

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.

INTRODUCED BY

House BILL NO. 262
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

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

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

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

19 (a) reinsurance;
 20 (b) policies or contracts not issued for delivery in
 21 this--state Montana or delivered in this-state Montana,
 22 except as provided in subsection (5);

23 (c) ocean marine and foreign trade insurances.

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

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

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

7 "33-21-102. Purpose and scope. (1) The purpose of this
 8 chapter is to promote the public welfare by regulating
 9 credit life insurance and credit disability insurance.
 10 Nothing in this chapter is intended to prohibit or
 11 discourage reasonable competition. The provisions of this
 12 chapter shall be liberally construed.

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

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

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

1 (b) a credit transaction that is:
 2 (i) secured by a first mortgage or deed of trust; and
 3 (ii) made to finance the purchase of real property or
 4 the construction of a dwelling thereon or to refinance a
 5 prior credit transaction made for that purpose; or
 6 (c) a credit transaction that is an isolated
 7 transaction on the part of the insurer and that is not
 8 related to an agreement or a plan for insuring debtors of
 9 the creditor."

10 **Section 3.** Section 33-21-103, MCA, is amended to read:
 11 **"33-21-103. Definitions. For the purposes of As used**
 12 **in this chapter, the following definitions apply:**

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

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

20 (3) "Creditor" means:

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

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

1 (c) an affiliate, associate, or subsidiary of a
 2 lender, vendor, or lessor;
 3 (d) a director, officer, or employee of a lender,
 4 vendor, or lessor; or
 5 (e) any other person in any way associated with a
 6 lender, vendor, or lessor.
 7 (4) "Credit transaction" means a transaction by the
 8 terms of which, at a future date:
 9 (a) repayment of money loaned is made;
 10 (b) a loan commitment is made; or
 11 (c) payment for goods, services, or property sold or
 12 leased is made.
 13 ~~††~~(5) "Debtor" means a borrower of money or a
 14 purchaser or lessee of goods, services, property, rights, or
 15 privileges for which payment is arranged through a credit
 16 transaction.
 17 ~~††~~(6) "Indebtedness" means the total amount payable
 18 by a debtor to a creditor in connection with a loan or other
 19 credit transaction.
 20 (7) "Open-end credit" means credit extended by a
 21 creditor under an agreement in which:
 22 (a) the creditor reasonably contemplates repeated
 23 transactions;
 24 (b) the creditor imposes a finance charge from time to
 25 time on an outstanding unpaid balance; and

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

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

6 **"33-21-104.** Existing insurance -- choice of insurer.
 7 When credit life insurance or credit disability insurance is
 8 required as additional security for any an indebtedness, the
 9 debtor shall, upon request to the creditor, have has the
 10 option of furnishing the required amount of insurance
 11 through existing policies of insurance owned or controlled
 12 by him or of procuring and furnishing the required coverage
 13 through any an insurer authorized to transact an insurance
 14 business within this-state Montana."

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

16 **"33-21-105.** Claims. (1) ~~All-claims-shall~~ A claim must
 17 be promptly reported to the insurer or its designated claim
 18 representative, and the insurer shall maintain adequate
 19 claim files. ~~All-claims--shall~~ A claim must be settled as
 20 soon as possible and in accordance with the terms of the
 21 insurance contract.

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

1 such the claimant to one specified.

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

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

12 **"33-21-113.** Penalties. In addition to any penalty
 13 provided by law, any a person who violates an order of the
 14 commissioner after it has become final and while such the
 15 order is in effect shall, upon proof thereof to the
 16 satisfaction of the court, forfeit and pay to the state of
 17 Montana a sum not to exceed \$250 which may be recovered in a
 18 civil action, except that if such the violation is found to
 19 be willful, the amount of such the penalty shall-be is a sum
 20 not to exceed \$1,000. The commissioner, in his discretion,
 21 may revoke or suspend the license or certificate of
 22 authority of the person, partnership, or corporation guilty
 23 of such violation. Such The order for suspension or
 24 revocation shall--be is subject to judicial review as
 25 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 commence, 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

