HOUSE BILL NO. 262

INTRODUCED BY HOFFMAN

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT.
JANUARY 18, 1989	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 30, 1989	SECOND READING, DO PASS.
JANUARY 31, 1989	ENGROSSING REPORT.
FEBRUARY 1, 1989	THIRD READING, PASSED. AYES, 76; NOES, 22.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 2, 1989	SECOND READING, CONCURRED IN.
MARCH 4, 1989	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 6, 1989	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
MARCH 7, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

House BILL NO. 262

INTRODUCED BY Hoffman

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO CREDIT LIFE AND CREDIT DISABILITY INSURANCE; AND AMENDING SECTIONS 33-1-501, 33-21-102 THROUGH 33-21-105, 33-21-113, AND 33-21-201 THROUGH 33-21-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-501, MCA, is amended to read:

"33-1-501. **Filing and approval of forms.** (1) No insurance policy or annuity contract form, application form, printed rider or endorsement form, or form of renewal certificate ~~shall~~ may be delivered or issued for delivery in ~~this state~~ Montana unless the form has been filed with and approved by the commissioner ~~of this state~~ and the regulatory official of the state of domicile of the insurer, ~~where so~~ if required. This provision ~~shall~~ does not apply to surety bonds or policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or ~~which~~ that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to forms for use in property, marine (other than ocean marine and foreign trade coverages), casualty, and surety insurance coverages, the filing required by this subsection may be made by a rating organization on behalf of its members and subscribers, but this provision ~~shall~~ does not ~~be deemed to~~ prohibit ~~any such~~ a member or subscriber from filing ~~any such~~ a ~~forms~~ form on its own behalf.

(2) ~~Every such~~ The filing ~~shall~~ must be made not less than 60 days in advance of ~~any such~~ delivery. Approval of ~~any such~~ a form by the commissioner ~~shall constitute~~ constitutes a waiver of any unexpired portion of ~~such~~ the waiting period. The commissioner may extend by not more than an additional 60 days the period within which he may ~~so affirmatively~~ approve or disapprove ~~any such~~ a form by giving notice of ~~such~~ the extension before expiration of the initial 60-day period. The commissioner may at any time, after notice and for cause shown, withdraw any ~~such~~ approval.

(3) ~~Any~~ An order of the commissioner disapproving ~~any such~~ a form or withdrawing a previous approval ~~shall~~ must state the grounds ~~therefor and the particulars thereof~~ for disapproval or withdrawal in ~~such details~~ sufficient detail ~~as reasonably~~ to inform the insurer ~~thereof~~.

(4) The commissioner may by order exempt from the requirements of this section for so long as he deems

INTRODUCED BILL
HB 262

considers proper ~~any~~ an insurance document, ~~or~~ form, or type of document or form ~~thereof-as~~ specified in ~~such~~ the order to which, in his opinion, this section may not practicably be applied or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) This section ~~shall-apply~~ applies ~~also~~ to ~~any-such~~ a form used by a domestic ~~insurers~~ insurer for delivery in a jurisdiction outside ~~this-state~~ Montana if the insurance supervisory official of ~~such~~ the jurisdiction informs the commissioner that ~~such~~ the form is not subject to approval or disapproval by ~~such~~ the official and upon the commissioner's order requiring the form to be submitted to him for the purpose. The ~~applicable~~ same standards ~~shall~~ apply to ~~such~~ these forms as apply to forms for domestic use.

(6) This section and 33-1-502 ~~shall~~ do not apply ~~as~~ to:

(a) reinsurance;

(b) policies or contracts not issued for delivery in ~~this--state~~ Montana or delivered in ~~this-state~~ Montana, except as provided in subsection (5);

(c) ocean marine and foreign trade insurances.

(7) ~~As~~ Except as provided in chapter 21, ~~to~~ group certificates that are delivered or issued for delivery in

Montana for group insurance policies effectuated and delivered outside ~~this--state~~ Montana but covering persons resident in ~~this-state~~ Montana~~,---group--certificates--which are--delivered--or--issued--for-delivery-in-this-state-shall~~ must be filed with the commissioner upon his request."

Section 2. Section 33-21-102, MCA, is amended to read:

"33-21-102. **Purpose and scope.** (1) The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit disability insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. The provisions of this chapter shall be liberally construed.

(2) ~~All~~ Except as provided in subsection (3), this chapter applies to each policy, certificate of insurance, notice of proposed insurance, binder, endorsement, and rider of life insurance and ~~all~~ disability insurance ~~sold~~ delivered or issued for delivery in Montana in connection with loans or other credit transactions for personal, family, or household purposes. ~~shall--be--subject-to-the provisions-of-this-chapter-except-such-insurance-sold~~

(3) This chapter does not apply to life insurance or disability insurance delivered or issued for delivery in connection with:

(a) a loan or other credit transaction of more than 15 years' duration;

(b) a credit transaction that is:

(i) secured by a first mortgage or deed of trust; and

(ii) made to finance the purchase of real property or the construction of a dwelling thereon or to refinance a prior credit transaction made for that purpose; or

(c) a credit transaction that is an isolated transaction on the part of the insurer and that is not related to an agreement or a plan for insuring debtors of the creditor."

Section 3. Section 33-21-103, MCA, is amended to read:

"33-21-103. **Definitions.** ~~For the purposes of~~ As used in this chapter, the following definitions apply:

(1) "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(3) "Creditor" means:

(a) ~~the~~ a lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction ~~or~~;

(b) any successor to the right, title, or interest of ~~such~~ a lender, vendor, or lessor~~.~~;

(c) an affiliate, associate, or subsidiary of a lender, vendor, or lessor;

(d) a director, officer, or employee of a lender, vendor, or lessor; or

(e) any other person in any way associated with a lender, vendor, or lessor.

(4) "Credit transaction" means a transaction by the terms of which, at a future date:

(a) repayment of money loaned is made;

(b) a loan commitment is made; or

(c) payment for goods, services, or property sold or leased is made.

~~(4)~~(5) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

~~(5)~~(6) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

(7) "Open-end credit" means credit extended by a creditor under an agreement in which:

(a) the creditor reasonably contemplates repeated transactions;

(b) the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

(c) the amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid."

Section 4. Section 33-21-104, MCA, is amended to read:

"**33-21-104. Existing insurance -- choice of insurer.** When credit life insurance or credit disability insurance is required as additional security for ~~any~~ an indebtedness, the debtor ~~shall~~, upon request to the creditor, ~~have~~ has the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through ~~any~~ an insurer authorized to transact ~~an~~ insurance ~~business~~ within ~~this state~~ Montana."

Section 5. Section 33-21-105, MCA, is amended to read:

"**33-21-105. Claims.** (1) ~~All claims shall~~ A claim must be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. ~~All claims shall~~ A claim must be settled as soon as possible and in accordance with the terms of the insurance contract.

(2) ~~All claims shall~~ A claim must be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions or upon direction of

~~such~~ the claimant to one specified.

(3) No plan or arrangement ~~shall~~ may be used whereby ~~any~~ a person, ~~firm~~ partnership, or corporation other than the insurer or its designated claim representative ~~shall be~~ is authorized to settle or adjust claims. The creditor ~~shall~~ may not be designated as claim representative for the insurer in adjusting claims, except that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer."

Section 6. Section 33-21-113, MCA, is amended to read:

"**33-21-113. Penalties.** In addition to any penalty provided by law, ~~any~~ a person who violates an order of the commissioner after it has become final and while ~~such~~ the order is in effect shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of Montana a sum not to exceed $250 which may be recovered in a civil action, except that if ~~such~~ the violation is found to be willful, the amount of ~~such~~ the penalty ~~shall be~~ is a sum not to exceed $1,000. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, partnership, or corporation guilty of such violation. ~~Such~~ The order for suspension or revocation ~~shall be~~ is subject to judicial review as provided in 33-1-711."

Section 7. Section 33-21-201, MCA, is amended to read:

"33-21-201. **Form of issuance.** ~~Credit~~ An insurer may deliver or issue for delivery credit life insurance and credit disability insurance ~~shall--be--issued~~ only in the following forms:

(1) individual policies of life insurance issued to debtors on ~~the~~ a term plan;

(2) individual policies of disability insurance issued to debtors on a term plan or disability benefit provisions in individual ~~life~~ policies ~~to--provide--such--coverage~~ of credit life insurance;

(3) group policies of life insurance issued to creditors providing insurance upon the lives of debtors on ~~the~~ a term plan;

(4) group policies of disability insurance issued to creditors on a term plan insuring debtors or disability provisions in group credit life insurance policies to provide such coverage."

