

ARTICLE 4

INSURANCE

PART 1

INSURANCE IN GENERAL

§4-101. Short title

This Article shall be known and may be cited as the "Maine Consumer Credit Code -- Insurance."
[PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-102. Scope; relation to Credit Insurance Act; applicability to parties

1. Except as provided in subsection 2, Parts 1, 2 and 3 of this Article apply to insurance provided or to be provided in relation to a consumer credit transaction.

[PL 1997, c. 315, §1 (AMD).]

2. The provision on cancellation by a creditor, section 4-304, applies to loans, the primary purpose of which is the financing of insurance. No other provision of Parts 1, 2 and 3 of this Article applies to insurance so financed.

[PL 1997, c. 315, §1 (AMD).]

3. This Article supplements and does not repeal the Credit Insurance Act. The provisions of this Act concerning administrative controls, liabilities and penalties do not apply to persons acting as insurers. The similar provisions of the Credit Insurance Act do not apply to creditors and debtors, except as otherwise provided in this Article. The administrator shall have the power under Article VI to enforce against creditors the provisions of the Credit Insurance Act referred to in this Article.

[PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1997, c. 315, §1 (AMD).

§4-103. Definition: "consumer credit insurance," "Credit Insurance Act"

In this Act: [PL 1973, c. 762, §1 (NEW).]

1. "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:

A. Insurance provided in relation to a credit transaction in which a payment is scheduled more than 15 years after the extension of credit; [PL 1975, c. 288, §1 (AMD).]

B. Insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring consumers of the creditor; or [PL 1973, c. 762, §1 (NEW).]

C. Insurance indemnifying the creditor against loss due to the consumer's default. [PL 1973, c. 762, §1 (NEW).]

[PL 1975, c. 288, §1 (AMD).]

2. "Credit Insurance Act" means Title 24-A, chapter 37.

[PL 2001, c. 138, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1975, c. 288, §1 (AMD). PL 2001, c. 138, §1 (AMD).

§4-104. Creditor's provision of and charge for insurance; excess amount of charge

1. Except as otherwise provided in Parts 1, 2 and 3 of this Article and subject to the provisions on additional charges, section 2-501, and maximum finance charges, Parts 2 and 4 of Article II, 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 that creditor. This Act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

[PL 1997, c. 315, §2 (AMD).]

2. The excess amount of a charge for insurance provided for in agreements in violation of Parts 1, 2 and 3 of this Article is an excess charge for the purposes of the provisions of the Article on Remedies and Penalties, Article V, as to effect of violations on rights of parties, section 5-201, and of the provisions of the Article on Administration, Article VI, as to civil actions by the administrator, section 6-113.

[PL 1997, c. 315, §2 (AMD).]

3. In any consumer credit sale or any supervised loan, except pursuant to open-end credit sales, a creditor may not contract for or receive a separate charge for consumer credit insurance providing for accident and health coverage unless there is a minimum payment of \$30 per month or a loan duration of at least 18 months. All consumer credit insurance providing for accident and health coverage in any consumer credit sale or any supervised loan shall provide for a waiting period of 30 days or more. If a creditor offers consumer credit insurance providing for accident and health coverage for which a separate charge may be received, the creditor shall offer the consumer the option of purchasing consumer credit insurance which does not pay a benefit for the 30-day waiting period and shall disclose to the consumer the cost thereof in accordance with section 2-501, subsection 2, paragraph B.

[PL 1981, c. 151 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1975, c. 288, §2 (AMD). PL 1981, c. 151 (AMD). PL 1997, c. 315, §2 (AMD).

§4-105. Conditions applying to insurance to be provided by creditor

The provisions of Title 24-A, section 2857, shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-106. Unconscionability

1. In applying the provisions of this Act on unconscionability, sections 5-108 and 6-111, to a separate charge for insurance, consideration shall be given, among other factors, to:

A. Potential benefits to the consumer including the satisfaction of his obligations; [PL 1973, c. 762, §1 (NEW).]

B. The creditor's need for the protection provided by the insurance; and [PL 1973, c. 762, §1 (NEW).]

C. The relation between the amount and terms of credit granted and the insurance benefits provided. [PL 1973, c. 762, §1 (NEW).]

[PL 1973, c. 762, §1 (NEW).]