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

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

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

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

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

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

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

17 "33-21-205. Filing, approval, and withdrawal of forms
 18 -- and rates -- disapproval. (1) With respect to credit life
 19 insurance or credit disability insurance:

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

1 commissioner, in accordance with 33-1-501, and the
 2 regulatory official of the state in which the-policy it is
 3 issued; and
 4 (b) a schedule of premium rates pertaining to a
 5 policy, certificate of insurance, notice of proposed
 6 insurance, application for insurance, binder, endorsement,
 7 or rider may not be used in Montana unless it has been filed
 8 with the commissioner.

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

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

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

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

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

1 such the form. In such notice, the commissioner shall
 2 specify the reason for his disapproval and state that a
 3 hearing will be granted within 20 days after request in
 4 writing by the insurer. No such policy, certificate of
 5 insurance, notice of proposed insurance, and no application,
 6 binder, endorsement, or rider shall be issued or used until
 7 the expiration of 30 days after it has been so filed, unless
 8 the commissioner gives his prior written approval thereto.
 9 (4) The commissioner may at any time after a hearing
 10 of which not less than 20 days' written notice was given to
 11 the insurer, withdraw his approval of any such form on any
 12 of such grounds.
 13 (5) It is not lawful for the insurer to issue such
 14 forms or use them after the effective date of such
 15 withdrawal of approval.
 16 (6)(4) Any An order or final determination of the
 17 commissioner under the provisions of this section shall be
 18 is subject to judicial review."

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

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

1 file such the revised schedules with the commissioner. No
 2 insurer shall may issue any credit life insurance policy or
 3 credit disability insurance policy for which the premium
 4 rate exceeds that determined by the schedules of such
 5 insurer as then on file with the commissioner. The
 6 commissioner may require the filing of the schedule of
 7 premium rates for use in connection with and as a part of
 8 the specific policy filings as provided by 33-21-205.
 9 (2) Each individual policy, group certificate of
 10 insurance, or notice of proposed insurance of credit life
 11 insurance and credit disability insurance shall must provide
 12 that, if in-the-event-of-termination-of the insurance prior
 13 to is terminated before the scheduled maturity date of the
 14 indebtedness, any refund of premium due shall or amount paid
 15 by the debtor for insurance must be paid or credited
 16 promptly to the person entitled thereto; provided, however,
 17 that the commissioner shall prescribe a minimum refund and
 18 no refund which would be less than such minimum need be
 19 made. The formula to be used in computing refunds shall
 20 must be filed with and approved by the commissioner.

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

1 promptly make an appropriate credit to the account.

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

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

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

11 "33-21-207. Issuance of policies. All-policies Each
12 policy, certificate of insurance, or notice of proposed
13 insurance of credit life insurance and credit disability
14 insurance shall must be delivered or issued for delivery in
15 this--state Montana only by an insurer authorized to do-an
16 transact insurance business-therein in Montana and shall
17 must be issued only through holders of licenses or
18 authorizations issued by the commissioner."

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

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

1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 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.

(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

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

7 (5) This section shall apply also to any such
 8 a form used by a domestic insurers insurer for delivery in a
 9 jurisdiction outside this-state Montana if the insurance
 10 supervisory official of such the jurisdiction informs the
 11 commissioner that such the form is not subject to approval
 12 or disapproval by such the official and upon the
 13 commissioner's order requiring the form to be submitted to
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 3 resident in this-state Montana,--group--certificates--which
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13 (2) All Except as provided in subsection (3), this
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 15 notice of proposed insurance, binder, endorsement, and rider
 16 of life insurance and all disability insurance sold
 17 delivered or issued for delivery in Montana in connection
 18 with loans or other credit transactions for personal,
 19 family, or household purposes. shall--be--subject-to-the
 20 provisions-of-this-chapter-except-such-insurance-sold

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

- 24 (a) a loan or other credit transaction of more than 15
- 25 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

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

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

6 "33-21-104. Existing insurance -- choice of insurer.
 7 When credit life insurance or credit disability insurance is
 8 required as additional security for any an indebtedness, the
 9 debtor shall, upon request to the creditor, have has the
 10 option of furnishing the required amount of insurance
 11 through existing policies of insurance owned or controlled
 12 by him or of procuring and furnishing the required coverage
 13 through any an insurer authorized to transact an insurance
 14 business within this-state Montana."

