedness repayable in substantially equal installments is
7 secured by an individual policy of credit life insurance, the
8 amount of insurance shall at no time exceed the scheduled amount
9 of indebtedness and, where secured by a group policy of credit
10 life insurance shall at no time exceed the amount of unpaid in-
11 debtedness. Notwithstanding the provisions of this paragraph,
12 agricultural loans not exceeding one year may be written up to
13 the amount of the loan commitment on a non-decreasing or level
14 term plan.

15 b. The amount of periodic indemnity payable by credit acci-
16 dent and health insurance in the event of disability, as defined
17 in the policy, shall not exceed the aggregate of the periodic
18 scheduled unpaid installments of indebtedness and shall not ex-
19 ceed the original indebtedness divided by the number of periodic
20 installments.

21 Sec. 5. TERM OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT
22 AND HEALTH INSURANCE. The term of any credit life insurance or
23 credit accident and health insurance shall, subject to acceptance
24 by the insurer, commence on the date when the debtor becomes ob-
25 ligated to the creditor, except that, where a group policy pro-
26 vides coverage with respect to existing obligations, the insur-
27 ance on a debtor with respect to such indebtedness shall commence
28 on the effective date of the policy. The term of such insurance
29 shall not extend more than 15 days beyond the scheduled maturity

1 date of the indebtedness except when extended without additional
2 cost to the debtor. If the indebtedness is discharged due to re-
3 newal or refinancing prior to the scheduled maturity date, the
4 insurance in force shall be terminated before any new insurance
5 may be issued in connection with the renewed or refinanced in-
6 debtedness. In all cases of termination prior to scheduled
7 maturity date, the insurance in force shall be terminated before
8 any new insurance may be issued in connection with the renewed or
9 refinanced indebtedness. In all cases of termination prior to
10 scheduled maturity, a refund shall be paid or credited as pro-
11 vided in Sec. 8.

12 Sec. 6. PROVISIONS OF POLICIES AND CERTIFICATES OF INSUR-
13 ANCE: DISCLOSURE TO DEBTORS. a. All credit life insurance and
14 credit accident and health insurance sold shall be evidenced by
15 an individual policy, or in the case of group insurance by a
16 certificate of insurance, which individual policy or group cer-
17 tificates of insurance shall be delivered to the debtor.

18 b. Each individual policy or group certificate of credit
19 life insurance, and/or credit accident and health insurance shall,
20 in addition to other requirements of law, set forth the name and
21 home office address of the insurer, the identity of the debtor by
22 name or otherwise, the premium or amount of payment, if any, by
23 the debtor for credit life insurance and credit accident and
24 health insurance, a description of the coverage including the
25 amount and term thereof, and any exceptions, limitations, or
26 restrictions, and shall state that the benefits shall be paid to
27 the creditor to reduce or extinguish the unpaid indebtedness and,
28 wherever the amount of insurance may exceed the unpaid indebted-
29 ness, that any such excess shall be payable to a beneficiary,

1 other than the creditor, named by the debtor or to his estate.

2 c. Said individual policy or group certificate of insurance
3 shall be delivered to the insured debtor at the time the indebted-
4 ness is incurred except as hereinafter provided.

5 d. If said individual policy or group certificate of insur-
6 ance is not delivered to the debtor at the time the indebtedness
7 is incurred, a copy of the application for such policy or a
8 notice of proposed insurance signed by the debtor and setting
9 forth the identity of the debtor by name or otherwise, the pre-
10 mium or amount of payment by the debtor, if any, for credit life
11 insurance and credit accident and health insurance, the amount,
12 term, and a brief description of the coverage provided, shall be
13 delivered to the debtor at the time such indebtedness is incurred.
14 The copy of the application for, or notice of, proposed insurance
15 shall refer exclusively to insurance coverage, and shall be
16 separate and apart from the loan, sale or other credit statement
17 of account, instrument or agreement, unless the information re-
18 quired by this subsection is prominently set forth therein. Upon
19 acceptance of the insurance by the insurer and within 30 days of
20 the date upon which the indebtedness is incurred, the insurer
21 shall cause the individual policy or group certificate of insur-
22 ance to be delivered to the debtor. Said application or notice
23 of proposed insurance shall state that upon acceptance by the
24 insurer, the insurance shall become effective as of the date the
25 indebtedness is incurred.

