

## **Part 1 Insurance in General**

### **70C-6-101 Scope -- Relation to credit insurance -- Applicability to parties.**

- (1) Except as provided in Subsection (2), this chapter applies to insurance provided or to be provided in connection with any consumer credit transaction subject to this title.
- (2) The provision on cancellation by a creditor under Section 70C-6-304 applies to extensions of credit, the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.
- (3) Except as provided elsewhere under this title, this chapter supplements and does not supersede Title 31A, Chapter 22, Part 8, Credit Life and Accident and Health Insurance. The provisions of this title concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, and the similar provisions of the Credit Insurance Act do not apply to creditors and debtors.

Amended by Chapter 90, 2004 General Session

### **70C-6-102 Definition -- Consumer credit insurance.**

"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.

Enacted by Chapter 159, 1985 General Session

### **70C-6-103 Creditor's provision of and charge for insurance -- Excess amount of charge.**

- (1) Except as otherwise provided in this chapter, a creditor may agree to provide insurance. If insurance is not required, a charge for such insurance shall be separate from and in addition to other charges. A creditor shall separately disclose any charge for insurance required and provided by it. This title does not authorize the issuance of any insurance prohibited under any statute, rule, or regulation.
- (2) A charge for insurance which exceeds the maximum authorized by Section 70C-6-105 is an excess charge for the purposes of Chapter 7, Remedies and Penalties, on remedies and penalties, as to effect of violations on rights of parties under Section 70C-7-201, and of Chapter 8, Administration, on administration.

Enacted by Chapter 159, 1985 General Session

### **70C-6-104 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 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.

Enacted by Chapter 159, 1985 General Session

**70C-6-105 Maximum charge by creditor for insurance.**

If a creditor contracts for or receives a separate charge for insurance, the amount charged the debtor for the insurance may not exceed the premium to be charged by the insurer, without deduction for commissions, 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 insurance.

Enacted by Chapter 159, 1985 General Session

**70C-6-106 Refund or credit required -- Amount.**

- (1) A debtor or his estate is entitled to any rebate or refund due from an insurer and to any unearned part of a separate charge for insurance previously paid by the debtor, resulting from the prepayment of a consumer credit debt, except when all refunds and credits due to the debtor under this title amount to less than \$5.
- (2) A 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 a debtor for insurance was computed; or
  - (b) the insurance terminates prior to the end of the term for which it was written because of prepayment in full or otherwise.
- (3) All refunds or credit required by this section shall be computed according to a method prescribed or approved by the Insurance Department or formula filed by the insurer with the Insurance Department at least 30 days before any debtor's right to a refund or credit becomes determinable, unless the method or formula is employed after the Insurance Department notifies the insurer that the method or formula has been disapproved.
- (4) Except as provided in Subsection (1), a creditor is not obligated to account to a debtor for any portion of a separate charge for insurance when:
  - (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.

Enacted by Chapter 159, 1985 General Session

**70C-6-107 Existing insurance -- Choice of insurer.**

If a creditor requires insurance, upon notice to the creditor the debtor may provide 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.

Enacted by Chapter 159, 1985 General Session

**70C-6-108 Charge for insurance in connection with a deferral, refinancing, or consolidation -- Duplicate charges.**

A creditor may contract for and receive a separate charge for insurance in connection with a deferral, a refinancing, or a consolidation if:

- (1) the debtor agrees at or before the time of the deferral, refinancing, or consolidation that the charge may be made;
- (2) the insurance is not required by the creditor as a condition of granting the deferral, refinancing, or consolidation, unless the insurance is of a type which the creditor may lawfully require a debtor to obtain in connection with an extension of credit;
- (3) the terms and conditions of the insurance to be provided comply with all requirements of this chapter; and
- (4) the debtor receives an appropriate refund or credit on account for any unexpired term of existing insurance which is duplicated to any degree by the insurance to be provided in connection with the deferral, refinancing, or consolidation.

Enacted by Chapter 159, 1985 General Session