Section 8. Section 33-21-202, MCA, is amended to read:

"33-21-202. **Amount.** (1) The initial amount of credit life insurance ~~shall--be--equal--to-the~~ may not exceed the total amount repayable under the contract of indebtedness~~,~~. ~~provided--that-the-original-indebtedness-does-not-exceed-the sum-of-$15,000.--If-the-original-indebtedness-exceeds-the-sum of-$15,000,-the-amount-of-credit-life--insurance--shall--not~~

~~exceed---the--indebtedness.--Where~~ If an indebtedness is repayable in substantially equal installments, ~~is-secured-by an-individual-policy~~ the amount of credit life insurance~~,~~ ~~the-amount-of-insurance-shall~~ may not exceed the ~~approximate~~ scheduled or actual amount of unpaid indebtedness on the date of death, ~~and-where-secured-by-a-group-policy-of-credit life-insurance-shall-not-exceed-the-exact-amount--of--unpaid indebtedness--on--such-date~~ whichever is greater. The amount of credit life insurance written in connection with:

(a) a credit transaction repayable over a term in excess of 63 months or, at the option of the insurer, for a shorter term may not exceed the actual amount of unpaid indebtedness on the date of death, less any:

(i) unearned interest or finance charges; and

(ii) delinquency or extension exceeding 4 months;

(b) an open-end credit agreement having a credit limit exceeding $10,000 may not exceed the plan's credit limit;

Except~~,-that~~

(c) an agricultural ~~loans~~ loan commitment not exceeding 1 year may ~~be-written-up-to~~ not exceed the amount of the loan commitment on a nondecreasing or level term plan; and

(d) an education loan commitment may be for the amount of the portion of the commitment that has not been advanced by the creditor.

(2) The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, ~~shall-be-equal-to~~ may not exceed:

(a) the aggregate of the periodic scheduled unpaid installments of indebtedness; and

(b) ~~shall-not-exceed~~ the original indebtedness divided by the number of periodic installments~~;--provided--that--the original-indebtedness-does-not-exceed-the-sum-of-$15,000;--if the--original--indebtedness--exceeds-the-sum-of-$15,000,-the amount-of-periodic-indemnity-payable--by--credit--disability insurance--in--the--event--of--disability,-as-defined-in-the policy,-shall-not--exceed--the--aggregate--of--the--periodic scheduled--unpaid-installments-of-indebtedness-and-shall-not exceed-the-original-indebtedness-divided-by--the--number--of periodic-installments~~."

Section 9. Section 33-21-203, MCA, is amended to read:

"33-21-203. **Term.** (1) The term of any credit life insurance or credit disability insurance ~~shall~~ commences, subject to acceptance by the insurer, ~~commence~~ on the date ~~when~~ on which the debtor becomes obligated to the creditor~~, except--that,--where~~. However, if a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to ~~such~~ the indebtedness ~~shall commence~~ commences on the effective date of the policy.

(2) When evidence of insurability is required and the

evidence is furnished more than 30 days after the date on which the debtor becomes obligated to the creditor, the term of the insurance may commence on the date the insurer determines the evidence is satisfactory. In that event, the insurer shall make an appropriate refund or adjustment of any charge to the debtor for insurance.

(3) The term of ~~such~~ the insurance ~~shall~~ may not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor~~.~~, but the term of the insurance may be less than the term of the credit transaction to provide modified or partial coverage or extend beyond the maturity date to provide coverage consistent with 33-21-202(1)(a).

(4) If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force ~~shall~~ must be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund ~~shall~~ must be paid or credited as provided in 33-21-206."

Section 10. Section 33-21-204, MCA, is amended to read:

"33-21-204. **Policy or certificate delivered -- time of delivery -- provisions.** (1) All credit life insurance and credit disability insurance sold ~~shall~~ must be evidenced by

an individual policy or, in the case of group insurance, by a certificate of insurance, which individual policy or group certificate of insurance ~~shall~~ must be delivered to the debtor at the time the indebtedness is incurred except as hereinafter provided.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for ~~such~~ the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name ~~or--names~~ of ~~the~~ each debtor, the premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance coverage, the amount, term, and a brief description of the coverage provided or to be provided, ~~shall~~ must be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for or notice of proposed insurance must also ~~shall~~ refer exclusively to insurance coverage and ~~shall~~ must be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this section is prominently set forth therein. Upon approval by the insurer of the application for insurance~~,--if--any,~~ or acceptance of the insurance by the insurer and within 30 days of the date upon which the

indebtedness is incurred, the insurer shall ~~cause~~ deliver the individual policy or group certificate of insurance ~~to be--delivered~~ to the debtor. The application or notice of proposed insurance ~~shall~~ must state that, upon acceptance by the insurer, the insurance ~~shall-become~~ becomes effective as of the date the indebtedness is incurred. If the named insurer does not accept the risk, the debtor must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged. If the amount of premium is less than that set forth in the notice of proposed insurance, the insurer shall make an appropriate refund.

(3) Each individual policy or group certificate of credit life insurance and credit disability insurance ~~shall~~ must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name of each debtor or, in the case of a group certificate of insurance, ~~and~~ the identity by name or otherwise of the ~~person-or-persons-insured~~ debtor, the ~~rate~~ premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance, a description of the coverages, including the amount and term thereof and any exceptions, limitations, or restrictions, and ~~shall~~ must state that the benefits ~~shall~~

must be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess ~~shall~~ must be payable to a beneficiary, other than the creditor, named by the debtor or to his estate. If the term of the insurance is less than the term of the loan, that fact must be stated on the face of the individual policy or group certificate in not less than 10-point boldface type.

(4) For the purposes of subsections (1) and (2), an individual policy or group certificate of insurance delivered in connection with an open-end credit agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred."

Section 11. Section 33-21-205, MCA, is amended to read:

"**33-21-205. Filing, approval, and withdrawal of forms -- and rates -- disapproval.** (1) With respect to credit life insurance or credit disability insurance:

(a) ~~All policies~~ a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements~~ endorsement, ~~and riders shall be~~ or rider may not be delivered or issued for delivery in Montana unless it has been filed with and approved by the ~~commission~~

commissioner, in accordance with 33-1-501, and the regulatory official of the state in which ~~the policy~~ it is issued; and

(b) a schedule of premium rates pertaining to a policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement, or rider may not be used in Montana unless it has been filed with the commissioner.

(2) ~~The~~ In accordance with 33-1-501, the commissioner may ~~within 30 days after the filing of all policies~~ disapprove a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements, and riders, in addition to other requirements of law, disapprove any such form~~ endorsement, or rider:

(a) for a reason listed in 33-1-502;

(b) if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits; or

(c) if it contains provisions ~~which~~ that are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of ~~such policy~~ the insurance.

(3) If the commissioner notifies the insurer that ~~the~~ a form ~~does not comply with this section~~ is disapproved, it is unlawful ~~thereafter~~ for ~~such~~ the insurer to issue or use

~~such~~ the form. ~~In--such--notice,--the--commissioner--shall specify--the--reason--for--his--disapproval-and-state-that-a hearing-will-be-granted-within--20--days--after--request--in writing--by--the--insurer.--No--such--policy,-certificate-of insurance,-notice-of-proposed-insurance,-and-no-application, binder,-endorsement,-or-rider-shall-be-issued-or-used--until the-expiration-of-30-days-after-it-has-been-so-filed,-unless the--commissioner--gives-his-prior-written-approval-thereto.~~

~~(4)--The-commissioner-may,-at-any-time-after-a-hearing, of-which-not-less-than-20-days'-written-notice-was-given--to the--insurer,--withdraw-his-approval-of-any-such-form-on-any of-such-grounds.~~

~~(5)--It-is-not-lawful-for-the--insurer--to--issue--such forms---or--use--them--after--the--effective--date--of--such withdrawal-of-approval.~~

~~(6)~~(4) ~~Any~~ An order or final determination of the commissioner under ~~the-provisions-of~~ this section ~~shall-be~~ is subject to judicial review."

Section 12. Section 33-21-206, MCA, is amended to read:

"33-21-206. **Premiums and refunds.** (1) Each insurer issuing credit life insurance or credit disability insurance shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise ~~such~~ the schedules from time to time and shall

file ~~such~~ the revised schedules with the commissioner. No insurer ~~shall~~ may issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by 33-21-205.

(2) Each individual policy, group certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must provide that, if ~~in-the-event-of-termination-of~~ the insurance ~~prior to~~ is terminated before the scheduled maturity date of the indebtedness, any refund of premium ~~due-shall~~ or amount paid by the debtor for insurance must be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds ~~shall~~ must be filed with and approved by the commissioner.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to ~~such~~ the debtor and shall

promptly make an appropriate credit to the account.

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

(5) Nothing in this chapter may be construed to authorize any payments for insurance prohibited under a statute, or rule thereunder, governing credit transactions."