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

16 "33-21-105. Claims. (1) All-claims-shall A claim must
 17 be promptly reported to the insurer or its designated claim
 18 representative, and the insurer shall maintain adequate
 19 claim files. All--claims--shall A claim must be settled as
 20 soon as possible and in accordance with the terms of the
 21 insurance contract.

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

1 such the claimant to one specified.

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

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

12 "33-21-113. Penalties. In addition to any penalty
 13 provided by law, any a person who violates an order of the
 14 commissioner after it has become final and while such the
 15 order is in effect shall, upon proof thereof to the
 16 satisfaction of the court, forfeit and pay to the state of
 17 Montana a sum not to exceed \$250 which may be recovered in a
 18 civil action, except that if such the violation is found to
 19 be willful, the amount of such the penalty shall-be is a sum
 20 not to exceed \$1,000. The commissioner, in his discretion,
 21 may revoke or suspend the license or certificate of
 22 authority of the person, partnership, or corporation guilty
 23 of such violation. Such The order for suspension or
 24 revocation shall--be is subject to judicial review as
 25 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.

1 (2) The amount of periodic indemnity payable by credit
 2 disability insurance in the event of disability, as defined
 3 in the policy, ~~shall be equal to may not exceed:~~
 4 (a) the aggregate of the periodic scheduled unpaid
 5 installments of indebtedness; and
 6 (b) ~~shall not exceed~~ the original indebtedness divided
 7 by the number of periodic installments; ~~provided--that--the~~
 8 ~~original indebtedness does not exceed the sum of \$15,000--if~~
 9 ~~the original indebtedness exceeds the sum of \$15,000, the~~
 10 ~~amount of periodic indemnity payable by credit disability~~
 11 ~~insurance in the event of disability, as defined in the~~
 12 ~~policy, shall not exceed the aggregate of the periodic~~
 13 ~~scheduled unpaid installments of indebtedness and shall not~~
 14 ~~exceed the original indebtedness divided by the number of~~
 15 ~~periodic installments."~~

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

17 "33-21-203. Term. (1) The term of any credit life
 18 insurance or credit disability insurance shall commence,
 19 subject to acceptance by the insurer, commence on the date
 20 when on which the debtor becomes obligated to the creditor,
 21 except--that,--where. However, if a group policy provides
 22 coverage with respect to existing obligations, the insurance
 23 on a debtor with respect to such the indebtedness shall
 24 commence commences on the effective date of the policy.

25 (2) When evidence of insurability is required and the

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

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

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

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

23 "33-21-204. Policy or certificate delivered -- time of
 24 delivery -- provisions. (1) All credit life insurance and
 25 credit disability insurance sold shall must be evidenced by

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

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

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

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

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

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

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

17 **"33-21-205.** Filing, approval, and withdrawal of forms
 18 -- and rates -- disapproval. (1) With respect to credit life
 19 insurance or credit disability insurance:

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

1 commissioner, in accordance with 33-1-501, and the
 2 regulatory official of the state in which the policy it is
 3 issued; and
 4 (b) a schedule of premium rates pertaining to a
 5 policy, certificate of insurance, notice of proposed
 6 insurance, application for insurance, binder, endorsement,
 7 or rider may not be used in Montana unless it has been filed
 8 with the commissioner.