26 Sec. 7. FILING, APPROVAL, AND WITHDRAWAL OF FORMS. a.
27 All policies, certificates of insurance, notices of proposed in-
28 surance, applications for insurance, endorsements, and riders
29 shall be filed with the commissioner.

1 b. The commissioner shall, within 30 days after the filing
2 of any such policies, certificates of insurance, notices of pro-
3 posed insurance, applications for insurance, endorsements and
4 riders, disapprove any such form if it contains provisions which
5 are unjust, unfair, unequitable, misleading, deceptive or encour-
6 age misrepresentation of the coverage, or are contrary to any
7 provision of the state insurance laws, or of any rule or regula-
8 tion promulgated thereunder.

9 c. If the commissioner notifies the insurer that the form
10 is disapproved, it is unlawful thereafter for such insurer to
11 issue or use such form. In such notice, the commissioner shall
12 specify the reason for his disapproval and state that a hearing
13 will be granted within 20 days after request in writing by the
14 insurer. No such policy, certificate of insurance, notice of
15 proposed insurance, nor any application, endorsement, or rider,
16 shall be issued or used until the expiration of 30 days after
17 request in writing by the insurer. No such policy, certificate
18 of insurance, notice of proposed insurance, nor any application,
19 endorsement, or rider, shall be issued or used until the expira-
20 tion of 30 days after it has been filed, unless the commissioner
21 shall give his prior written approval thereto.

22 d. The commissioner may, at any time after a hearing held
23 not less than 20 days after written notice to the insurer,
24 withdraw his approval of any such form on any ground set forth
25 in subsection b above. The written notice of such hearing shall
26 state the reason for the proposed withdrawal.

27 e. It is not lawful for the insurer to issue such forms or
28 use them after the effective date of such withdrawal.

29 f. Any order or final determination of the commissioner

1 under the provisions of this section shall be subject to judicial
2 review.

3 Sec. 8. PREMIUMS AND REFUNDS: a. Each insurer issuing
4 credit life insurance or credit accident and health insurance
5 shall file with the commissioner its schedules of premium rates
6 for use in connection with such insurance. Any insurer may re-
7 vise such schedules from time to time, and shall file such re-
8 vised schedules with the commissioner. No insurer shall issue
9 any credit life insurance policy or credit accident and health
10 insurance policy for which the premium rate exceeds that deter-
11 mined by the schedules of such insurer as then on file with the
12 commissioner. The commissioner may require the filing of the
13 schedule of premium rates for use in connection with and as a
14 part of the specific policy filings as provided by Sec. 7.

15 b. Each individual policy, group certificate or notice of
16 proposed insurance shall provide that in the event of termina-
17 tion of the insurance prior to the scheduled maturity date of
18 the indebtedness, any refund of an amount paid by the debtor for
19 insurance shall be paid or credited promptly to the person en-
20 titled thereto; provided, however, that the commissioner shall
21 prescribe a minimum refund and no refund which would be less than
22 such minimum need be made. The formula to be used in computing
23 such refund shall be filed with and approved by the commissioner.

24 c. If a creditor requires a debtor to make any payment for
25 credit life insurance or credit accident and health insurance and
26 an individual policy or group certificate of insurance is not
27 issued, the creditor shall immediately give written notice to
28 such debtor and shall promptly make an appropriate credit to the
29 account.

1 d. The amount charged by the creditor to the debtor for
2 any credit life or credit health and accident insurance shall not
3 exceed the premium rate filed with the commissioner for the cover-
4 age provided.

5 e. Nothing in this Act shall be construed to authorize any
6 payments for insurance now prohibited under any statute or rule
7 governing credit transactions.

