

**31A-21-109 Debt cancellation agreements and debt suspension agreements.**

- (1) As used in this section:
  - (a) "Debt cancellation agreement" means a contract between a lender and a borrower where the lender, for a separately stated consideration, agrees to waive all or part of the debt in the event of a fortuitous event such as death, disability, or the destruction of the lender's collateral.
  - (b) "Debt suspension agreement" means a contract between a lender and a borrower where the lender, for a separately stated consideration, agrees to suspend scheduled installment payments for an agreed period of time in the event of a:
    - (i) fortuitous event such as involuntary unemployment or accident; or
    - (ii) fortuitous condition such as sickness.
  - (c) "Guaranteed asset protection waiver" is as defined in Section 31A-6b-102.
  - (d) "Institution" means:
    - (i) a bank as defined in Section 7-1-103;
    - (ii) a credit union as defined in Section 7-1-103;
    - (iii) an industrial bank as defined in Section 7-1-103; or
    - (iv) a savings and loan association as defined in Section 7-1-103.
  - (e) "Regulate the issuance" includes regulation of the following with respect to a debt cancellation agreement or a debt suspension agreement:
    - (i) terms;
    - (ii) conditions;
    - (iii) rates;
    - (iv) forms; and
    - (v) claims.
  - (f) "Subsidiary" is as defined in Section 7-1-103.
- (2) Except as provided in Subsection (6), the commissioner has sole jurisdiction over the regulation of a debt cancellation agreement or debt suspension agreement.
- (3) Subject to this section, the commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) authorize an insurer to issue:
    - (i) a debt cancellation agreement; or
    - (ii) a debt suspension agreement; and
  - (b) regulate the issuance of:
    - (i) a debt cancellation agreement; or
    - (ii) a debt suspension agreement.
- (4) Except as provided in Subsection (6), a debt cancellation agreement or a debt suspension agreement may be issued only by an insurer authorized to issue a debt cancellation agreement or debt suspension agreement under this section.
- (5)
  - (a) The rules promulgated by the commissioner under this section shall regulate the issuance of a debt cancellation agreement or debt suspension agreement according to the functional insurance equivalent of each type of debt cancellation agreement or debt suspension agreement.
  - (b) Except as provided in Subsection (5)(c), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may by rule determine the functional insurance equivalent of each type of debt cancellation agreement or debt suspension agreement.

- (c) Notwithstanding Subsection (5)(b), the functional insurance equivalent of a debt cancellation agreement that provides for the cancellation of indebtedness at death is credit life insurance.
- (6) Notwithstanding the other provisions of this section, the issuance of a debt cancellation agreement or a debt suspension agreement by an institution or a subsidiary of an institution is:
  - (a) not subject to this section; and
  - (b) subject to the jurisdiction of the primary regulator of:
    - (i) the institution; or
    - (ii) the subsidiary of an institution.
- (7) This section does not apply to a guaranteed asset protection waiver.

Amended by Chapter 274, 2010 General Session