TITLE 28
COMMERCIAL TRANSACTIONS

CHAPTER 44
INSURANCE

PART 1.
INSURANCE IN GENERAL

28-44-101. SHORT TITLE. This chapter shall be known and may be cited as Idaho Credit Code - Insurance in Regulated Consumer Credit Transactions.

[28-44-101, added 1983, ch. 119, sec. 3, p. 287.]

28-44-102. SCOPE -- RELATION TO CREDIT INSURANCE ACT -- APPLICABILITY TO PARTIES. (1) Except as provided in subsection (2) of this section, this chapter applies to insurance provided or to be provided in relation to a regulated consumer credit transaction, as defined in section 28-41-301, Idaho Code.

(2) The provision on cancellation by a creditor, section 28-44-304, Idaho Code, applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

(3) This chapter supplements and does not repeal the credit insurance act, chapter 23, title 41, Idaho Code. The provisions of this act concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, as defined by title 41, Idaho Code, or rules prescribed by the director of the department of insurance.

[28-44-102, added 1983, ch. 119, sec. 3, p. 287; am. 2013, ch. 54, sec. 11, p. 120.]

28-44-103. CREDIT INSURANCE -- CREDIT INSURANCE ACT -- DEFINED. (1) In this act, "credit insurance" means insurance, other than insurance on property, by which the satisfaction of debt in whole or in part is a benefit provided, but does not include:

(a) Insurance provided in relation to a credit transaction in which a payment is scheduled more than fifteen (15) years after the extension of credit;

(b) Insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring debtors of the creditor; or

(c) Insurance indemnifying the creditor against loss due to the debtor's default.

(2) "Credit Insurance Act" means chapter 23, title 41, Idaho Code.

[28-44-103, added 1983, ch. 119, sec. 3, p. 288.]

28-44-104. CREDITOR'S PROVISION OF AND CHARGE FOR INSURANCE -- EXCESS AMOUNT OF CHARGE. (1) Except as otherwise provided in this chapter and subject to the provision on maximum charges, section 28-42-201, Idaho Code, a creditor may agree to provide insurance, and may contract for and receive a charge for insurance separate from and in addition to other charges. A creditor need not make a separate charge for insurance provided or required by

him. This act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

(2) The excess amount of a charge for insurance provided for in agreements in violation of this chapter is an excess charge for the purposes of the provisions of the chapter on remedies and penalties, chapter 45, title 28, Idaho Code, and of the provisions of the chapter on administration, chapter 46, title 28, Idaho Code, as to civil actions by the administrator, section 28-46-113, Idaho Code.

[28-44-104, added 1983, ch. 119, sec. 3, p. 288.]

28-44-105. CONDITIONS APPLYING TO INSURANCE TO BE PROVIDED BY CREDITOR. If a creditor agrees with a debtor to provide insurance:

(1) The insurance shall be evidenced by an individual policy, certificate of insurance, application or notice of proposed insurance, disclosed to debtor pursuant to the provisions of section 41-2308, Idaho Code; or

(2) The creditor shall promptly notify the debtor of any failure or delay in providing the insurance.

[28-44-105, added 1983, ch. 119, sec. 3, p. 288.]

28-44-106. UNCONSCIONABILITY. (1) In applying the provisions of this act on unconscionability, sections 28-45-106 and 28-46-111, Idaho Code, to a separate charge for insurance, consideration shall be given, among other factors, to:

(a) Potential benefits to the debtor including the satisfaction of his obligations;

(b) The creditor's need for the protection provided by the insurance; and

(c) The relation between the amount and terms of credit granted and the insurance benefits provided.

(2) If credit insurance otherwise complies with this chapter and other applicable law, neither the amount nor the term of the insurance nor the amount of a charge therefor is in itself unconscionable.

[28-44-106, added 1983, ch. 119, sec. 3, p. 288.]

28-44-107. MAXIMUM CHARGE BY CREDITOR FOR INSURANCE. (1) Except as provided in subsection (2) of this section, if a creditor contracts for or receives a separate charge for insurance, the amount charged to the debtor for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the debtor is determined, conforming to any rate filings required by law and made by the insurer with the director of the department of insurance.

(2) A creditor who provides credit insurance in relation to open-end credit, as defined in section 28-41-301, Idaho Code, may calculate the charge to the debtor in each billing cycle by applying the current premium rate to:

(a) The average daily unpaid balance of the debt in the cycle;

(b) The unpaid balance of the debt or a median amount within a specified range of unpaid balances of debt on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the finance charge, section 28-42-201, Idaho Code, but the specified range shall be the range used for that purpose; or

(c) The unpaid balances of principal calculated according to the actuarial method.