2. If consumer credit insurance otherwise complies with Parts 1, 2 and 3 of this Article and other applicable law, neither the amount nor the term of the insurance nor the amount of a charge therefor is in and of itself unconscionable in the absence of other practices and circumstances.

[PL 1997, c. 315, §3 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1997, c. 315, §3 (AMD).

§4-107. 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 consumer for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the consumer is determined, conforming to any rate filings required by law and made by the insurer with the Superintendent of Insurance.

[PL 1973, c. 762, §1 (NEW).]

2. A creditor who provides consumer credit insurance in relation to open end credit may calculate the charge to the consumer in each billing cycle by applying the current premium rate to the unpaid balance of debt in the same manner as is permitted with respect to finance charges by the provisions on finance charges for consumer credit sales pursuant to open end credit, section 2-202.

[PL 2021, c. 676, Pt. A, §8 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 2021, c. 676, Pt. A, §8 (AMD).

§4-108. Refund or credit required; amount

The provisions of Title 24-A, sections 2859, 2860, and 2861, shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-109. Existing insurance; choice of insurer

The provisions of Title 24-A, section 2863 shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-110. Charge for insurance in connection with a refinancing or consolidation

The provisions of Title 24-A, section 2856, subsection 4 and section 2859, shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-111. Cooperation between administrator and Superintendent of Insurance

The administrator and the Superintendent of Insurance are authorized and directed to consult and assist one another in maintaining compliance with Parts 1, 2 and 3 of this Article. 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 suspected violation by an insurer of Parts 1, 2 and 3 of this Article, or of the insurance laws, rules and regulations of this State, the administrator shall advise the Superintendent of Insurance of the circumstances. [PL 1997, c. 315, §4 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1997, c. 315, §4 (AMD).

§4-112. Administrative action of Superintendent of Insurance

1. To the extent of required responsibility under Parts 1, 2 and 3 of this Article, the Superintendent of Insurance shall issue rules with respect to insurers, and with respect to refunds, section 4-108, forms, schedules of premium rates and charges, section 4-203, and the Superintendent of Insurance's approval or disapproval thereof and, in case of violation, may make an order for compliance.

[PL 1997, c. 315, §5 (AMD).]

2.

[PL 1985, c. 763, Pt. A, §39 (RP).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1985, c. 763, §A39 (AMD). PL 1997, c. 315, §5 (AMD).

PART 2

CONSUMER CREDIT INSURANCE

§4-201. Term of insurance

The provisions of Title 24-A, section 2856, shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-202. Amount of insurance

The provisions of Title 24-A, section 2855, shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-203. Filing and approval of rates and forms

The provisions of Title 24-A, section 2858, shall apply to insurance provided or to be provided in relation to a consumer credit transaction. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-204. Notice of right to cancel credit insurance in open-end transactions

A creditor who provides consumer credit insurance in relation to open-end credit shall, at least annually, inform the consumer of the voluntary nature of the insurance and of his right to cancel that insurance at will. [PL 1985, c. 336, §7 (NEW).]

SECTION HISTORY

PL 1985, c. 336, §7 (NEW).

PART 3

PROPERTY AND LIABILITY INSURANCE

§4-301. Property insurance

The following provisions apply to insurance provided or to be provided in relation to a consumer credit transaction: [PL 1997, c. 315, §6 (NEW).]

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; [PL 1973, c. 762, §1 (NEW).]

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; [PL 1973, c. 762, §1 (NEW).]

C. The term of the insurance is reasonable in relation to the term of credit. [PL 1973, c. 762, §1 (NEW).]

[PL 1975, c. 368, §1 (AMD).]

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

[PL 1973, c. 762, §1 (NEW).]

3. With respect to a transaction, except pursuant to open-end credit, a creditor may not contract for or receive a separate charge for insurance against loss of or damage to property, unless the amount financed exclusive of charges for the insurance is \$1,400 or more and the cash price of the item or property is \$1,400 or more.

[PL 1997, c. 727, Pt. B, §15 (AMD).]

4. With respect to a transaction pursuant to open-end credit, the administrator may adopt rules consistent with the principles set out in subsections 1 and 2 prescribing whether, and the conditions under which, a creditor may contract for or receive a separate charge for insurance against loss of or damage to property.

[PL 1975, c. 368, §2 (NEW).]

5.