Section 13. Section 33-21-207, MCA, is amended to read:

"**33-21-207. Issuance of policies.** ~~All policies~~ Each policy, certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must be delivered or issued for delivery in ~~this state~~ Montana only by an insurer authorized to ~~do an~~ transact insurance ~~business therein~~ in Montana and ~~shall~~ must be issued only through holders of licenses or authorizations issued by the commissioner."

NEW SECTION. **Section 14. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 15. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this

act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 262

INTRODUCED BY HOFFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO CREDIT LIFE AND CREDIT DISABILITY INSURANCE; AND AMENDING SECTIONS 33-1-501, 33-21-102 THROUGH 33-21-105, 33-21-113, AND 33-21-201 THROUGH 33-21-207, MCA."

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forms for use in property, marine (other than ocean marine and foreign trade coverages), casualty, and surety insurance coverages, the filing required by this subsection may be made by a rating organization on behalf of its members and subscribers, but this provision ~~shall~~ does not ~~be-deemed-to~~ prohibit ~~any-such~~ a member or subscriber from filing ~~any-such~~ a ~~forms~~ form on its own behalf.

(2) ~~Every--such~~ The filing ~~shall~~ must be made not less than 60 days in advance of ~~any-such~~ delivery. Approval of ~~any--such~~ a form by the commissioner ~~shall--constitute~~ constitutes a waiver of any unexpired portion of ~~such~~ the waiting period. The commissioner may extend by not more than an additional 60 days the period within which he may ~~so~~ ~~affirmatively~~ approve or disapprove ~~any--such~~ a form by giving notice of ~~such~~ the extension before expiration of the initial 60-day period. The commissioner may at any time, after notice and for cause shown, withdraw any ~~such~~ approval.

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(4) The commissioner may by order exempt from the requirements of this section for so long as he deems

SECOND READING

considers proper ~~any~~ an insurance document, ~~or~~ form, or type of document or form ~~thereof-as~~ specified in ~~such~~ the order to which, in his opinion, this section may not practicably be applied or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) This section ~~shall-apply~~ applies ~~also~~ to ~~any-such~~ a form used by a domestic ~~insurers~~ insurer for delivery in a jurisdiction outside ~~this-state~~ Montana if the insurance supervisory official of ~~such~~ the jurisdiction informs the commissioner that ~~such~~ the form is not subject to approval or disapproval by ~~such~~ the official and upon the commissioner's order requiring the form to be submitted to him for the purpose. The ~~applicable~~ same standards ~~shall~~ apply to ~~such~~ these forms as apply to forms for domestic use.

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(2) ~~All~~ Except as provided in subsection (3), this chapter applies to each policy, certificate of insurance, notice of proposed insurance, binder, endorsement, and rider of life insurance and ~~all~~ disability insurance ~~sold~~ delivered or issued for delivery in Montana in connection with loans or other credit transactions for personal, family, or household purposes. ~~shall--be--subject-to-the provisions-of-this-chapter-except-such-insurance-sold~~

(3) This chapter does not apply to life insurance or disability insurance delivered or issued for delivery in connection with:

(a) a loan or other credit transaction of more than 15 years' duration;

(b) a credit transaction that is:

(i) secured by a first mortgage or deed of trust; and

(ii) made to finance the purchase of real property or the construction of a dwelling thereon or to refinance a prior credit transaction made for that purpose; or

(c) a credit transaction that is an isolated transaction on the part of the insurer and that is not related to an agreement or a plan for insuring debtors of the creditor."

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"33-21-103. **Definitions.** ~~For the purposes of~~ As used in this chapter, the following definitions apply:

(1) "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(3) "Creditor" means:

(a) ~~the~~ a lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction ~~or~~;

(b) any successor to the right, title, or interest of ~~such~~ a lender, vendor, or lessor~~.~~;

(c) an affiliate, associate, or subsidiary of a lender, vendor, or lessor;

(d) a director, officer, or employee of a lender, vendor, or lessor; or

(e) any other person in any way associated with a lender, vendor, or lessor.

(4) "Credit transaction" means a transaction by the terms of which, at a future date:

(a) repayment of money loaned is made;

(b) a loan commitment is made; or

(c) payment for goods, services, or property sold or leased is made.

~~(4)~~(5) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

~~(5)~~(6) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

(7) "Open-end credit" means credit extended by a creditor under an agreement in which:

(a) the creditor reasonably contemplates repeated transactions;

(b) the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

(c) the amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid."

Section 4. Section 33-21-104, MCA, is amended to read:

"33-21-104. **Existing insurance -- choice of insurer.** When credit life insurance or credit disability insurance is required as additional security for ~~any~~ an indebtedness, the debtor ~~shall~~, upon request to the creditor, ~~have~~ has the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through ~~any~~ an insurer authorized to transact ~~an~~ insurance ~~business~~ within ~~this state~~ Montana."

Section 5. Section 33-21-105, MCA, is amended to read:

"33-21-105. **Claims.** (1) ~~All claims shall~~ A claim must be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. ~~All claims shall~~ A claim must be settled as soon as possible and in accordance with the terms of the insurance contract.

(2) ~~All claims shall~~ A claim must be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions or upon direction of

~~such~~ the claimant to one specified.

(3) No plan or arrangement ~~shall~~ may be used whereby ~~any~~ a person, ~~firm~~ partnership, or corporation other than the insurer or its designated claim representative ~~shall be~~ is authorized to settle or adjust claims. The creditor ~~shall~~ may not be designated as claim representative for the insurer in adjusting claims, except that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer."

Section 6. Section 33-21-113, MCA, is amended to read:

"33-21-113. **Penalties.** In addition to any penalty provided by law, ~~any~~ a person who violates an order of the commissioner after it has become final and while ~~such~~ the order is in effect shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of Montana a sum not to exceed $250 which may be recovered in a civil action, except that if ~~such~~ the violation is found to be willful, the amount of ~~such~~ the penalty ~~shall be~~ is a sum not to exceed $1,000. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, partnership, or corporation guilty of such violation. ~~Such~~ The order for suspension or revocation ~~shall be~~ is subject to judicial review as provided in 33-1-711."

Section 7. Section 33-21-201, MCA, is amended to read:

"**33-21-201. Form of issuance.** ~~Credit~~ An insurer may deliver or issue for delivery credit life insurance and credit disability insurance ~~shall--be--issued~~ only in the following forms:

(1) individual policies of life insurance issued to debtors on ~~the~~ a term plan;

(2) individual policies of disability insurance issued to debtors on a term plan or disability benefit provisions in individual ~~life~~ policies ~~to--provide--such--coverage~~ of credit life insurance;

(3) group policies of life insurance issued to creditors providing insurance upon the lives of debtors on ~~the~~ a term plan;

(4) group policies of disability insurance issued to creditors on a term plan insuring debtors or disability provisions in group credit life insurance policies to provide such coverage."

Section 8. Section 33-21-202, MCA, is amended to read:

"**33-21-202. Amount.** (1) The initial amount of credit life insurance ~~shall--be--equal--to-the~~ may not exceed the total amount repayable under the contract of indebtedness~~,~~. ~~provided--that-the-original-indebtedness-does-not-exceed-the sum-of-$15,000.--If-the-original-indebtedness-exceeds-the-sum of-$15,000,-the-amount-of-credit-life--insurance--shall--not~~

~~exceed---the--indebtedness.--Where~~ If an indebtedness is repayable in substantially equal installments, ~~is-secured-by an-individual-policy~~ the amount of credit life insurance~~,~~ ~~the-amount-of-insurance-shall~~ may not exceed the ~~approximate~~ scheduled or actual amount of unpaid indebtedness on the date of death, ~~and-where-secured-by-a-group-policy-of-credit life-insurance-shall-not-exceed-the-exact-amount--of--unpaid indebtedness--on--such-date~~ whichever is greater. The amount of credit life insurance written in connection with:

(a) a credit transaction repayable over a term in excess of 63 months or, at the option of the insurer, for a shorter term may not exceed the actual amount of unpaid indebtedness on the date of death, less any:

(i) unearned interest or finance charges; and

(ii) delinquency or extension exceeding 4 months;

(b) an open-end credit agreement having a credit limit exceeding $10,000 may not exceed the plan's credit limit; ~~Except,-that~~

(c) an agricultural ~~loans~~ loan commitment not exceeding 1 year may ~~be-written-up-to~~ not exceed the amount of the loan commitment on a nondecreasing or level term plan; and

(d) an education loan commitment may be for the amount of the portion of the commitment that has not been advanced by the creditor.