8 Sec. 9. ISSUANCE OF POLICIES. All policies of credit life
9 insurance and credit accident and health insurance shall be de-
10 livered or issued for delivery in this state only by an insurer
11 authorized to do an insurance business therein, and shall be
12 issued only through holders of licenses issued by the commission-
13 er; provided, however, enrollment of debtors by the creditor,
14 under a group policy issued to the creditor, and acts performed
15 by the creditor in the administration of such group policy,
16 shall not require the creditor to be a holder of any license
17 issued by the commissioner.

18 Sec. 10. CLAIMS. a. All claims shall be promptly reported
19 to the insurer or its designated claim representative, and the
20 insurer shall maintain adequate claim files. All claims shall
21 be settled as soon as possible and in accordance with the terms
22 of the insurance contract.

23 b. All claims shall be paid either by draft drawn upon the
24 insurer or by check of the insurer to the order of the claimant
25 to whom payment of the claim is due pursuant to the policy pro-
26 visions, or upon direction of such claimant to one specified.

27 c. No plan or arrangement shall be used whereby any person,
28 firm or corporation other than the insurer or its designated
29 claim representative shall be authorized to settle or adjust

1 claims. The creditor shall not be designated as claim represen-
2 tative for the insurer in adjusting claims; provided, that a
3 group policyholder may be arranged with the group insurer, draw
4 drafts or checks in payment of claims due to the group policy-
5 holder subject to audit and review by the insurer.

6 Sec. 11. EXISTING INSURANCE: CHOICE OF INSURER. When
7 credit life insurance or credit accident and health insurance is
8 required as additional security for any indebtedness, the debtor
9 shall, upon request to the creditor, have the option of furnish-
10 ing the required amount of insurance through existing policies
11 of insurance owned or controlled by him or of procuring and
12 furnishing the required coverage through any insurer authorized
13 to transact an insurance business within this state.

14 Sec. 12. ENFORCEMENT. The commissioner may, after notice
15 and hearing, issue such rules and regulations as he deems appro-
16 priate for the supervision of this Act. Whenever the commissioner
17 finds that there has been a violation of this Act or any rules
18 or regulations issued pursuant thereto, and after written notice
19 thereof and hearing given to the insurer or other person auth-
20 orized or licensed by the commissioner, he shall set forth the
21 details of his findings together with an order for compliance by
22 a specified date. Such order shall be binding on the insurer
23 and other person authorized or licensed by the commissioner on
24 the date specified unless sooner withdrawn by the commissioner
25 or a stay thereof has been ordered by a court of competent juris-
26 diction. The provisions of Secs. 5, 6, 7, and 8 of this Act
27 shall not be operative until 90 days after the effective date of
28 this Act, and the commissioner in his discretion may extend such
29 initial period an additional 90 days.

1 Sec. 13. JUDICIAL REVIEW. Any party to the proceeding
2 affected by an order of the commissioner shall be entitled to
3 judicial review by following the procedure set forth in the
4 Administrative Procedure Act of Alaska.

5 Sec. 14. PENALTIES. In addition to any other penalty provi-
6 ded by law, any person who violates an order of the commissioner
7 issued hereunder after it has become final, and while such order
8 is in effect, shall, upon proof thereof to the satisfaction of
9 the court, forfeit and pay to the State of Alaska a sum not to
10 exceed \$250.00 which may be recovered in a civil action, except
11 that if such violation is found to be willful, the amount of such
12 penalty shall be a sum not to exceed \$1,000.00. The commissioner,
13 in his discretion, may revoke or suspend the license or certi-
14 ficate of authority of the person guilty of such violation.
15 Such order for suspension or revocation shall be upon notice and
16 hearing, and shall be subject to judicial review as provided in
17 Sec. 13 of this Act.

18 Sec. 15. EFFECTIVE DATE. This Act takes effect on the
19 day after its passage and approval or on the day it becomes law
20 without such approval.
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