[PL 1997, c. 727, Pt. B, §16 (RP).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1975, c. 368, §§1,2 (AMD). PL 1985, c. 763, §A40 (AMD). PL 1997, c. 315, §6 (AMD). PL 1997, c. 727, §§B15,16 (AMD).

§4-302. 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 consumer is on the consumer 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. [PL 1973, c. 762, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW).

§4-303. Liability insurance

(REPEALED)

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1987, c. 129, §63 (AMD). PL 1997, c. 315, §7 (RP).

§4-304. Cancellation by creditor

A creditor shall not request cancellation of a policy of property or liability insurance except after the consumer's default or in accordance with a written authorization by the consumer and until written notice is delivered to the consumer 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 10 days after the notice is delivered, or, if the notice is mailed, not less than 13 days after it is mailed. [PL 1975, c. 316 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1975, c. 316 (AMD).

PART 4**INSURANCE ACTIVITIES BY SUPERVISED LENDERS****§4-401. Scope**

1. Scope. This Part applies to supervised lenders who are not supervised financial organizations. [PL 1997, c. 315, §8 (NEW).]

2. Exceptions. Except for sections 4-402 and 4-405, this Part does not apply to group health and group life insurance to the extent authorized by Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37, credit property insurance, credit involuntary unemployment insurance, forced placed property insurance, a vendor's single interest policy or any other insurance product as determined by the Superintendent of Insurance.

[PL 1997, c. 315, §8 (NEW).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW).

§4-402. Insurance producer activities

A supervised lender and any affiliate may become licensed under Title 24-A as an insurance producer or consultant for the sale of insurance products in this State and may act as an insurance producer or consultant for the sale of insurance products in this State. [PL 2021, c. 676, Pt. C, §1 (AMD).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW). PL 2021, c. 676, Pt. C, §1 (AMD).

§4-403. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 315, §8 (NEW).]

1. Affiliate. "Affiliate" means any of the following entities:

A. A subsidiary of a supervised lender; [PL 1997, c. 315, §8 (NEW).]

B. An entity of which a supervised lender is a subsidiary; [PL 1997, c. 315, §8 (NEW).]

C. An employee, officer other than a director or licensed 3rd-party agent of a supervised lender or any institution listed in paragraph A or B; [PL 1997, c. 315, §8 (NEW).]

D. A person or entity possessing 5% or more of the ownership interests of a supervised lender or any institution listed in paragraph A or B; or [PL 1997, c. 315, §8 (NEW).]

E. An insurer or insurance producer or consultant utilizing space in the retail area of a supervised lender, or an institution listed in paragraph A or B in order to engage in the transaction of insurance when payments for use of such space are made to the supervised lender or other such institution pursuant to a space-sharing agreement based directly or indirectly on a percentage of the volume of business conducted by the insurer or insurance producer or consultant. [PL 2021, c. 676, Pt. C, §2 (AMD).]

[PL 2021, c. 676, Pt. C, §2 (AMD).]

2. Customer. "Customer" means a person or an authorized representative who has been personally and directly offered or presently maintains an investment security, trust, credit or an insurance product with a supervised lender.

[PL 1997, c. 315, §8 (NEW).]

3. Insurance agent or agency.

[PL 2021, c. 676, Pt. A, §9 (RP).]

4. Insurance broker.

[PL 2021, c. 676, Pt. A, §10 (RP).]

5. Insurance consultant. "Insurance consultant" means a person engaged in the business of an insurance consultant as defined in Title 24-A, section 1402, subsection 4, 8 or 11.

[PL 1999, c. 127, Pt. A, §18 (AMD).]

5-A. Insurance producer. "Insurance producer" means a person required to be licensed as an insurance producer as defined in Title 24-A, section 1402, subsection 5.

[PL 2021, c. 676, Pt. C, §3 (NEW).]

6. Insurance product. "Insurance product" means a contract of insurance that is offered for sale by an insurance producer employed by or affiliated with a supervised lender.

[PL 2021, c. 676, Pt. C, §4 (AMD).]

7. Licensed 3rd-party agent. "Licensed 3rd-party agent" means a licensed insurance producer or consultant who engages in authorized insurance activities related to insurance products directly on behalf of a specified licensed insurance entity through an independent contractor relationship.

[PL 2021, c. 676, Pt. C, §5 (AMD).]

8. Ownership interest. "Ownership interest" includes general partnership shares, limited partnership shares and shares of stock that possess any voting rights.