(2) The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, ~~shall-be-equal-to~~ may not exceed:

(a) the aggregate of the periodic scheduled unpaid installments of indebtedness; and

(b) ~~shall-not-exceed~~ the original indebtedness divided by the number of periodic installments~~;--provided--that--the original-indebtedness-does-not-exceed-the-sum-of-$15,000.--If the--original--indebtedness--exceeds-the-sum-of-$15,000,-the amount-of-periodic-indemnity-payable--by--credit--disability insurance--in--the--event--of--disability,-as-defined-in-the policy,-shall-not--exceed--the--aggregate--of--the--periodic scheduled--unpaid-installments-of-indebtedness-and-shall-not exceed-the-original-indebtedness-divided-by--the--number--of periodic-installments~~."

Section 9. Section 33-21-203, MCA, is amended to read:

"**33-21-203. Term.** (1) The term of any credit life insurance or credit disability insurance ~~shall~~ commences, subject to acceptance by the insurer, ~~commence~~ on the date ~~when~~ on which the debtor becomes obligated to the creditor~~, except--that,--where~~. However, if a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to ~~such~~ the indebtedness ~~shall commence~~ commences on the effective date of the policy.

(2) When evidence of insurability is required and the evidence is furnished more than 30 days after the date on which the debtor becomes obligated to the creditor, the term of the insurance may commence on the date the insurer determines the evidence is satisfactory. In that event, the insurer shall make an appropriate refund or adjustment of any charge to the debtor for insurance.

(3) The term of ~~such~~ the insurance ~~shall~~ may not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor~~.~~, but the term of the insurance may be less than the term of the credit transaction to provide modified or partial coverage or extend beyond the maturity date to provide coverage consistent with 33-21-202(1)(a).

(4) If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force ~~shall~~ must be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund ~~shall~~ must be paid or credited as provided in 33-21-206."

Section 10. Section 33-21-204, MCA, is amended to read:

"**33-21-204. Policy or certificate delivered -- time of delivery -- provisions.** (1) All credit life insurance and credit disability insurance sold ~~shall~~ must be evidenced by

an individual policy or, in the case of group insurance, by a certificate of insurance, which individual policy or group certificate of insurance ~~shall~~ must be delivered to the debtor at the time the indebtedness is incurred except as hereinafter provided.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for ~~such~~ the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name ~~or--names~~ of ~~the~~ each debtor, the premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance coverage, the amount, term, and a brief description of the coverage provided or to be provided, ~~shall~~ must be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for or notice of proposed insurance must also ~~shall~~ refer exclusively to insurance coverage and ~~shall~~ must be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this section is prominently set forth therein. Upon approval by the insurer of the application for insurance~~,--if--any,~~ or acceptance of the insurance by the insurer and within 30 days of the date upon which the

indebtedness is incurred, the insurer shall ~~cause~~ deliver the individual policy or group certificate of insurance ~~to be--delivered~~ to the debtor. The application or notice of proposed insurance ~~shall~~ must state that, upon acceptance by the insurer, the insurance ~~shall-become~~ becomes effective as of the date the indebtedness is incurred. If the named insurer does not accept the risk, the debtor must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged. If the amount of premium is less than that set forth in the notice of proposed insurance, the insurer shall make an appropriate refund.

(3) Each individual policy or group certificate of credit life insurance and credit disability insurance ~~shall~~ must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name of each debtor or, in the case of a group certificate of insurance, ~~and~~ the identity by name or otherwise of the ~~person-or-persons-insured~~ debtor, the ~~rate~~ ~~premium~~ RATE or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance, a description of the coverages, including the amount and term thereof and any exceptions, limitations, or restrictions, and ~~shall~~ must state that the benefits ~~shall~~

~~shall~~ must be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess ~~shall~~ must be payable to a beneficiary, other than the creditor, named by the debtor or to his estate. If the term of the insurance is less than the term of the loan, that fact must be stated on the face of the individual policy or group certificate in not less than 10-point boldface type.

(4) For the purposes of subsections (1) and (2), an individual policy or group certificate of insurance delivered in connection with an open-end credit agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred."

Section 11. Section 33-21-205, MCA, is amended to read:

"**33-21-205. Filing, approval, and withdrawal of forms -- and rates -- disapproval.** (1) With respect to credit life insurance or credit disability insurance:

(a) ~~All policies~~ a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements~~ endorsement, ~~and riders shall be~~ or rider may not be delivered or issued for delivery in Montana unless it has been filed with and approved by the ~~commission~~

commissioner, in accordance with 33-1-501, and the regulatory official of the state in which ~~the policy~~ it is issued; and

(b) a schedule of premium rates pertaining to a policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement, or rider may not be used in Montana unless it has been filed with the commissioner.

(2) ~~The~~ ~~In~~ WITH RESPECT TO CREDIT LIFE INSURANCE OR CREDIT DISABILITY INSURANCE AND IN accordance with 33-1-501, the commissioner may ~~within 30 days after the filing of all policies~~ disapprove a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements, and riders, in addition to other requirements of law, disapprove any such form~~ endorsement, or rider:

(a) for a reason listed in 33-1-502;

(b) if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits; or

(c) if it contains provisions ~~which~~ that are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of ~~such policy~~ the insurance.

(3) If the commissioner notifies the insurer that ~~the~~ a form ~~does not comply with this section~~ is disapproved, it

is unlawful ~~thereafter~~ for ~~such~~ the insurer to issue or use ~~such~~ the form. ~~In--such--notice,--the--commissioner-shall specify-the-reason-for-his--disapproval--and--state--that--a hearing--will--be--granted--within--20-days-after-request-in writing-by-the--insurer.--No--such--policy,--certificate--of insurance,-notice-of-proposed-insurance,-and-no-application, binder,--endorsement,-or-rider-shall-be-issued-or-used-until the-expiration-of-30-days-after-it-has-been-so-filed,-unless the-commissioner-gives-his-prior-written--approval--thereto.~~

~~(4)--The-commissioner-may,-at-any-time-after-a-hearing, of--which-not-less-than-20-days'-written-notice-was-given-to the-insurer,-withdraw-his-approval-of-any-such-form--on--any of-such-grounds.~~

~~(5)--It--is--not--lawful--for-the-insurer-to-issue-such forms--or--use--them--after--the--effective--date--of---such withdrawal-of-approval.~~

~~(6)~~(4) ~~Any~~ AN INSURER MAY NOT ISSUE OR USE A FORM AFTER THE COMMISSIONER WITHDRAWS APPROVAL OF THE FORM PURSUANT TO 33-1-501. An order or final determination of the commissioner under ~~the-provisions-of~~ this section ~~shall-be~~ is subject to judicial review."

Section 12. Section 33-21-206, MCA, is amended to read:

"**33-21-206. Premiums and refunds.** (1) Each insurer issuing credit life insurance or credit disability insurance

shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise ~~such~~ the schedules from time to time and shall file ~~such~~ the revised schedules with the commissioner. No insurer ~~shall~~ may issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by 33-21-205.

(2) Each individual policy, group certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must provide that, if ~~in-the-event-of-termination-of~~ the insurance ~~prior to~~ is terminated before the scheduled maturity date of the indebtedness, any refund of premium ~~due-shall~~ or amount paid by the debtor for insurance must be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds ~~shall~~ must be filed with and approved by the commissioner.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit

disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to ~~such~~ the debtor and shall promptly make an appropriate credit to the account.

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

(5) Nothing in this chapter may be construed to authorize any payments for insurance prohibited under a statute, or rule thereunder, governing credit transactions."

Section 13. Section 33-21-207, MCA, is amended to read:

"**33-21-207. Issuance of policies.** ~~All policies~~ Each policy, certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must be delivered or issued for delivery in ~~this state~~ Montana only by an insurer authorized to ~~do an~~ transact insurance ~~business therein~~ in Montana and ~~shall~~ must, EXCEPT AS PROVIDED IN 33-17-103, be issued only through ~~holders of licenses or authorizations issued by the commissioner~~ A LICENSED INSURANCE AGENT."

NEW SECTION. **Section 14. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

NEW SECTION. **Section 15. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

HOUSE BILL NO. 262

INTRODUCED BY HOFFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO CREDIT LIFE AND CREDIT DISABILITY INSURANCE; AND AMENDING SECTIONS 33-1-501, 33-21-102 THROUGH 33-21-105, 33-21-113, AND 33-21-201 THROUGH 33-21-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-501, MCA, is amended to read:

"33-1-501. **Filing and approval of forms.** (1) No insurance policy or annuity contract form, application form, printed rider or endorsement form, or form of renewal certificate ~~shall~~ may be delivered or issued for delivery in ~~this-state~~ Montana unless the form has been filed with and approved by the commissioner ~~of--this--state~~ and the regulatory official of the state of domicile of the insurer, ~~where-so~~ if required. This provision ~~shall~~ does not apply to surety bonds or policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or ~~which~~ that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to forms for use in property, marine (other than ocean marine and foreign trade coverages), casualty, and surety insurance coverages, the filing required by this subsection may be made by a rating organization on behalf of its members and subscribers, but this provision ~~shall~~ does not ~~be-deemed-to~~ prohibit ~~any-such~~ a member or subscriber from filing ~~any~~ ~~such~~ a ~~forms~~ form on its own behalf.