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

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

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

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

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

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

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

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

1 is unlawful thereafter for such the insurer to issue or use
 2 such the form. In-such--notice--the--commissioner--shall
 3 specify-the-reason-for-his-disapproval--and--state--that--a
 4 hearing--will--be--granted--within--20-days--after-request-in
 5 writing-by-the--insurer--No--such--policy--certificate--of
 6 insurance--notice-of-proposed-insurance--and-no-application--
 7 binder--endorsement--or-rider--shall-be-issued-or-used-until
 8 the-expiration-of-30-days-after-it-has-been-so-filed--unless
 9 the-commissioner-gives-his-prior-written-approval--thereto.
 10 {4}--The-commissioner-may--at-any-time-after-a-hearing
 11 of--which-not-less-than-20-days--written-notice-was-given-to
 12 the-insurer--withdraw-his-approval-of-any-such-form--on--any
 13 of-such-grounds:
 14 {5}--it--is--not--lawful--for-the-insurer-to-issue-such
 15 forms--or--use--them--after--the--effective--date--of--such
 16 withdrawal-of-approval:

17 {6}{4} Any AN INSURER MAY NOT ISSUE OR USE A FORM
 18 AFTER THE COMMISSIONER WITHDRAWS APPROVAL OF THE FORM
 19 PURSUANT TO 33-1-501. An order or final determination of the
 20 commissioner under the-provisions-of this section shall-be
 21 is subject to judicial review."

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

24 "33-21-206. Premiums and refunds. (1) Each insurer
 25 issuing credit life insurance or credit disability insurance

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

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

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

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

14 "33-21-207. Issuance of policies. All policies Each
 15 policy, certificate of insurance, or notice of proposed
 16 insurance of credit life insurance and credit disability
 17 insurance shall must be delivered or issued for delivery in
 18 this--state Montana only by an insurer authorized to do an
 19 transact insurance business--therein in Montana and shall
 20 must, EXCEPT AS PROVIDED IN 33-17-103, be issued only
 21 through holders-of-licenses--or-authorizations-issued-by--the
 22 commissioner A LICENSED INSURANCE AGENT."

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

1 [this act].

2 **NEW SECTION. Section 15.** Severability. If a part of
 3 [this act] is invalid, all valid parts that are severable
 4 from the invalid part remain in effect. If a part of [this
 5 act] is invalid in one or more of its applications, the part
 6 remains in effect in all valid applications that are
 7 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

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

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

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

- 19 (a) reinsurance;
- 20 (b) policies or contracts not issued for delivery in
- 21 this--state Montana or delivered in this-state Montana,
- 22 except as provided in subsection (5);
- 23 (c) ocean marine and foreign trade insurances.
- 24 (7) As Except as provided in chapter 21, to group
- 25 certificates that are delivered or issued for delivery in

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

6 **Section 2.** Section 33-21-102, MCA, is amended to read:
 7 "33-21-102. Purpose and scope. (1) The purpose of this
 8 chapter is to promote the public welfare by regulating
 9 credit life insurance and credit disability insurance.
 10 Nothing in this chapter is intended to prohibit or
 11 discourage reasonable competition. The provisions of this
 12 chapter shall be liberally construed.

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

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

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

(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.
 (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.
 (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

(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; or

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

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

6 "33-21-104. Existing insurance -- choice of insurer.
 7 When credit life insurance or credit disability insurance is
 8 required as additional security for any an indebtedness, the
 9 debtor shall, upon request to the creditor, have has the
 10 option of furnishing the required amount of insurance
 11 through existing policies of insurance owned or controlled
 12 by him or of procuring and furnishing the required coverage
 13 through any an insurer authorized to transact an insurance
 14 business within this-state Montana."

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

16 "33-21-105. Claims. (1) All-claims-shall A claim must
 17 be promptly reported to the insurer or its designated claim
 18 representative, and the insurer shall maintain adequate
 19 claim files. All--claims--shall A claim must be settled as
 20 soon as possible and in accordance with the terms of the
 21 insurance contract.

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

1 such the claimant to one specified.