[28-44-107, added 1983, ch. 119, sec. 3, p. 289; am. 2013, ch. 54, sec. 12, p. 121; am. 2014, ch. 97, sec. 11, p. 274.]

28-44-108. REFUND OR CREDIT REQUIRED -- AMOUNT. (1) Upon prepayment in full of a regulated consumer credit sale or regulated consumer loan by the proceeds of credit insurance, the debtor or his estate is entitled to a refund of any portion of a separate charge for insurance which by reason of prepayment is retained by the creditor or returned to him by the insurer, unless the charge was computed from time to time on the basis of the balances of the debtor's account.

(2) This chapter does not require a creditor to grant a refund or credit to the debtor if all refunds and credits due to the debtor under this chapter amount to less than five dollars ($5.00), and except as provided in subsection (1) of this section, does not require the creditor to account to the debtor for any portion of a separate charge for insurance because:

(a) The insurance is terminated by performance of the insurer's obligation;

(b) The creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(c) The creditor receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law, or regulations prescribed by the director of the department of insurance.

(3) Except as provided in subsection (2) of this section, the creditor shall promptly make or cause to be made an appropriate refund or credit to the debtor with respect to any separate charge made to him for insurance if:

(a) The insurance is not provided or is provided for a shorter term than that for which the charge to the debtor for insurance was computed; or

(b) The insurance terminates prior to the end of the term for which it was written because of prepayment in full or otherwise.

(4) A refund or credit required by subsection (3) of this section is appropriate as to amount if it is computed according to a method prescribed or approved by the director of the department of insurance or a formula filed by the insurer with the director of the department of insurance at least thirty (30) days before the debtor's right to a refund or credit becomes determinable, unless the method or formula is employed after the director of the department of insurance notifies the insurer that he disapproves it.

[28-44-108, added 1983, ch. 119, sec. 3, p. 289; am. 1993, ch. 42, sec. 1, p. 114.]

28-44-109. EXISTING INSURANCE -- CHOICE OF INSURER. If a creditor requires insurance, upon notice to the creditor, the debtor, as provided in section 41-2313, Idaho Code, shall have the option of providing the required insurance through an existing policy of insurance owned or controlled by the debtor, or through a policy to be obtained and paid for by the debtor, but the creditor may for reasonable cause, as defined in section 41-1312, Idaho Code, decline the insurance provided by the debtor.

[28-44-109, added 1983, ch. 119, sec. 3, p. 290.]

28-44-110. CHARGE FOR INSURANCE IN CONNECTION WITH A DEFERRAL, REFINANCING, OR CONSOLIDATION -- DUPLICATE CHARGES. (1) A creditor may not contract for or receive a separate charge for insurance in connection with a deferral, section 28-42-302, Idaho Code, a refinancing, section 28-42-303, Idaho Code, or a consolidation, section 28-42-304, Idaho Code, unless:

(a) The debtor agrees at or before the time of the deferral, refinancing, or consolidation that the charge may be made;

(b) The debtor is or is to be provided with insurance for an amount or a term, or insurance of a kind, in addition to that to which he would have been entitled had there been no deferral, refinancing, or consolidation;

(c) The debtor receives a refund or credit on account of any unexpired term of existing insurance in the amount that would be required if the insurance were terminated, section 28-44-108, Idaho Code; and

(d) The charge does not exceed the amount permitted by this chapter, section 28-44-107, Idaho Code.

(2) A creditor may not contract for or receive a separate charge for insurance which duplicates insurance with respect to which the creditor has previously contracted for or received a separate charge.

[28-44-110, added 1983, ch. 119, sec. 3, p. 290.]

28-44-111. COOPERATION BETWEEN DEPARTMENTS. The director of the department of finance and the director of the department of insurance are authorized and directed to consult and assist one another in maintaining compliance with this chapter. They may jointly pursue investigations, prosecute suits, and take other official action, as may seem to them appropriate, if either of them is otherwise empowered to take the action. If the director is informed of a violation or suspected violation by an insurer of this chapter, or of the insurance laws, rules, and regulations of this state, he shall advise the director of the department of insurance of the circumstances.

[28-44-111, added 1983, ch. 119, sec. 3, p. 290.]

PART 2.
CREDIT INSURANCE

28-44-201. TERM OF INSURANCE. (1) Credit insurance provided by a creditor may be subject to the furnishing of evidence of insurability satisfactory to the insurer. Whether or not such evidence is required, the term of the insurance shall commence no later than when the debtor becomes obligated to the creditor or when the debtor applies for the insurance, whichever is later, except as follows:

(a) If any required evidence of insurability is not furnished until more than thirty (30) days after the term would otherwise commence, the term may commence on the date when the insurer determines the evidence to be satisfactory; or

(b) If the creditor provides insurance not previously provided covering debts previously created, the term may commence on the effective date of the policy.