(2) ~~Every--such~~ The filing ~~shall~~ must be made not less than 60 days in advance of ~~any-such~~ delivery. Approval of ~~any--such~~ a form by the commissioner ~~shall--constitute~~ constitutes a waiver of any unexpired portion of ~~such~~ the waiting period. The commissioner may extend by not more than an additional 60 days the period within which he may ~~so~~ ~~affirmatively~~ approve or disapprove ~~any--such~~ a form by giving notice of ~~such~~ the extension before expiration of the initial 60-day period. The commissioner may at any time, after notice and for cause shown, withdraw any ~~such~~ approval.

(3) ~~Any~~ An order of the commissioner disapproving ~~any~~ ~~such~~ a form or withdrawing a previous approval ~~shall~~ must state the grounds ~~therefor~~ ~~and the-particulars-thereof~~ for disapproval or withdrawal in ~~such-details~~ sufficient detail ~~as-reasonably~~ to inform the insurer ~~thereof~~.

(4) The commissioner may by order exempt from the requirements of this section for so long as he deems

THIRD READING

considers proper ~~any~~ an insurance document, ~~or~~ form, or type of document or form ~~thereof-as~~ specified in ~~such~~ the order to which, in his opinion, this section may not practicably be applied or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) This section ~~shall-apply~~ applies ~~also~~ to ~~any-such~~ a form used by a domestic ~~insurers~~ insurer for delivery in a jurisdiction outside ~~this-state~~ Montana if the insurance supervisory official of ~~such~~ the jurisdiction informs the commissioner that ~~such~~ the form is not subject to approval or disapproval by ~~such~~ the official and upon the commissioner's order requiring the form to be submitted to him for the purpose. The ~~applicable~~ same standards ~~shall~~ apply to ~~such~~ these forms as apply to forms for domestic use.

(6) This section and 33-1-502 ~~shall~~ do not apply ~~as~~ to:

(a) reinsurance;

(b) policies or contracts not issued for delivery in ~~this--state~~ Montana or delivered in ~~this-state~~ Montana, except as provided in subsection (5);

(c) ocean marine and foreign trade insurances.

(7) ~~As~~ Except as provided in chapter 21, ~~to~~ group certificates that are delivered or issued for delivery in

Montana for group insurance policies effectuated and delivered outside ~~this--state~~ Montana but covering persons resident in ~~this-state~~ Montana~~,---group--certificates--which are--delivered--or--issued--for-delivery-in-this-state-shall~~ must be filed with the commissioner upon his request."

Section 2. Section 33-21-102, MCA, is amended to read:

"**33-21-102. Purpose and scope.** (1) The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit disability insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. The provisions of this chapter shall be liberally construed.

(2) ~~All~~ Except as provided in subsection (3), this chapter applies to each policy, certificate of insurance, notice of proposed insurance, binder, endorsement, and rider of life insurance and ~~all~~ disability insurance ~~sold~~ delivered or issued for delivery in Montana in connection with loans or other credit transactions for personal, family, or household purposes. ~~shall--be--subject-to-the provisions-of-this-chapter-except-such-insurance-sold~~

(3) This chapter does not apply to life insurance or disability insurance delivered or issued for delivery in connection with:

(a) ~~a~~ a loan or other credit transaction of more than 15 years' duration;

(b) a credit transaction that is:

(i) secured by a first mortgage or deed of trust; and

(ii) made to finance the purchase of real property or the construction of a dwelling thereon or to refinance a prior credit transaction made for that purpose; or

(c) a credit transaction that is an isolated transaction on the part of the insurer and that is not related to an agreement or a plan for insuring debtors of the creditor."

Section 3. Section 33-21-103, MCA, is amended to read:

"**33-21-103. Definitions.** ~~For the purposes of~~ As used in this chapter, the following definitions apply:

(1) "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(3) "Creditor" means:

(a) ~~the~~ a lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction ~~or~~;

(b) any successor to the right, title, or interest of ~~such~~ a lender, vendor, or lessor~~.~~;

(c) an affiliate, associate, or subsidiary of a lender, vendor, or lessor;

(d) a director, officer, or employee of a lender, vendor, or lessor; or

(e) any other person in any way associated with a lender, vendor, or lessor.

(4) "Credit transaction" means a transaction by the terms of which, at a future date:

(a) repayment of money loaned is made;

(b) a loan commitment is made; or

(c) payment for goods, services, or property sold or leased is made.

~~(4)~~(5) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

~~(5)~~(6) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

(7) "Open-end credit" means credit extended by a creditor under an agreement in which:

(a) the creditor reasonably contemplates repeated transactions;

(b) the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

(c) the amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid."

Section 4. Section 33-21-104, MCA, is amended to read:

"33-21-104. **Existing insurance -- choice of insurer.** When credit life insurance or credit disability insurance is required as additional security for ~~any~~ an indebtedness, the debtor ~~shall~~, upon request to the creditor, ~~have~~ has the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through ~~any~~ an insurer authorized to transact ~~an~~ insurance ~~business~~ within ~~this-state~~ Montana."

Section 5. Section 33-21-105, MCA, is amended to read:

"33-21-105. Claims. (1) ~~All-claims-shall~~ A claim must be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. ~~All--claims--shall~~ A claim must be settled as soon as possible and in accordance with the terms of the insurance contract.

(2) ~~All--claims--shall~~ A claim must be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions or upon direction of

~~such~~ the claimant to one specified.

(3) No plan or arrangement ~~shall~~ may be used whereby ~~any~~ a person, ~~firm~~ partnership, or corporation other than the insurer or its designated claim representative ~~shall-be~~ is authorized to settle or adjust claims. The creditor ~~shall~~ may not be designated as claim representative for the insurer in adjusting claims, except that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer."

Section 6. Section 33-21-113, MCA, is amended to read:

"33-21-113. **Penalties.** In addition to any penalty provided by law, ~~any~~ a person who violates an order of the commissioner after it has become final and while ~~such~~ the order is in effect shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of Montana a sum not to exceed $250 which may be recovered in a civil action, except that if ~~such~~ the violation is found to be willful, the amount of ~~such~~ the penalty ~~shall-be~~ is a sum not to exceed $1,000. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, partnership, or corporation guilty of such violation. ~~Such~~ The order for suspension or revocation ~~shall--be~~ is subject to judicial review as provided in 33-1-711."

Section 7. Section 33-21-201, MCA, is amended to read:

"33-21-201. **Form of issuance.** ~~Credit~~ An insurer may deliver or issue for delivery credit life insurance and credit disability insurance ~~shall--be--issued~~ only in the following forms:

(1) individual policies of life insurance issued to debtors on ~~the~~ a term plan;

(2) individual policies of disability insurance issued to debtors on a term plan or disability benefit provisions in individual ~~life~~ policies ~~to--provide--such--coverage~~ of credit life insurance;

(3) group policies of life insurance issued to creditors providing insurance upon the lives of debtors on ~~the~~ a term plan;

(4) group policies of disability insurance issued to creditors on a term plan insuring debtors or disability provisions in group credit life insurance policies to provide such coverage."

Section 8. Section 33-21-202, MCA, is amended to read:

"33-21-202. **Amount.** (1) The initial amount of credit life insurance ~~shall--be--equal--to-the~~ may not exceed the total amount repayable under the contract of indebtedness~~;~~. ~~provided--that-the-original-indebtedness-does-not-exceed-the sum-of-$15,000.--If-the-original-indebtedness-exceeds-the-sum of-$15,000,-the-amount-of-credit-life--insurance--shall--not~~

~~exceed---the--indebtedness.--Where~~ If an indebtedness is repayable in substantially equal installments, ~~is-secured-by an-individual-policy~~ the amount of credit life insurance~~,~~ ~~the-amount-of-insurance-shall~~ may not exceed the approximate scheduled or actual amount of unpaid indebtedness on the date of death, ~~and-where-secured-by-a-group-policy-of-credit life-insurance-shall-not-exceed-the-exact-amount--of--unpaid indebtedness--on--such-date~~ whichever is greater. The amount of credit life insurance written in connection with:

(a) a credit transaction repayable over a term in excess of 63 months or, at the option of the insurer, for a shorter term may not exceed the actual amount of unpaid indebtedness on the date of death, less any:

(i) unearned interest or finance charges; and

(ii) delinquency or extension exceeding 4 months;

(b) an open-end credit agreement having a credit limit exceeding $10,000 may not exceed the plan's credit limit;

~~Except,-that~~

(c) an agricultural ~~loans~~ loan commitment not exceeding 1 year ~~may be-written-up-to~~ not exceed the amount of the loan commitment on a nondecreasing or level term plan; and

(d) an education loan commitment may be for the amount of the portion of the commitment that has not been advanced by the creditor.

