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ADVISORY RULING #104
MAY 12, 1994

May 12, 1994

Re: Involuntary Unemployment (Loss-Of-Income) Credit Insurance

Dear _____ :

This is in response to your letter of January 20, 1994 asking that we reconsider this office's historic opposition to allowing the cost of involuntary unemployment (loss-of-income) credit insurance to be excluded from the finance charge in a consumer credit transaction, under the Maine Consumer Credit Code ("the Code").

The Code does not currently contain a set of criteria or conditions under which involuntary unemployment insurance may be offered. This is in contrast to the specific requirements set forth in the Code for such types of insurance as collateral property insurance and credit life, accident or health coverage; e.g., a written statement from the creditor setting forth the cost of the credit; free choice of insurer; and specific written affirmation by the consumer; see 9-A M.R.S.A. §2-501(2) and §8-105(2), (3).

Because of the lack of specific protective criteria in the Code, the Bureau's position has always been that such charges could not be excluded from the finance charge. However, upon reconsideration, we are prepared to amend that position. The following are factors in this decision:

1. 9-A M.R.S.A. §1-301(19)(A)(7) specifically excludes premiums or other charges for loss-of-income insurance if the requirements of §2-501 and §8-105 are met.

2. Although neither §2-501 nor §8-105 specifically mentions loss-of-income insurance, §2-501(3) states that "any ... charges specifically excluded from the definition of 'finance charge' in section 1-301, subsection 19, are permissible charges in addition to, and excluded from the calculation of, maximum finance charges set forth in Parts 2 and 4."
3. Furthermore, Federal Regulation Z, enacted and incorporated into Maine regulation through Bureau Rule 240, Regulation Z-2, contains requirements which exactly parallel the requirements of §2-501 and §8-105. As set forth in 12 CFR 226.4(d)(1), the debtor must be told that loss-of-income insurance is not required by the creditor; the cost of such insurance must be disclosed; and the file must contain a document signed or initialed by the debtor requesting such insurance. Therefore, the specific protections missing from the Maine Consumer Credit Code are incorporated into Maine law through promulgation of Bureau Rule 240, Regulation Z-2.

This Advisory Ruling sets forth the conditions under which involuntary unemployment (loss-of-income) insurance may be offered by creditors in the State of Maine. Any creditors considering offering such a product, however, should also be mindful of the requirements of 9-A M.R.S.A. §4-106, which requires the administrator to review such products, weighing:

- 1) potential benefits to the consumer, including the satisfaction of the credit obligation;
- 2) the creditor's need for any protection provided by the insurance; and
- 3) the relationship between the size of the loan or credit extension, and the amount of insurance coverage provided.

We would apply the above criteria upon complaint by a consumer of excessive premiums, or of insufficient or unnecessary coverage.

Sincerely,

William N. Lund
Superintendent

WNL/bas