

1 AN ACT relating to credit personal property insurance.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔ SECTION 1. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304

4 IS CREATED TO READ AS FOLLOWS:

5 As used in Sections 1 to 8 of this Act:

6 (1) "Collateral" means any personal property, including but not limited to a motor
7 vehicle, pledged as security or in which a purchase money security interest is
8 retained, for the satisfaction of a debt;

9 (2) "Credit personal property insurance" means a policy, endorsement, rider, binder,
10 certificate, or other instrument or evidence of insurance that:

11 (a) Is offered in connection with a credit transaction;

12 (b) Covers perils to the personal property purchased through, or used as
13 collateral for, a credit transaction; and

14 (c) Concerns a creditor's interest in the purchased personal property or pledged
15 collateral, in whole or in part;

16 (3) "Credit transaction":

17 (a) Means any transaction in which the:

18 1. Repayment of money loaned, or a credit commitment, is made; or
19 2. Payment of goods, services, property, rights, or privileges sold or
20 leased, is to be made at a future date or dates; and

21 (b) Includes a retail installment transaction;

22 (4) "Creditor" means:

23 (a) A lender of money;

24 (b) A vendor or lessor of goods, services, property, rights, or privileges for
25 which payment is arranged through a credit transaction;

26 (c) Any successor to the right, title, or interest of a lender, vendor, or lessor;

27 (d) Any director, officer, or employee of any person referenced under

1 paragraph (a), (b), or (c) of this subsection;

2 (e) Any affiliate, association, or subsidiary of any person referenced under
3 paragraph (a), (b), or (c) of this subsection; or

4 (f) Any person associated in any way with a person referenced under
5 paragraph (a), (b), or (c) of this subsection;

6 (5) "Debtor" means:

7 (a) Any or all borrowers of money; or

8 (b) A purchaser or lessee of goods, services, property, rights, or privileges for
9 which payment is arranged through a credit transaction; and

10 (6) "Finance charge":

11 (a) Means any charge payable, directly or indirectly, as an incident to, or a
12 condition of, the extension of credit, including but not limited to:

13 1. Interest;

14 2. Time price differentials;

15 3. Amounts payable under a discount system of additional charges;

16 4. Service, transaction, or carrying charges;

17 5. Loan fees;

18 6. Points or similar charges;

19 7. Appraisal fees; or

20 8. Charges incurred for investigating the credit worthiness of the
21 consumer; and

22 (b) Does not include charges as a result of:

23 1. Default;

24 2. Taxes;

25 3. License fees;

26 4. Delinquency charges; or

27 5. Filing fees.

1 ➔ SECTION 2. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304
2 IS CREATED TO READ AS FOLLOWS:

3 (1) Except as provided in subsection (2) of this section, all credit personal property
4 insurance written in connection with credit transactions for personal, family, or
5 household purposes shall be subject to Sections 1 to 8 of this Act.

6 (2) The following shall not be subject to Sections 1 to 8 of this Act:

7 (a) Transactions involving extensions of credit primarily for business or
8 commercial purposes;

9 (b) Insurance that is not classified and filed as credit insurance;

10 (c) Insurance written in connection with a credit transaction that is secured by
11 a real estate mortgage or deed of trust;

12 (d) Title insurance;

13 (e) Non-filing insurance;

14 (f) Insurance purchased by a creditor after:

15 1. Repossession; or

16 2. A similar event where the creditor gains possession of the property;

17 (g) Insurance for which no identifiable charge is made to, or collected from,
18 the debtor;

19 (h) A debt cancellation agreement as defined in KRS 190.100;

20 (i) Blanket vendor single interest (VSI); or

21 (j) Vehicle financial protection products.

22 ➔ SECTION 3. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304
23 IS CREATED TO READ AS FOLLOWS:

24 (1) As used in this section, "gross debt" means the sum of the remaining payments
25 owed to a creditor by a debtor.