(2) The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, ~~shall-be-equal-to~~ may not exceed:

(a) the aggregate of the periodic scheduled unpaid installments of indebtedness; and

(b) ~~shall-not-exceed~~ the original indebtedness divided by the number of periodic installments~~;--provided--that--the original-indebtedness-does-not-exceed-the-sum-of-$15,000.--If the--original--indebtedness--exceeds-the-sum-of-$15,000,-the amount-of-periodic-indemnity-payable--by--credit--disability insurance--in--the--event--of--disability,-as-defined-in-the policy,-shall-not--exceed--the--aggregate--of--the--periodic scheduled--unpaid-installments-of-indebtedness-and-shall-not exceed-the-original-indebtedness-divided-by--the--number--of periodic-installments~~."

Section 9. Section 33-21-203, MCA, is amended to read:

"**33-21-203. Term.** (1) The term of any credit life insurance or credit disability insurance ~~shall~~ commences, subject to acceptance by the insurer, ~~commence~~ on the date ~~when~~ on which the debtor becomes obligated to the creditor~~, except--that,--where~~. However, if a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to ~~such~~ the indebtedness ~~shall commence~~ commences on the effective date of the policy.

(2) When evidence of insurability is required and the evidence is furnished more than 30 days after the date on which the debtor becomes obligated to the creditor, the term of the insurance may commence on the date the insurer determines the evidence is satisfactory. In that event, the insurer shall make an appropriate refund or adjustment of any charge to the debtor for insurance.

(3) The term of ~~such~~ the insurance ~~shall~~ may not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor~~.~~, but the term of the insurance may be less than the term of the credit transaction to provide modified or partial coverage or extend beyond the maturity date to provide coverage consistent with 33-21-202(1)(a).

(4) If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force ~~shall~~ must be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund ~~shall~~ must be paid or credited as provided in 33-21-206."

Section 10. Section 33-21-204, MCA, is amended to read:

"**33-21-204. Policy or certificate delivered -- time of delivery -- provisions.** (1) All credit life insurance and credit disability insurance sold ~~shall~~ must be evidenced by

an individual policy or, in the case of group insurance, by a certificate of insurance, which individual policy or group certificate of insurance ~~shall~~ must be delivered to the debtor at the time the indebtedness is incurred except as hereinafter provided.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for ~~such~~ the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name ~~or--names~~ of ~~the~~ each debtor, the premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance coverage, the amount, term, and a brief description of the coverage provided or to be provided, ~~shall~~ must be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for or notice of proposed insurance must also ~~shall~~ refer exclusively to insurance coverage and ~~shall~~ must be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this section is prominently set forth therein. Upon approval by the insurer of the application for insurance~~,--if--any,~~ or acceptance of the insurance by the insurer and within 30 days of the date upon which the

indebtedness is incurred, the insurer shall ~~cause~~ deliver the individual policy or group certificate of insurance ~~to be--delivered~~ to the debtor. The application or notice of proposed insurance ~~shall~~ must state that, upon acceptance by the insurer, the insurance ~~shall-become~~ becomes effective as of the date the indebtedness is incurred. If the named insurer does not accept the risk, the debtor must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged. If the amount of premium is less than that set forth in the notice of proposed insurance, the insurer shall make an appropriate refund.

(3) Each individual policy or group certificate of credit life insurance and credit disability insurance ~~shall~~ must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name of each debtor or, in the case of a group certificate of insurance, ~~and~~ the identity by name or otherwise of the ~~person-or-persons-insured~~ debtor, the ~~rate~~ ~~premium~~ RATE or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance, a description of the coverages, including the amount and term thereof and any exceptions, limitations, or restrictions, and ~~shall~~ must state that the benefits shall

must be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess ~~shall~~ must be payable to a beneficiary, other than the creditor, named by the debtor or to his estate. If the term of the insurance is less than the term of the loan, that fact must be stated on the face of the individual policy or group certificate in not less than 10-point boldface type.

(4) For the purposes of subsections (1) and (2), an individual policy or group certificate of insurance delivered in connection with an open-end credit agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred."

Section 11. Section 33-21-205, MCA, is amended to read:

"33-21-205. **Filing, approval, and withdrawal of forms -- and rates -- disapproval.** (1) With respect to credit life insurance or credit disability insurance:

(a) ~~All-policies~~ a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements~~ endorsement, ~~and-riders-shall-be~~ or rider may not be delivered or issued for delivery in Montana unless it has been filed with and approved by the ~~commission~~

commissioner, in accordance with 33-1-501, and the regulatory official of the state in which ~~the-policy~~ it is issued; and

(b) a schedule of premium rates pertaining to a policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement, or rider may not be used in Montana unless it has been filed with the commissioner.

(2) ~~The~~ ~~In~~ WITH RESPECT TO CREDIT LIFE INSURANCE OR CREDIT DISABILITY INSURANCE AND IN accordance with 33-1-501, the commissioner may ~~within-30-days-after-the-filing-of--all policies~~ disapprove a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements,-and-riders,-in-addition-to-other--requirements of-law,-disapprove-any-such-form~~ endorsement, or rider:

(a) for a reason listed in 33-1-502;

(b) if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits; or

(c) if it contains provisions ~~which~~ that are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of ~~such-policy~~ the insurance.

(3) If the commissioner notifies the insurer that ~~the~~ a form ~~does-not-comply-with-this-section~~ is disapproved, it

is unlawful ~~thereafter~~ for ~~such~~ the insurer to issue or use ~~such~~ the form. ~~In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, and no application, binder, endorsement, or rider shall be issued or used until the expiration of 30 days after it has been so filed, unless the commissioner gives his prior written approval thereto.~~

~~(4) The commissioner may, at any time after a hearing, of which not less than 20 days' written notice was given to the insurer, withdraw his approval of any such form on any of such grounds.~~

~~(5) It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal of approval.~~

~~(6)~~(4) ~~Any~~ AN INSURER MAY NOT ISSUE OR USE A FORM AFTER THE COMMISSIONER WITHDRAWS APPROVAL OF THE FORM PURSUANT TO 33-1-501. An order or final determination of the commissioner under ~~the provisions of~~ this section ~~shall be~~ is subject to judicial review."

Section 12. Section 33-21-206, MCA, is amended to read:

"33-21-206. Premiums and refunds. (1) Each insurer issuing credit life insurance or credit disability insurance

shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise ~~such~~ the schedules from time to time and shall file ~~such~~ the revised schedules with the commissioner. No insurer ~~shall~~ may issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by 33-21-205.

(2) Each individual policy, group certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must provide that, if ~~in the event of termination of~~ the insurance prior ~~to~~ is terminated before the scheduled maturity date of the indebtedness, any refund of premium ~~due shall~~ or amount paid by the debtor for insurance must be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds ~~shall~~ must be filed with and approved by the commissioner.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit

disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to ~~such~~ the debtor and shall promptly make an appropriate credit to the account.

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

(5) Nothing in this chapter may be construed to authorize any payments for insurance prohibited under a statute, or rule thereunder, governing credit transactions."

Section 13. Section 33-21-207, MCA, is amended to read:

"**33-21-207. Issuance of policies.** ~~All policies~~ Each policy, certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must be delivered or issued for delivery in ~~this state~~ Montana only by an insurer authorized to ~~do an~~ transact insurance ~~business therein~~ in Montana and ~~shall~~ must, EXCEPT AS PROVIDED IN 33-17-103, be issued only through ~~holders of licenses or authorizations issued by the commissioner~~ A LICENSED INSURANCE AGENT."

NEW SECTION. **Section 14. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

NEW SECTION. **Section 15. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

SENATE STANDING COMMITTEE REPORT

February 28, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 262 (third reading copy -- blue), respectfully report that HB 262 be amended and as so amended be concurred in:

Sponsor: Hoffman, R. (Boylan)

1. Page 10, line 13.
Strike: "less"
Insert: "excluding"

AND AS AMENDED BE CONCURRED IN

Signed: Gene Thayer
Gene Thayer, Chairman

SENATE

scrhb262.228

HOUSE BILL NO. 262

INTRODUCED BY HOFFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO CREDIT LIFE AND CREDIT DISABILITY INSURANCE; AND AMENDING SECTIONS 33-1-501, 33-21-102 THROUGH 33-21-105, 33-21-113, AND 33-21-201 THROUGH 33-21-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-501, MCA, is amended to read:

"33-1-501. **Filing and approval of forms.** (1) No insurance policy or annuity contract form, application form, printed rider or endorsement form, or form of renewal certificate ~~shall~~ may be delivered or issued for delivery in ~~this state~~ Montana unless the form has been filed with and approved by the commissioner ~~of this state~~ and the regulatory official of the state of domicile of the insurer, ~~where so~~ if required. This provision ~~shall~~ does not apply to surety bonds or policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or ~~which~~ that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to

forms for use in property, marine (other than ocean marine and foreign trade coverages), casualty, and surety insurance coverages, the filing required by this subsection may be made by a rating organization on behalf of its members and subscribers, but this provision ~~shall~~ does not ~~be deemed to~~ prohibit ~~any such~~ a member or subscriber from filing ~~any such~~ a ~~forms~~ form on its own behalf.