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

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

12 "33-21-113. Penalties. In addition to any penalty
 13 provided by law, any a person who violates an order of the
 14 commissioner after it has become final and while such the
 15 order is in effect shall, upon proof thereof to the
 16 satisfaction of the court, forfeit and pay to the state of
 17 Montana a sum not to exceed \$250 which may be recovered in a
 18 civil action, except that if such the violation is found to
 19 be willful, the amount of such the penalty shall-be is a sum
 20 not to exceed \$1,000. The commissioner, in his discretion,
 21 may revoke or suspend the license or certificate of
 22 authority of the person, partnership, or corporation guilty
 23 of such violation. Such The order for suspension or
 24 revocation shall--be is subject to judicial review as
 25 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.

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

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

6 (b) shall not exceed the original indebtedness divided
7 by the number of periodic installments,--provided--that--the
8 original--indebtedness--does--not--exceed--the--sum--of--\$15,000--if
9 the--original--indebtedness--exceeds--the--sum--of--\$15,000--the
10 amount--of--periodic--indemnity--payable--by--credit--disability
11 insurance--in--the--event--of--disability,--as--defined--in--the
12 policy,--shall--not--exceed--the--aggregate--of--the--periodic
13 scheduled--unpaid--installments--of--indebtedness--and--shall--not
14 exceed--the--original--indebtedness--divided--by--the--number--of
15 periodic--installments."

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

17 "33-21-203. Term. (1) The term of any credit life
18 insurance or credit disability insurance shall commence,
19 subject to acceptance by the insurer, commence on the date
20 when on which the debtor becomes obligated to the creditor;
21 except--that,--where. However, if a group policy provides
22 coverage with respect to existing obligations, the insurance
23 on a debtor with respect to such the indebtedness shall
24 commence commences on the effective date of the policy.

25 (2) When evidence of insurability is required and the

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

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

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

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

23 "33-21-204. Policy or certificate delivered -- Time of
24 delivery -- provisions. (1) All credit life insurance and
25 credit disability insurance sold shall must be evidenced by

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

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

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

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

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

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

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

17 "33-21-205. Filing, approval, and withdrawal of forms
 18 -- and rates -- disapproval. (1) With respect to credit life
 19 insurance or credit disability insurance:

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

1 commissioner, in accordance with 33-1-501, and the
 2 regulatory official of the state in which the-policy it is
 3 issued; and
 4 (b) a schedule of premium rates pertaining to a
 5 policy, certificate of insurance, notice of proposed
 6 insurance, application for insurance, binder, endorsement,
 7 or rider may not be used in Montana unless it has been filed
 8 with the commissioner.

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

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

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

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

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

1 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

1 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

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

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

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

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

14 "33-21-207. Issuance of policies. All policies Each
 15 policy, certificate of insurance, or notice of proposed
 16 insurance of credit life insurance and credit disability
 17 insurance shall must be delivered or issued for delivery in
 18 this--state Montana only by an insurer authorized to do-an
 19 transact insurance business--therein in Montana and shall
 20 must, EXCEPT AS PROVIDED IN 33-17-103, be issued only
 21 through holders-of-licenses-or-authorizations-issued-by--the
 22 commissioner A LICENSED INSURANCE AGENT."

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

1 [this act].

2 **NEW SECTION. Section 15.** Severability. If a part of

3 [this act] is invalid, all valid parts that are severable
 4 from the invalid part remain in effect. If a part of [this
 5 act] is invalid in one or more of its applications, the part
 6 remains in effect in all valid applications that are
 7 severable from the invalid applications.

-End-

SENATE STANDING COMMITTEE REPORT

February 28, 1989

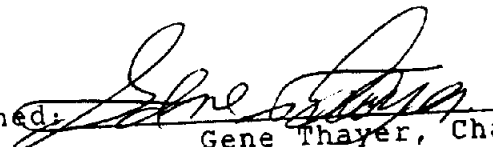
MR. PRESIDENT:

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, 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 thereof--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

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

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

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

- 19 (a) reinsurance;
- 20 (b) policies or contracts not issued for delivery in
- 21 this--state Montana or delivered in this-state Montana,
- 22 except as provided in subsection (5);
- 23 (c) ocean marine and foreign trade insurances.
- 24 (7) As Except as provided in chapter 21, to group
- 25 certificates, that are delivered or issued for delivery in

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

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

7 "33-21-102. Purpose and scope. (1) The purpose of this
 8 chapter is to promote the public welfare by regulating
 9 credit life insurance and credit disability insurance.
 10 Nothing in this chapter is intended to prohibit or
 11 discourage reasonable competition. The provisions of this
 12 chapter shall be liberally construed.

