

Opinion No. 15

BANKS AND BANKING; Consumer Loan Commissioner; regulates sale of credit insurance—CONSUMER LOAN COMMISSIONER; See State Examiner—INSURANCE; Credit insurance; regulation of sale by Consumer Loan Commissioner—STATE EXAMINER; Powers; credit insurance—Sections 47-201 through 47-228, RCM, 1947

Held: The Montana Consumer Loan Act enacted as Chapter 283, Laws of Montana, 1959, permits the Montana Consumer Loan Commissioner to adopt rules regulating the sale of credit life and/or health and accident insurance on loans of more than three hundred dollars.

July 1, 1959

Mr. R. E. Towle
Consumer Loan Commissioner
Office of the State Examiner
State Capitol
Helena, Montana

Dear Mr. Towle:

You have requested my opinion whether the Montana Consumer Loan Act enacted as Chapter 283, Laws of Montana, 1959, (Section 47-201, et. seq., RCM, 1947) permits the Montana Consumer Loan Commissioner to adopt rules regulating the sale of credit life and/or health and accident insurance on loans of more than three hundred dollars.

In construing this statute "the fundamental rule of construction is to ascertain and give effect to the intention of the Legislature as expressed in the statute." *State v. Stewart*, 53 Mont. 18, 161 Pac. 309; *State v. Board of Commissioners of Cascade County*, 89 Mont. 37, 296 Pac. 1.

The Montana Consumer Loan Act mentions insurance in several places. In Section 12 (6) it is set forth as one of the items that must be listed in the loan contract in the following manner:

"(6) The amount collected or paid out **for each kind of insurance.**" (Emphasis supplied)

It is clear from this section that the legislature intended that more than one kind of insurance may be sold in certain instances.

Insurance is again mentioned in Section 14 of the Act.

Part (A) of this section specifically states that "**No insurance of any kind** shall be written . . . on any loan where the amount thereof is three hundred dollars or less and such amount of three hundred dollars shall not include any charge for interest **insurance** or any other identifiable charge." (Emphasis supplied) It should be noted that the language of this section omits any reference to loans over three hundred dollars and again mentions "**any kind of insurance.**"

Section 10 (f) provides "No further or other charges shall be directly or indirectly contracted for or received by the licensee except those specifically authorized by this act."

The term "charges" as used in this portion of the act includes insurance premiums. It may be contended that this section 10 (f) would prohibit the borrower from obtaining credit life and/or health, property or accident insurance. This contention is without merit. The borrower may obtain insurance of these types but the charge for the insurance plus the other charges may not exceed the maximum rates as set forth in Sections 10 (a) and (b).

Section 14 (C) provides "when the principal amount of the loan exceeds three hundred dollars . . . the licensee may require a borrower to insure tangible personal property . . ."

"All parts of a statute relating to the same subject must be construed together." *Hilger v. Moore*, 56 Mont. 146, 182 Pac. 477. In construing the sections previously cited it is clear that the legislature intended that the Montana Consumer Loan Commissioner may adopt rules regulating the sale of other kinds of insurance in addition to property insurance on loans of more than three hundred dollars.

It may be contended that only personal property given as security for a loan over three hundred dollars may be insured under this act. This contention is again without merit since the act specifically contemplates "each kind" and "any kind of insurance." This phraseology would not be used if the legislature intended that only property insurance could be sold.

Section 2 (b) of the Montana Consumer Loan Act provides that:

"All powers and duties of regulation and supervision conferred by this act are vested in the commissioner. The commissioner shall adopt and promulgate such rules and regulations as shall be necessary to carry out the intent and purposes of this act."

This section of the act is direct authority for the commissioner to adopt rules regulating the specified transactions enumerated in this act.

It is therefore my opinion that the Montana Consumer Loan Act enacted as Chapter 283, Laws of Montana, 1959, permits the Montana Consumer Loan Commissioner to adopt rules regulating the sale of credit life and/or health and accident insurance on loans of more than three hundred dollars.

Very truly yours,
FORREST H. ANDERSON
Attorney General