

CHAPTER 424

INSURANCE

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SUBCHAPTER I
GENERAL PROVISIONS

424.101 Short title. This chapter shall be known and may be cited as Wisconsin consumer act—insurance.

History: 1971 c. 239.

Note: See the note under s. 421.101 as to the effective date and applicability of the Wisconsin Consumer Act.

424.102 Scope. (1) Except as provided in sub. (2), this chapter applies to insurance provided or to be provided in relation to consumer credit transactions.

(2) The provision on cancellation by a creditor (s. 424.303) applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

History: 1971 c. 239

SUBCHAPTER II
CONSUMER CREDIT INSURANCE

424.201 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 provided in relation to a consumer credit transaction in which a payment is scheduled more than 10 years after the extension of credit;

(2) Insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring customers of the creditor; or

(3) Insurance indemnifying the creditor against loss due to the customer's default.

History: 1971 c. 239

424.202 Charge for insurance. (1) Except as otherwise provided in this chapter and subject to the provisions on additional charges (s. 422.202), and maximum charges (s. 422.201) 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.

(2) This chapter does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

History: 1971 c. 239

424.203 Conditions applying to insurance to be provided by creditor. (1) When the parties agree that consumer credit insurance shall be provided, at the time the indebtedness is incurred there shall be delivered to the customer the individual policy, a group certificate of insurance, a copy of the application for such insurance or a notice of proposed insurance.

(2) The evidence of insurance provided pursuant to sub. (1) shall set forth the name and home office address of the insurer, the name or names of the customers, the premium or amount of payment by the customer, if any, separately for credit life insurance and credit accident and health insurance, the amount, term and a brief description of the coverage provided, including all exclusions and exceptions.

(3) Within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the customer if it is not delivered at the time the indebtedness is incurred.

(4) Within 10 days from the date the indebtedness is incurred, the customer shall be permitted to return the policy, certificate of insurance or the notice of proposed insurance and receive a refund of any premium paid for the insurance if he is not satisfied with the insurance for any reason. Such insurance shall then be void and the parties will be in the same position as if no certificate, policy or notice of proposed insurance had been issued.

(5) A violation of this section is subject to s. 425.303.

History: 1971 c. 239.

424.204 Maximum charge by creditor for insurance. (1) Except as provided in sub. (2), if a creditor contracts for or receives a charge for insurance, the amount charged for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the customer is determined, conforming to any rate filings required by law and made by the insurer with the commissioner of insurance.

(2) A creditor who provides consumer credit insurance in relation to an open-end credit plan may calculate the charge to the customer in each billing cycle by applying the current premium rate to either:

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

(b) The unpaid balance of the obligation or a median amount within a specified range of unpaid balances of the obligation on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the finance charge (s. 422.201), but the specified range shall be the range used for that purpose; or

(c) The unpaid balances of principal calculated according to the actuarial method.

(3) A violation of this section is subject to s. 425.304.

History: 1971 c. 239.

424.205 Refund or credit required. (1) Upon prepayment in full of a consumer credit transaction by the proceeds of consumer credit insurance, the customer or his estate is entitled to a refund of any portion of a separate charge for insurance which by reason of prepayment is retained by the original creditor or any assignee or returned to either of them by the insurer.

(2) This chapter does not require the creditor to grant a refund or credit if all the refunds and credits due to the customer under this act amount to less than \$1 and, except as provided in sub. (1), does not require the creditor to ac-

count 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 sub. (2), the creditor shall promptly make or cause to be made an appropriate refund or credit to the customer 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 the 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.

(4) A refund or credit required by sub. (3) is appropriate as to amount if it is computed according to either s. 422.209 or a method prescribed or approved by the commissioner of insurance.

History: 1971 c. 239.

424.206 Deferral, refinancing and consolidation agreements. (1) The creditor may not receive a separate charge for insurance in connection with a deferral (s. 422.204), a refinancing (s. 422.205) or a consolidation (s. 422.206) unless:

(a) The customer agrees in writing at the time of deferral, refinancing or consolidation that a specific charge may be made;

(b) The customer 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 customer 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 (s. 424.205); and

(d) The charge does not exceed the amount permitted by this chapter (s. 424.204).

(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.

(3) A violation of this section is subject to the provisions of s. 425.303.

History: 1971 c. 239.

424.207 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 customer becomes obligated to the creditor or when the customer applies for the insurance, whichever is later except as follows:

(a) If any required evidence of insurability is not furnished until more than 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) In the case where the commencement of the insurance is delayed, the customer to the extent he has paid a premium charge for any period of time before the insurance became effective, shall be entitled to a rebate or credit of such premium according to s. 424.205.

(3) The originally scheduled term of the insurance shall extend at least until the due date of the last scheduled payment of the obligation, except as follows:

(a) If the insurance relates to an open-end credit plan, the term need extend only until the payment of the account and may be sooner terminated after at least 30 days' notice to the customer; or

(b) If the customer is advised in writing in a clear and conspicuous manner that the insurance will be written for a specified shorter time, the term need extend only until the end of the specified time.