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

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

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

1 (b) a credit transaction that is:

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

3 (ii) made to finance the purchase of real property or

4 the construction of a dwelling thereon or to refinance a

5 prior credit transaction made for that purpose; or

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

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

11 **"33-21-103. Definitions. For the purposes of As used**

12 **in this chapter, the following definitions apply:**

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

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

20 (3) "Creditor" means:

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

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

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

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

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

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

9 (a) repayment of money loaned is made;

10 (b) a loan commitment is made; or

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

13 (4)(5) "Debtor" means a borrower of money or a
14 purchaser or lessee of goods, services, property, rights, or
15 privileges for which payment is arranged through a credit
16 transaction.

17 (5)(6) "Indebtedness" means the total amount payable
18 by a debtor to a creditor in connection with a loan or other
19 credit transaction.

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

22 (a) the creditor reasonably contemplates repeated
23 transactions;

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

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

5 **Section 4.** Section 33-21-104, MCA, is amended to read:
 6 "33-21-104. Existing insurance -- choice of insurer.
 7 When credit life insurance or credit disability insurance is
 8 required as additional security for any an indebtedness, the
 9 debtor shall, upon request to the creditor, have has the
 10 option of furnishing the required amount of insurance
 11 through existing policies of insurance owned or controlled
 12 by him or of procuring and furnishing the required coverage
 13 through any an insurer authorized to transact an insurance
 14 business within this-state Montana."

15 **Section 5.** Section 33-21-105, MCA, is amended to read:
 16 "33-21-105. Claims. (1) All-claims-shall A claim must
 17 be promptly reported to the insurer or its designated claim
 18 representative, and the insurer shall maintain adequate
 19 claim files. All--claims--shall A claim must be settled as
 20 soon as possible and in accordance with the terms of the
 21 insurance contract.

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

1 such the claimant to one specified.

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

11 **Section 6.** Section 33-21-113, MCA, is amended to read:
 12 "33-21-113. Penalties. In addition to any penalty
 13 provided by law, any a person who violates an order of the
 14 commissioner after it has become final and while such the
 15 order is in effect shall, upon proof thereof to the
 16 satisfaction of the court, forfeit and pay to the state of
 17 Montana a sum not to exceed \$250 which may be recovered in a
 18 civil action, except that if such the violation is found to
 19 be willful, the amount of such the penalty shall-be is a sum
 20 not to exceed \$1,000. The commissioner, in his discretion,
 21 may revoke or suspend the license or certificate of
 22 authority of the person, partnership, or corporation guilty
 23 of such violation. Such The order for suspension or
 24 revocation shall--be is subject to judicial review as
 25 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.

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

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

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

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

17 "33-21-203. Term. (1) The term of any credit life
18 insurance or credit disability insurance shall commence,
19 subject to acceptance by the insurer, commence on the date
20 when on which the debtor becomes obligated to the creditor;
21 except--that;--where, However, if a group policy provides
22 coverage with respect to existing obligations, the insurance
23 on a debtor with respect to such the indebtedness shall
24 commence commences on the effective date of the policy.

25 (2) When evidence of insurability is required and the

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

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

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

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

23 "33-21-204. Policy or certificate delivered -- time of
24 delivery -- provisions. (1) All credit life insurance and
25 credit disability insurance sold shall must be evidenced by

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

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

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

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

1 must be paid to the creditor to reduce or extinguish the
 2 unpaid indebtedness and, wherever the amount of insurance
 3 may exceed the unpaid indebtedness, that any such excess
 4 shall must be payable to a beneficiary, other than the
 5 creditor, named by the debtor or to his estate. If the term
 6 of the insurance is less than the term of the loan, that
 7 fact must be stated on the face of the individual policy or
 8 group certificate in not less than 10-point boldface type.
 9 (4) For the purposes of subsections (1) and (2), an
 10 individual policy or group certificate of insurance
 11 delivered in connection with an open-end credit agreement is
 12 considered to be delivered at the time the indebtedness is
 13 incurred if delivery occurs on or before the date the
 14 indebtedness is incurred."