26 (2) For credit personal property insurance sold in conjunction with a closed-end
27 credit transaction, an insurer shall not issue the insurance;

1 (a) In an amount that exceeds the gross debt of the underlying credit
2 transaction; or
3 (b) With a term that exceeds the scheduled term of the underlying credit
4 transaction.
5 (3) Credit personal property insurance shall cover a substantial risk of loss of, or
6 damage to, the collateral pledged or secured in the credit transaction.
7 (4) An insurer shall not:
8 (a) Require the bundling of other credit insurance coverages with the purchase
9 of credit personal property insurance; or
10 (b) Use gross debt in determining credit personal property insurance premiums.
11 (5) A debtor shall have the choice to purchase credit personal property insurance
12 separate from other credit insurance coverage.

13 ➔ SECTION 4. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304
14 IS CREATED TO READ AS FOLLOWS:

15 When credit personal property insurance is written pursuant to Sections 1 to 8 of this
16 Act, the creditor shall deliver, or cause to be delivered, a policy, certificate,
17 memorandum, or other disclosure which discloses the coverage and costs to the debtor
18 within thirty (30) days after the date of the loan.

19 ➔ SECTION 5. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304
20 IS CREATED TO READ AS FOLLOWS:

21 With respect to credit personal property insurance delivered or issued for delivery in
22 this state, all of the following shall be filed with the commissioner:
23 (1) All policies, certificates, plans, and contracts, including endorsements and riders;
24 (2) Group and individual applications for insurance;
25 (3) Enrollment forms; and
26 (4) Schedules of premiums rates.

27 ➔ SECTION 6. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304

1 IS CREATED TO READ AS FOLLOWS:

2 (1) Upon cancellation of credit personal property insurance for any reason prior to
3 the scheduled maturity date of the indebtedness, the insurer shall promptly
4 refund or credit the debtor any unearned premium in accordance with subsection
5 (2) of this section, except an insurer shall not be required to refund or credit an
6 amount of less than five dollars (\$5).

7 (2) (a) Except as provided in paragraph (b) of this subsection, the method of
8 calculating unearned premium due under subsection (1) of this section
9 shall be the method in the credit personal property insurance policy,
10 certificate, plan, or contract as filed with the commissioner before or after
11 the effective date of this Act.

12 (b) If a method for calculating unearned premium due under subsection (1) of
13 this section is not set forth in the credit personal property insurance policy,
14 certificate, plan, or contract, the method shall be the method set forth in the
15 underlying credit transaction for the refund of finance charges.

16 ➔ SECTION 7. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304

17 IS CREATED TO READ AS FOLLOWS:

18 (1) (a) Any claim under a credit personal property insurance policy, certificate,
19 plan, or contract shall be promptly reported to the insurer or its designated
20 claim representative.

21 (b) An insurer shall maintain adequate claims files for claims reported under
22 paragraph (a) of this subsection.

23 (2) A claim under credit personal property insurance shall be paid by draft drawn
24 upon the insurer, by electronic funds transfer, or by check of the insurer to the
25 order of:

26 (a) Except as provided in paragraph (b) of this subsection, the claimant to
27 whom payment of the claim is due pursuant to the policy provisions; or

1 **(b) Upon direction of the claimant, to a person other than the claimant.**

2 **(3) (a) A firm, corporation, or other person, other than the insurer or its designated**
3 **claim representative, shall not be authorized to settle or adjust claims under**
4 **credit personal property insurance.**

5 **(b) 1. Except as provided in subparagraph 2. of this paragraph, a creditor**
6 **shall not be designated as a claim representative for the insurer in**
7 **adjusting claims.**

8 **2. When the amount of a claim is determined, a group policyholder may,**
9 **by arrangement with the insurer and subject to audit and review by the**
10 **insurer, draw drafts or checks or make electronic transfers, in**
11 **payment of claims due to the group policyholder.**

12 **(4) All claims for credit personal property insurance shall be subject to Subtitle 12 of**
13 **this chapter to the extent applicable and not in conflict with Sections 1 to 8 of this**
14 **Act.**

15 ➔ SECTION 8. A NEW SECTION OF SUBTITLE 19 OF KRS CHAPTER 304
16 IS CREATED TO READ AS FOLLOWS:

17 **(1) Unless a remedy is otherwise specifically provided, any person aggrieved by a**
18 **final decision of the commissioner issued pursuant to Sections 1 to 8 of this Act**
19 **may, within twenty (20) days of service of the notice of the decision, request an**
20 **administrative hearing which shall be conducted in accordance with KRS**
21 **Chapter 13B.**

22 **(2) An insurer that violates any provision of Sections 1 to 8 of this Act shall be**
23 **subject to the penalty provisions of Subtitle 99 of this chapter.**

24 ➔ Section 9. KRS 304.19-010 is amended to read as follows:

25 All life insurance and all health insurance in connection with loans or other credit
26 transactions shall be subject to the provisions of **KRS 304.19-020 to 304.19-140** [this
27 subtitle], except health insurance in connection with a loan or other credit transaction of

1 more than five (5) years' duration or life insurance in connection with a loan or other
2 credit transaction of more than ten (10) years' duration; nor shall insurance be subject to
3 **KRS 304.19-020 to 304.19-140**~~[the provisions of this subtitle]~~, where the issuance of
4 such insurance is an isolated transaction on the part of the insurer not related to an
5 agreement or a plan for insuring debtors of the creditor.

6 ➔Section 10. KRS 304.19-020 is amended to read as follows:

7 For the purpose of **KRS 304.19-020 to 304.19-140**~~[this subtitle]~~:

- 8 (1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in
9 connection with a specific loan or other credit transaction;
- 10 (2) "Credit health insurance" means insurance on a debtor to provide indemnity for
11 payments becoming due on a specific loan or other credit transaction while the
12 debtor is disabled as defined in the policy;
- 13 (3) "Creditor" means the lender of money or vendor or lessor of goods, services, or
14 property, rights or privileges, for which payment is arranged through a credit
15 transaction, or any successor to the right, title or interest of any such lender, vendor,
16 or lessor, and an affiliate, associate or subsidiary of any of them, or any director,
17 officer or employee of any of them, or any other person in any way associated with
18 any of them;
- 19 (4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services,
20 property, rights or privileges for which payment is arranged through a credit
21 transaction;
- 22 (5) "Indebtedness" means the total amount payable by a debtor to a creditor in
23 connection with a loan or other credit transaction;
- 24 (6) "Joint credit life or credit health" shall mean insurance on the life of the debtor and
25 the spouse of the debtor, partners, or any other legal cosigner.

26 ➔Section 11. KRS 304.19-080 is amended to read as follows:

- 27 (1) All such policies, certificates of insurance, notices of proposed insurance,

1 applications for insurance, indorsements and riders delivered or issued for delivery
2 in this state and the schedule of premium rates pertaining thereto shall be filed with
3 the commissioner.

4 (2) All life insurance and all health insurance in connection with loans or other credit
5 transactions shall be subject to KRS 304.19-020 to 304.19-140[~~the provisions of
6 this subtitle~~], except health insurance in connection with a loan or other credit
7 transaction of more than five (5) years' duration or life insurance in connection with
8 a loan or other credit transaction of more than ten (10) years' duration; nor shall
9 insurance be subject to KRS 304.19-020 to 304.19-140[~~provisions of this subtitle~~]
10 where the issuance of such insurance is an isolated transaction on the part of the
11 insurer not relating to an agreement or a plan for insuring debtors of the creditor;
12 nor shall insurance issued for an amount in excess of forty thousand dollars
13 (\$40,000) be subject to KRS 304.19-020 to 304.19-140[~~this subtitle~~].

14 (3) (a) Credit life insurance. The premium rates set forth hereunder, or actuarially
15 equivalent, shall not exceed:

16 1. For decreasing term credit life insurance, a single premium of sixty
17 cents (\$0.60) per annum per one hundred dollars (\$100) of scheduled
18 indebtedness, or sixty-five cents (\$0.65) per annum per one hundred
19 dollars (\$100) of scheduled indebtedness if dismemberment benefits are
20 included in the policy;

21 2. Single premium rates for indebtedness repayable in monthly
22 installments other than twelve (12) in number shall not exceed one-
23 twelfth (1/12) of the above premium rate multiplied by the number of
24 full months in the scheduled period;