(2) ~~Every such~~ The filing ~~shall~~ must be made not less than 60 days in advance of ~~any such~~ delivery. Approval of ~~any such~~ a form by the commissioner ~~shall constitute~~ constitutes a waiver of any unexpired portion of ~~such~~ the waiting period. The commissioner may extend by not more than an additional 60 days the period within which he may ~~so affirmatively~~ approve or disapprove ~~any such~~ a form by giving notice of ~~such~~ the extension before expiration of the initial 60-day period. The commissioner may at any time, after notice and for cause shown, withdraw any ~~such~~ approval.

(3) ~~Any~~ An order of the commissioner disapproving ~~any such~~ a form or withdrawing a previous approval ~~shall~~ must state the grounds ~~therefor and the particulars thereof~~ for disapproval or withdrawal in ~~such details~~ sufficient detail ~~as reasonably~~ to inform the insurer ~~thereof~~.

(4) The commissioner may by order exempt from the requirements of this section for so long as he deems

considers proper ~~any~~ an insurance document, ~~or~~ form, or type of document or form ~~thereof-as~~ specified in ~~such~~ the order to which, in his opinion, this section may not practicably be applied or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) This section ~~shall-apply~~ applies ~~also~~ to ~~any-such~~ a form used by a domestic ~~insurers~~ insurer for delivery in a jurisdiction outside ~~this-state~~ Montana if the insurance supervisory official of ~~such~~ the jurisdiction informs the commissioner that ~~such~~ the form is not subject to approval or disapproval by ~~such~~ the official and upon the commissioner's order requiring the form to be submitted to him for the purpose. The ~~applicable~~ same standards ~~shall~~ apply to ~~such~~ these forms as apply to forms for domestic use.

(6) This section and 33-1-502 ~~shall~~ do not apply ~~as~~ to:

(a) reinsurance;

(b) policies or contracts not issued for delivery in ~~this--state~~ Montana or delivered in ~~this-state~~ Montana, except as provided in subsection (5);

(c) ocean marine and foreign trade insurances.

(7) ~~As~~ Except as provided in chapter 21, ~~to~~ group certificates that are delivered or issued for delivery in

Montana for group insurance policies effectuated and delivered outside ~~this--state~~ Montana but covering persons resident in ~~this-state~~ Montana~~,---group--certificates--which are--delivered--or--issued--for-delivery-in-this-state-shall~~ must be filed with the commissioner upon his request."

Section 2. Section 33-21-102, MCA, is amended to read:

"33-21-102. **Purpose and scope.** (1) The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit disability insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. The provisions of this chapter shall be liberally construed.

(2) ~~All~~ Except as provided in subsection (3), this chapter applies to each policy, certificate of insurance, notice of proposed insurance, binder, endorsement, and rider of life insurance and ~~all~~ disability insurance ~~sold~~ delivered or issued for delivery in Montana in connection with loans or other credit transactions for personal, family, or household purposes. ~~shall--be--subject-to-the provisions-of-this-chapter-except-such-insurance-sold~~

(3) This chapter does not apply to life insurance or disability insurance delivered or issued for delivery in connection with:

(a) a loan or other credit transaction of more than 15 years' duration;

(b) a credit transaction that is:

(i) secured by a first mortgage or deed of trust; and

(ii) made to finance the purchase of real property or the construction of a dwelling thereon or to refinance a prior credit transaction made for that purpose; or

(c) a credit transaction that is an isolated transaction on the part of the insurer and that is not related to an agreement or a plan for insuring debtors of the creditor."

Section 3. Section 33-21-103, MCA, is amended to read:

"33-21-103. **Definitions.** ~~Per-the-purposes-of~~ As used in this chapter, the following definitions apply:

(1) "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(3) "Creditor" means:

(a) ~~the~~ a lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction ~~or~~;

(b) any successor to the right, title, or interest of ~~such~~ a lender, vendor, or lessor~~.~~;

(c) an affiliate, associate, or subsidiary of a lender, vendor, or lessor;

(d) a director, officer, or employee of a lender, vendor, or lessor; or

(e) any other person in any way associated with a lender, vendor, or lessor.

(4) "Credit transaction" means a transaction by the terms of which, at a future date:

(a) repayment of money loaned is made;

(b) a loan commitment is made; or

(c) payment for goods, services, or property sold or leased is made.

~~(4)~~(5) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

~~(5)~~(6) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

(7) "Open-end credit" means credit extended by a creditor under an agreement in which:

(a) the creditor reasonably contemplates repeated transactions;

(b) the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

(c) the amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid."

Section 4. Section 33-21-104, MCA, is amended to read:

"33-21-104. **Existing insurance -- choice of insurer.** When credit life insurance or credit disability insurance is required as additional security for ~~any~~ an indebtedness, the debtor ~~shall~~, upon request to the creditor, ~~have~~ has the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through ~~any~~ an insurer authorized to transact ~~an~~ insurance ~~business~~ within ~~this state~~ Montana."

Section 5. Section 33-21-105, MCA, is amended to read:

"33-21-105. **Claims.** (1) ~~All claims shall~~ A claim must be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. ~~All claims shall~~ A claim must be settled as soon as possible and in accordance with the terms of the insurance contract.

(2) ~~All claims shall~~ A claim must be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions or upon direction of ~~such~~ the claimant to one specified.

(3) No plan or arrangement ~~shall~~ may be used whereby ~~any~~ a person, ~~firm~~ partnership, or corporation other than the insurer or its designated claim representative ~~shall be~~ is authorized to settle or adjust claims. The creditor ~~shall~~ may not be designated as claim representative for the insurer in adjusting claims, except that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer."

Section 6. Section 33-21-113, MCA, is amended to read:

"33-21-113. **Penalties.** In addition to any penalty provided by law, ~~any~~ a person who violates an order of the commissioner after it has become final and while ~~such~~ the order is in effect shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of Montana a sum not to exceed $250 which may be recovered in a civil action, except that if ~~such~~ the violation is found to be willful, the amount of ~~such~~ the penalty ~~shall be~~ is a sum not to exceed $1,000. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, partnership, or corporation guilty of such violation. ~~Such~~ The order for suspension or revocation ~~shall be~~ is subject to judicial review as provided in 33-1-711."

Section 7. Section 33-21-201, MCA, is amended to read:

"**33-21-201. Form of issuance.** ~~Credit~~ An insurer may deliver or issue for delivery credit life insurance and credit disability insurance ~~shall be issued~~ only in the following forms:

(1) individual policies of life insurance issued to debtors on ~~the~~ a term plan;

(2) individual policies of disability insurance issued to debtors on a term plan or disability benefit provisions in individual ~~life~~ policies ~~to provide such coverage~~ of credit life insurance;

(3) group policies of life insurance issued to creditors providing insurance upon the lives of debtors on ~~the~~ a term plan;

(4) group policies of disability insurance issued to creditors on a term plan insuring debtors or disability provisions in group credit life insurance policies to provide such coverage."

Section 8. Section 33-21-202, MCA, is amended to read:

"**33-21-202. Amount.** (1) The initial amount of credit life insurance ~~shall be equal to the~~ may not exceed the total amount repayable under the contract of indebtedness~~,~~. ~~provided that the original indebtedness does not exceed the sum of $15,000. If the original indebtedness exceeds the sum of $15,000, the amount of credit life insurance shall not~~

~~exceed the indebtedness. Where~~ If an indebtedness is repayable in substantially equal installments, ~~is secured by an individual policy~~ the amount of credit life insurance~~,~~ ~~the amount of insurance shall~~ may not exceed the ~~approximate~~ scheduled or actual amount of unpaid indebtedness on the date of death, ~~and where secured by a group policy of credit life insurance shall not exceed the exact amount of unpaid indebtedness on such date~~ whichever is greater. The amount of credit life insurance written in connection with:

(a) a credit transaction repayable over a term in excess of 63 months or, at the option of the insurer, for a shorter term may not exceed the actual amount of unpaid indebtedness on the date of death, ~~less~~ EXCLUDING any:

(i) unearned interest or finance charges; and

(ii) delinquency or extension exceeding 4 months;

(b) an open-end credit agreement having a credit limit exceeding $10,000 may not exceed the plan's credit limit;

~~Except, that~~

(c) an agricultural ~~loans~~ loan commitment not exceeding 1 year may ~~be written up to~~ not exceed the amount of the loan commitment on a nondecreasing or level term plan; and

(d) an education loan commitment may be for the amount of the portion of the commitment that has not been advanced by the creditor.