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

17 "33-21-205. Filing, approval, and withdrawal of forms
 18 -- and rates -- disapproval. (1) With respect to credit life
 19 insurance or credit disability insurance:

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

1 commissioner, in accordance with 33-1-501, and the
 2 regulatory official of the state in which the policy it is
 3 issued; and
 4 (b) a schedule of premium rates pertaining to a
 5 policy, certificate of insurance, notice of proposed
 6 insurance, application for insurance, binder, endorsement,
 7 or rider may not be used in Montana unless it has been filed
 8 with the commissioner.

9 (2) The in WITH RESPECT TO CREDIT LIFE INSURANCE OR
 10 CREDIT DISABILITY INSURANCE AND IN accordance with 33-1-501,
 11 the commissioner may within-30 days-after-the-filing-of--all
 12 policies disapprove a policy, certificates certificate of
 13 insurance, notices notice of proposed insurance,
 14 applications application for insurance, binders binder,
 15 endorsements- and-riders- in-addition-to-other--requirements
 16 of-law-7-disapprove-any-such-form endorsement, or rider:

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

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

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

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

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

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

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

1 is unlawful thereafter for such the insurer to issue or use
 2 such the form. in--such--notice--the--commissioner--shall
 3 specify--the--reason--for--his--disapproval--and--state--that--a
 4 hearing--will--be--granted--within--30--days--after--request--in
 5 writing--by--the--insurer--No--such--policy--certificate--of
 6 insurance, notice-of-proposed-insurance, and-no-application,
 7 binder, endorsement, or-rider--shall--be--issued--or--used--until
 8 the--expiration--of--30--days--after--it--has--been--so--filed--unless
 9 the--commissioner--gives--his--prior--written--approval--thereto--
 10 (4)--The--commissioner--may, at--any--time--after--a--hearing
 11 of--which--not--less--than--30--days--written--notice--was--given--to
 12 the--insurer, withdraw--his--approval--of--any--such--form--on--any
 13 of--such--grounds:

14 (5)--it--is--not--lawful--for--the--insurer--to--issue--such
 15 forms--or--use--them--after--the--effective--date--of--such
 16 withdrawal--of--approval:

17 (6)(4) Any AN INSURER MAY NOT ISSUE OR USE A FORM
 18 AFTER THE COMMISSIONER WITHDRAWS APPROVAL OF THE FORM
 19 PURSUANT TO 33-1-501. An order or final determination of the
 20 commissioner under the provisions of this section shall be
 21 is subject to judicial review."

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

24 "33-21-206. Premiums and refunds. (1) Each insurer
 25 issuing credit life insurance or credit disability insurance

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

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

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

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

14 "33-21-207. Issuance of policies. ~~Att-policies~~ Each
 15 policy, certificate of insurance, or notice of proposed
 16 insurance of credit life insurance and credit disability
 17 insurance ~~shall~~ must be delivered or issued for delivery in
 18 ~~this--state~~ Montana only by an insurer authorized to do an
 19 transact insurance business ~~therein~~ in Montana and shall
 20 must, EXCEPT AS PROVIDED IN 33-17-103, be issued only
 21 through holders-of-licenses-or-authorizations-issued-by--the
 22 commissioner A LICENSED INSURANCE AGENT."

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

1 [this act].

2 **NEW SECTION. Section 15.** Severability. If a part of

3 [this act] is invalid, all valid parts that are severable
 4 from the invalid part remain in effect. If a part of [this
 5 act] is invalid in one or more of its applications, the part
 6 remains in effect in all valid applications that are
 7 severable from the invalid applications.

-End-