25 3. A premium payable monthly at the rate of ninety-two cents (\$0.92) per
26 one thousand dollars (\$1,000) of outstanding unpaid insured
27 indebtedness or one dollar (\$1) per one thousand dollars (\$1,000) of

1 outstanding unpaid insured indebtedness if dismemberment benefits are
2 included in the policy, will be deemed the actuarial equivalent of the
3 foregoing rates; and

4 4. For level term credit life insurance, a single premium of one dollar and
5 twenty cents (\$1.20) per annum per one hundred dollars (\$100) of
6 indebtedness or one dollar and thirty cents (\$1.30) per one hundred
7 dollars (\$100) of indebtedness if dismemberment benefits are included
8 in the policy.

13 2. Coverage shall be offered to all debtors regardless of age; or to all
14 debtors not older than the applicable age limit which shall be not less
15 than sixty-five (65) at the inception of the indebtedness or sixty-six (66)
16 at the scheduled maturity date of the transaction, provided that each
17 company's right to underwrite risks on an individual basis shall not be
18 restricted by this subparagraph. Appropriate adjustments may be made
19 with the approval of the commissioner if premium rates are determined
20 according to the age of the insured debtor or by age brackets.

21 3. Rates for use with forms which are more restrictive in any material
22 respect shall reflect such variations in lower rates. Similarly, forms
23 providing more extensive benefits than set forth above may carry
24 appropriately higher charges.

25 4. The standards set forth above shall be applicable to contracts which may
26 contain a provision excluding or denying a claim for death, resulting
27 from pre-existing illness, disease or physical condition for which the

1 debtor received medical advice, consultation or treatment during the
2 twelve (12) month period immediately preceding the effective date of
3 the debtor's coverage and which would ordinarily be expected to affect
4 materially the debtor's health during the period of coverage; provided,
5 however, that after such coverage has been in force for six (6) months
6 (twelve (12) months for contracts of more than three (3) years), this pre-
7 existing exclusion clause shall not operate to deny coverage for any
8 death thereafter. The contract shall contain no other provision which
9 excludes or restricts liability in the event of death caused in a certain
10 specified manner, except provisions excluding or restricting coverage in
11 the event of intentionally self-inflicted injuries, foreign travel or
12 residence, flight in nonscheduled aircraft, war or military service.

13 (4) (a) Credit health insurance. The following premium rates, or actuarially
14 equivalent rates, shall be charged for the coverages set forth hereunder:

15 Single Premium Per \$100 of Initial Indebtedness

17	18	Nonretroactive Basis		Retroactive Basis		
		Number of Monthly Installments	14-Day Wait	30-Day Wait	14-Day Wait	30-Day Wait
21	1-6 months		\$ 1.51	\$.69	\$2.02	\$.92
22	7-12 months		2.02	.91	2.69	1.22
23	13-19 months		2.50	1.56	3.33	2.08
24	20-24 months		2.93	1.84	3.91	2.45
25	25-30 months		3.28	2.34	4.37	3.12
26	31-36 months		3.85	2.77	5.14	3.70
27	37-48 months		4.77	3.67	6.36	4.89

1	49-60 months	5.68	4.58	7.58	6.11
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(b) 1. The standards set forth above shall be applicable to contracts which may contain a provision excluding or denying a claim for disability, resulting from pre-existing illness, disease or physical condition for which the debtor received medical advice, consultation or treatment during the twelve (12) month period immediately preceding the effective date of the debtor's coverage and which would ordinarily be expected to affect materially the debtor's health during the period of coverage; provided, however, that after such coverage has been in force for six (6) months (twelve (12) months for contracts of more than three (3) years), this pre-existing exclusion clause shall not operate to deny coverage for any disability commencing thereafter. The contract shall contain no other provision which excludes or restricts liability in the event of disability caused in a certain specified manner, except provisions excluding or restricting coverage in the event of pregnancy, intentionally self-inflicted injuries, foreign travel or residence, flight in nonscheduled aircraft, war or military service.