(4) The term of the insurance shall not extend more than 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 customer or as an incident to a deferral, refinancing or consolidation agreement.

History: 1971 c. 239.

424.208 Amount of insurance. (1) The amount of credit life insurance shall not exceed the initial indebtedness however the indebtedness may be repayable, but:

(a) In cases where an indebtedness is repayable in substantially equal instalments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater; and

(b) In cases where credit life insurance is provided on consumer credit transactions for an agricultural purpose, such insurance may be written up to the amount of the loan commitment on a nondecreasing or level-term plan.

(2) The total amount of indemnity payable by credit accident and health insurance in the event of a disability, shall not exceed the aggregate of the periodic scheduled unpaid instalments of the indebtedness, and the amount of each periodic indemnity payable shall not exceed the original indebtedness divided by the number of periodic instalments.

History: 1971 c. 239.

424.209 Filing and approval of rates and forms. (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 commissioner of insurance has disapproved the form or schedule and has notified the insurer of this disapproval. A creditor may not use a form or schedule unless:

(a) The form or schedule has been on file with the commissioner of insurance for 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 sub. (3), all policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders relating to credit accident and health 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 commissioner of insurance. Within 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 provisions of the insurance laws of this state, or of any rule or regulation promulgated thereunder. The benefits provided by any such policy shall be presumed reasonable in relation to the premium charged or to be charged if the ratio of losses incurred to premiums earned is 50% or may reasonably be expected to be 50%. If the ratio of losses incurred to premiums earned is less or can reasonably be expected to be less than 50%, the benefits provided shall be presumed unreasonable in relation to the premium charged. Determination of a reasonable relation of benefits to premiums shall be made by the commissioner for each policy form filed for

approval. The commissioner may limit the use of any such form to those creditors or customers whose experience was the basis for approval and such other creditors or customers likely to experience similar mortality or morbidity.

(3) Not later than 6 months following March 1, 1973, the commissioner of insurance shall, by rule, promulgate premium rates for credit life and credit accident and health insurance based upon the 50% loss ratio standard as set forth in sub. (2) which rates shall be acceptable without further justification. No charge may be made for credit life or credit accident and health insurance which exceeds such rates except as provided in this subsection. The commissioner of insurance shall from time to time raise or lower the acceptable premium charges permitted for such insurance for any particular creditor, class of creditor or classes of transactions whenever the commissioner of insurance determines that the actual loss experience for the particular creditors, class of creditors or class of transactions produces a ratio of losses to premiums which differs substantially based on credible data in the most recent 2-year period from the 50% loss ratio established by sub. (2).

(4) In order to implement this section, insurers shall, under regulation of the commissioner of insurance, file an annual report setting forth data pertaining to actual losses in relation to premiums and such other information as may be required by the commissioner of insurance in order to further the purposes of this act.

(5) No individual policy of credit accident and health insurance or group policy of credit accident and health insurance shall be delivered or issued for delivery in this state if the benefits are payable after a waiting period of less than 14 days, regardless of whether the payment of benefits are retroactive to the first day of disability.

(6) If a group policy has been delivered in another state, the forms to be filed by the insurer with the commissioner of insurance 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;

(b) The applicable premium rates or charges do not exceed those established by his rules or by this act; and

(c) They do not contain provisions which are unjust, unfair, inequitable or deceptive, or encourage misrepresentation of the coverages, or are contrary to any provisions of the insur-

ance laws of this state, or of any rule promulgated thereunder.

History: 1971 c. 239.

SUBCHAPTER III PROPERTY INSURANCE

424.301 Restrictions on 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 or damage to property, other than household furnishings, which is collateral for 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 exclusive of charges for the insurance is \$800 or more, and the value of the property is \$800 or more.

History: 1971 c. 239.

424.302 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 wilfully caused by the customer 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.

History: 1971 c. 239.

424.303 Cancellation by creditor. (1) A creditor shall not request cancellation of a policy of property or liability insurance except after the customer's default (s. 425.103), or in accordance with a written agreement by the customer at any time other than when the original transaction is entered into. In either case the cancellation does not take effect until written notice is delivered to the customer or mailed to him at his address as stated by him. The notice shall state that the policy may be canceled on a date not less than 30 days after the notice is delivered, or, if the notice is mailed, not less than 33 days after it is mailed.

(2) Following cancellation, the customer shall be entitled to a rebate or credit for any prepaid charges which represent the premium for a period following cancellation.

History: 1971 c. 239.

**SUBCHAPTER IV
ADMINISTRATION**

424.401 Cooperation between administrator and commissioner of insurance. The administrator and the commissioner of insurance 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 administrator 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, he shall advise the commissioner of insurance of the circumstances.

History: 1971 c. 239.

424.402 Administrative action of commissioner of insurance. 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 (s. 424.205), forms, schedules of premium rates and charges (s. 424.209), and his approval or disapproval thereof and, in case of violation, may make an order for compliance.

History: 1971 c. 239.