[PL 1997, c. 315, §8 (NEW).]

9. Subsidiary. "Subsidiary" means any corporation, partnership, association or other business entity in which either:

A. One or more supervised lenders or any of their officers, employees, agents or representatives possess, directly or indirectly, singly or in the aggregate, an ownership interest of at least 25%; or [PL 1997, c. 315, §8 (NEW).]

B. It is determined by the Superintendent of Consumer Credit Protection after notice and opportunity for hearing that one or more supervised lenders or any of their officers, employees, agents or representatives, singly or in the aggregate exercise a controlling influence over the management and policies of the entity. [PL 1997, c. 315, §8 (NEW); PL 2007, c. 273, Pt. B, §6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

[PL 1997, c. 315, §8 (NEW); PL 2007, c. 273, Pt. B, §6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW). PL 1999, c. 127, §A18 (AMD). PL 2007, c. 273, Pt. B, §6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2021, c. 676, Pt. A, §§9, 10 (AMD). PL 2021, c. 676, Pt. C, §§2-5 (AMD).

§4-404. Choice of insurance producer

A supervised lender or its affiliate that negotiates or sells insurance products to purchasers or borrowers as authorized under section 4-402 may not, in connection with the extension of credit, interfere with a purchaser's or borrower's free choice of an insurance producer or company under applicable provisions set forth in Title 24-A. [PL 2021, c. 676, Pt. C, §6 (AMD).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW). PL 2021, c. 676, Pt. C, §6 (AMD).

§4-405. Tie-in arrangements

A supervised lender, a subsidiary of a supervised lender or an entity of which a supervised lender is a subsidiary may not sell in any manner an insurance product as authorized under section 4-402 or fix or vary the consideration for that product on the condition, agreement, requirement or understanding that the purchaser or borrower obtain additional or other credit, property or other service from the supervised lender, a subsidiary of a supervised lender or an entity of which a supervised lender is a subsidiary. This section does not prohibit a tie-in involving insurance products that is permitted under Title 24-A. [PL 1997, c. 315, §8 (NEW).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW).

§4-406. Distinguishing insurance products from loan products; identification of insurance producers

To the extent practicable, sales of insurance products authorized by this Part must take place in a manner that minimizes customer confusion between any noninsurance product offered by the supervised lender or its affiliates and those insurance products. A supervised lender, or its affiliates, is in compliance with this section if it utilizes signs clearly visible to its customers that distinguish insurance products of the supervised lender, or its affiliates, from its noninsurance products and that adequately identify insurance producers and consultants affiliated with the supervised lender. [PL 2021, c. 676, Pt. C, §7 (AMD).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW). PL 2021, c. 676, Pt. C, §7 (AMD).

§4-407. Rulemaking

The Superintendent of Financial Institutions, the Superintendent of Insurance and the Superintendent of Consumer Credit Protection may undertake joint rulemaking, pursuant to this section, Title 9-B, section 448, subsection 5 and Title 24-A, section 1443-A, subsection 3 to carry out the purposes of section 4-406, including issues regarding signs, the physical location of sales of insurance and identification of producers affiliated with financial institutions, credit unions, financial institution holding companies or supervised lenders. In adopting rules pursuant to this Part, the Superintendent of Financial Institutions, the Superintendent of Insurance and the Superintendent of Consumer Credit Protection shall consider the possibility of confusion and perception of coercion among the insurance consuming public, the need for cost-effective delivery of insurance products to insurance consumers and the importance of parity among producers affiliated with federally chartered and state-chartered financial institutions and credit unions. Any rule adopted may not interfere significantly with the ability of a producer to solicit or negotiate the sale of an insurance product, whether or not that producer is affiliated with a financial institution, credit union, financial institution holding company or supervised

lender, except when no other reasonable alternative exists that protects the insurance consuming public. Rules adopted under this Part are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Nothing in this section is intended to restrict or interfere with the ability of the Bureau of Insurance, the Bureau of Financial Institutions or the Bureau of Consumer Credit Protection to adopt rules with respect to areas in which the respective agencies have independent jurisdiction. [PL 2021, c. 676, Pt. C, §8 (AMD).]

SECTION HISTORY

PL 1997, c. 315, §8 (NEW). PL 1999, c. 127, §A19 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2007, c. 273, Pt. B, §§5, 6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2021, c. 676, Pt. C, §8 (AMD).

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