2. Coverage shall be offered to all debtors regardless of age, or to all debtors not older than the applicable age limit which shall be not less than sixty-five (65) at the inception of the indebtedness or sixty-six (66) at the scheduled maturity date of the transaction, provided that each company's right to underwrite risks on an individual basis shall not be restricted by this subparagraph. Appropriate adjustments may be made with the approval of the commissioner if premium rates are determined according to the age of the insured debtor or by age brackets.

3. Rates for use with forms which are more restrictive in any material

1 respect shall reflect such variations in lower rates. Similarly, forms
2 providing more extensive benefits than set forth above may carry
3 appropriately higher charges.

4 (5) Statistical reporting. Each insurer writing credit life or credit health insurance
5 within this state shall keep and maintain statistical data of its experience on these
6 kinds of insurance. The insurer shall, on or before May 1 of each year, file with the
7 commissioner its statistical experience data for the year ending December 31
8 immediately preceding. Such experience shall be reported on forms conforming to
9 those now or hereafter from time to time adopted by the National Association of
10 Insurance Commissioners.

11 (6) If a group policy has been delivered in this state before June 18, 1980, or has been
12 or is delivered in another state before or on or after June 18, 1980, the insurer shall
13 be required to file only the group certificate and notice of proposed insurance
14 delivered or issued for delivery in this state as specified in subsections (2) and (4)
15 of KRS 304.19-070, and such forms shall be approved by the commissioner if they
16 conform with the requirements specified in such subsections and if the schedules of
17 premium rates applicable to the insurance evidenced by such certificate or notice
18 are not in excess of the insurer's schedules of premium rates filed with the
19 commissioner. The premium rate in effect on existing group policies may be
20 continued until the first policy anniversary date following June 18, 1980. After June
21 18, 1980, no borrower shall be added to an existing group policy at rates higher
22 than those set forth in subsections (3) and (4) of this section.

23 (7) The foregoing rates and procedures are deemed to be legislative prerogatives and
24 shall not be subject to administrative or executive change or modification.

25 ➔Section 12. KRS 304.19-090 is amended to read as follows:

26 (1) Any insurer may revise its schedules of premium rates from time to time, and shall
27 file such revised schedules with the commissioner. No insurer shall issue any credit

1 life insurance or credit health insurance policy for which the premium rate exceeds
2 that determined by the schedules of such insurer as then on file with the
3 commissioner.

4 (2) Each individual policy or group certificate shall provide that in the event of
5 termination of the insurance prior to the scheduled maturity date of the
6 indebtedness, any refund of an amount paid by the debtor for insurance shall be
7 paid or credited promptly to the person entitled thereto. The commissioner shall
8 prescribe a minimum refund and no refund which would be less than such
9 minimum need be made. The formula to be used in computing such refund shall be
10 filed with and approved by the commissioner. Nothing contained in this section
11 shall require the debtor to surrender any policy or group certificate for cancellation
12 or termination solely because the indebtedness has been paid in full prior to the
13 scheduled maturity date nor require the insurer to return any premiums.

14 (3) When a debtor purchases credit life insurance or credit health insurance and an
15 individual policy or group certificate of insurance is not issued, the creditor shall
16 immediately give written notice to such debtor and shall promptly make an
17 appropriate credit to the account.

18 (4) The amount charged to a debtor for any credit life insurance or credit health
19 insurance shall not exceed the premiums charged by the insurer, as computed at the
20 time the charge to the debtor is determined.

21 (5) Nothing in KRS 304.19-020 to 304.19-140~~[this subtitle]~~ shall be construed to
22 authorize any payments for insurance now prohibited under any statute, or rule
23 thereunder, governing credit transactions.

24 ➔Section 13. KRS 304.19-130 is amended to read as follows:

25 Whenever the commissioner finds that there has been a violation of KRS 304.19-020 to
26 304.19-140~~[this subtitle]~~ or any administrative regulations promulgated pursuant thereto,
27 the commissioner shall conduct a hearing in accordance with this chapter and KRS

- 1 Chapter 13B.
- 2 ➔Section 14. Sections 1 to 8 of this Act apply to contracts issued or renewed on
- 3 or after the effective date of this Act.