(2) The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, ~~shall-be-equal-to~~ may not exceed:

(a) the aggregate of the periodic scheduled unpaid installments of indebtedness; and

(b) ~~shall-not-exceed~~ the original indebtedness divided by the number of periodic installments~~;--provided--that--the original-indebtedness-does-not-exceed-the-sum-of-$15,000.--If the--original--indebtedness--exceeds-the-sum-of-$15,000,-the amount-of-periodic-indemnity-payable--by--credit--disability insurance--in--the--event--of--disability,-as-defined-in-the policy,-shall-not--exceed--the--aggregate--of--the--periodic scheduled--unpaid-installments-of-indebtedness-and-shall-not exceed-the-original-indebtedness-divided-by--the--number--of periodic-installments~~."

Section 9. Section 33-21-203, MCA, is amended to read:

"**33-21-203. Term.** (1) The term of any credit life insurance or credit disability insurance ~~shall~~ commences, subject to acceptance by the insurer, ~~commence~~ on the date ~~when~~ on which the debtor becomes obligated to the creditor~~, except--that,--where~~. However, if a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to ~~such~~ the indebtedness ~~shall commence~~ commences on the effective date of the policy.

(2) When evidence of insurability is required and the

evidence is furnished more than 30 days after the date on which the debtor becomes obligated to the creditor, the term of the insurance may commence on the date the insurer determines the evidence is satisfactory. In that event, the insurer shall make an appropriate refund or adjustment of any charge to the debtor for insurance.

(3) The term of ~~such~~ the insurance ~~shall~~ may not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor~~.~~, but the term of the insurance may be less than the term of the credit transaction to provide modified or partial coverage or extend beyond the maturity date to provide coverage consistent with 33-21-202(1)(a).

(4) If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force ~~shall~~ must be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund ~~shall~~ must be paid or credited as provided in 33-21-206."

Section 10. Section 33-21-204, MCA, is amended to read:

"**33-21-204. Policy or certificate delivered -- time of delivery -- provisions.** (1) All credit life insurance and credit disability insurance sold ~~shall~~ must be evidenced by

an individual policy or, in the case of group insurance, by a certificate of insurance, which individual policy or group certificate of insurance ~~shall~~ must be delivered to the debtor at the time the indebtedness is incurred except as hereinafter provided.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for ~~such~~ the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name ~~or--names~~ of ~~the~~ each debtor, the premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance coverage, the amount, term, and a brief description of the coverage provided or to be provided, ~~shall~~ must be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for or notice of proposed insurance must also ~~shall~~ refer exclusively to insurance coverage and ~~shall~~ must be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this section is prominently set forth therein. Upon approval by the insurer of the application for insurance~~,--if--any,~~ or acceptance of the insurance by the insurer and within 30 days of the date upon which the

indebtedness is incurred, the insurer shall ~~cause~~ deliver the individual policy or group certificate of insurance ~~to be--delivered~~ to the debtor. The application or notice of proposed insurance ~~shall~~ must state that, upon acceptance by the insurer, the insurance ~~shall-become~~ becomes effective as of the date the indebtedness is incurred. If the named insurer does not accept the risk, the debtor must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged. If the amount of premium is less than that set forth in the notice of proposed insurance, the insurer shall make an appropriate refund.

(3) Each individual policy or group certificate of credit life insurance and credit disability insurance ~~shall~~ must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name of each debtor or, in the case of a group certificate of insurance, ~~and~~ the identity by name or otherwise of the ~~person-or-persons-insured~~ debtor, the ~~rate~~ ~~premium~~ RATE or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance, a description of the coverages, including the amount and term thereof and any exceptions, limitations, or restrictions, and ~~shall~~ must state that the benefits ~~shall~~

must be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess ~~shall~~ must be payable to a beneficiary, other than the creditor, named by the debtor or to his estate. If the term of the insurance is less than the term of the loan, that fact must be stated on the face of the individual policy or group certificate in not less than 10-point boldface type.

(4) For the purposes of subsections (1) and (2), an individual policy or group certificate of insurance delivered in connection with an open-end credit agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred."

Section 11. Section 33-21-205, MCA, is amended to read:

"**33-21-205. Filing, approval, and withdrawal of forms -- and rates -- disapproval.** (1) With respect to credit life insurance or credit disability insurance:

(a) ~~All policies~~ a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements~~ endorsement, ~~and riders shall be~~ or rider may not be delivered or issued for delivery in Montana unless it has been filed with and approved by the ~~commission~~ commissioner, in accordance with 33-1-501, and the regulatory official of the state in which ~~the policy~~ it is issued; and

(b) a schedule of premium rates pertaining to a policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement, or rider may not be used in Montana unless it has been filed with the commissioner.

(2) ~~The~~ ~~In~~ WITH RESPECT TO CREDIT LIFE INSURANCE OR CREDIT DISABILITY INSURANCE AND IN accordance with 33-1-501, the commissioner may ~~within 30 days after the filing of all policies~~ disapprove a policy, ~~certificates~~ certificate of insurance, ~~notices~~ notice of proposed insurance, ~~applications~~ application for insurance, ~~binders~~ binder, ~~endorsements, and riders, in addition to other requirements of law, disapprove any such form~~ endorsement, or rider:

(a) for a reason listed in 33-1-502;

(b) if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits; or

(c) if it contains provisions ~~which~~ that are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of ~~such policy~~ the insurance.

(3) If the commissioner notifies the insurer that ~~the~~ a form ~~does not comply with this section~~ is disapproved, it

is unlawful ~~thereafter~~ for ~~such~~ the insurer to issue or use ~~such~~ the form. ~~In--such--notice,--the--commissioner-shall specify-the-reason-for-his--disapproval--and--state--that--a hearing--will--be--granted--within--20-days-after-request-in writing-by-the--insurer.--No--such--policy,--certificate--of insurance,-notice-of-proposed-insurance,-and-no-application, binder,--endorsement,-or-rider-shall-be-issued-or-used-until the-expiration-of-30-days-after-it-has-been-so-filed,-unless the-commissioner-gives-his-prior-written--approval--thereto.~~

~~(4)--The-commissioner-may,-at-any-time-after-a-hearing, of--which-not-less-than-20-days'-written-notice-was-given-to the-insurer,-withdraw-his-approval-of-any-such-form--on--any of-such-grounds.~~

~~(5)--It--is--not--lawful--for-the-insurer-to-issue-such forms--or--use--them--after--the--effective--date--of---such withdrawal-of-approval.~~

~~(6)~~(4) ~~Any~~ AN INSURER MAY NOT ISSUE OR USE A FORM AFTER THE COMMISSIONER WITHDRAWS APPROVAL OF THE FORM PURSUANT TO 33-1-501. An order or final determination of the commissioner under ~~the-provisions-of~~ this section ~~shall-be~~ is subject to judicial review."

Section 12. Section 33-21-206, MCA, is amended to read:

"**33-21-206. Premiums and refunds.** (1) Each insurer issuing credit life insurance or credit disability insurance

shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise ~~such~~ the schedules from time to time and shall file ~~such~~ the revised schedules with the commissioner. No insurer ~~shall~~ may issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by 33-21-205.

(2) Each individual policy, group certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must provide that, if ~~in-the-event-of-termination-of~~ the insurance ~~prior to~~ is terminated before the scheduled maturity date of the indebtedness, any refund of premium ~~due-shall~~ or amount paid by the debtor for insurance must be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds ~~shall~~ must be filed with and approved by the commissioner.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit

disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to ~~such~~ the debtor and shall promptly make an appropriate credit to the account.

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

(5) Nothing in this chapter may be construed to authorize any payments for insurance prohibited under a statute, or rule thereunder, governing credit transactions."

Section 13. Section 33-21-207, MCA, is amended to read:

"33-21-207. **Issuance of policies.** ~~All policies~~ Each policy, certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must be delivered or issued for delivery in ~~this state~~ Montana only by an insurer authorized to ~~do an~~ transact insurance ~~business therein~~ in Montana and ~~shall~~ must, EXCEPT AS PROVIDED IN 33-17-103, be issued only through ~~holders of licenses or authorizations issued by the commissioner~~ A LICENSED INSURANCE AGENT."

NEW SECTION. **Section 14. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

NEW SECTION. **Section 15. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-