(2) The originally scheduled term of the insurance shall extend at least until the due date of the last scheduled payment of the debt except as follows:

(a) If the insurance relates to an open-end consumer credit account, the term need only extend until the payment of the debt under the account and may be sooner terminated after at least thirty (30) days notice to the debtor; or

(b) If the debtor is advised in writing that the insurance will be written for a specified shorter time, the term need only extend until the end of the specified time.

(3) The term of the insurance shall not extend more than fifteen (15) days after the originally scheduled due date of the last scheduled payment of the debt unless it is extended without additional cost to the debtor or as an incident to a deferral, refinancing, or consolidation.

[28-44-201, added 1983, ch. 119, sec. 3, p. 291.]

28-44-202. AMOUNT OF INSURANCE. (1) Except as provided in subsection (2) of this section:

(a) In the case of credit insurance providing life coverage on an individual policy basis, the amount of insurance may not initially exceed the debt and, if the debt is payable in installments, may not at any time exceed the greater of the scheduled or actual amount of the debt. The amount of insurance provided under a group life insurance contract shall be subject to the applicable provisions of sections 41-2005 (debtor groups) and 41-2306 (amount of insurance), Idaho Code; or

(b) In the case of any other credit insurance, the total amount of periodic benefits payable may not exceed the total of scheduled unpaid installments of the debt, and the amount of any periodic benefit may not exceed the original amount of debt divided by the number of periodic installments in which it is payable.

(2) If credit insurance is provided in connection with an open-end consumer credit account, the amounts payable as insurance benefits may be reasonably commensurate with the amount of debt as it exists from time to time. If credit insurance is provided in connection with a commitment to grant credit in the future, the amounts payable as insurance benefits may be reasonably commensurate with the total from time to time of the amount of debt and the amount of the commitment. The amount of all group life insurance issued under this subsection shall further be subject to the applicable provisions of sections 41-2005 (debtor groups), 41-2306 (amount of insurance), and 41-2308 (provisions of policies and certificates of insurance--disclosure to debtors), Idaho Code.

[28-44-202, added 1983, ch. 119, sec. 3, p. 291.]

28-44-203. FILING AND APPROVAL OF RATES AND FORMS. (1) A creditor may not use a form or a schedule of premium rates or charges, the filing of which is required by this section, if the director of the department of insurance has disapproved the form or schedule and has notified the insurer of his disapproval. A creditor may not use a form or schedule unless:

(a) The form or schedule has been on file with the director of the department of insurance for thirty (30) days, or has earlier been approved by him; and

(b) The insurer has complied with this section with respect to the insurance.

(2) Except as provided in subsection (3) of this section, all policies, certificates of insurance, notices of proposed insurance, applications for

insurance, endorsements and riders relating to credit insurance delivered or issued for delivery in this state, and the schedules of premium rates or charges pertaining thereto, shall be filed by the insurer with the director of the department of insurance. Within thirty (30) days after the filing of any form or schedule, he shall disapprove it if the premium rates or charges are unreasonable in relation to the benefits provided under the form, or if the form contains provisions which are unjust, unfair, inequitable, or deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision of the Credit Insurance Act or of any rule or regulation promulgated thereunder.

(3) If a group policy has been delivered in another state, the forms to be filed by the insurer with the director of the department of insurance are the group certificates and notices of proposed insurance. He shall approve them if:

(a) They provide the information that would be required if the group policy were delivered in this state; and

(b) The applicable premium rates or charges do not exceed those established by his rules or regulations.

[28-44-203, added 1983, ch. 119, sec. 3, p. 292.]

PART 3.
PROPERTY AND LIABILITY INSURANCE

28-44-301. PROPERTY INSURANCE. (1) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless the creditor qualifies under chapter 9, title 41, Idaho Code, or rule or regulation prescribed by the director of the department of insurance and:

(a) The insurance covers a substantial risk of loss of or damage to property related to the credit transaction;

(b) The amount, terms, and conditions of the insurance are reasonable in relation to the character and value of the property insured or to be insured; and

(c) The term of the insurance is reasonable in relation to the terms of credit.

(2) The term of the insurance is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.

(3) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless the amount financed or principal exclusive of charges for the insurance is five hundred dollars ($500) or more, and the value of the property is five hundred dollars ($500) or more.

[28-44-301, added 1983, ch. 119, sec. 3, p. 292.]

28-44-302. INSURANCE ON CREDITOR'S INTEREST ONLY. If a creditor contracts for or receives a separate charge for insurance against loss of or damage to property, the risk of loss or damage not willfully caused by the debtor is on the debtor only to the extent of any deficiency in the effective coverage of the insurance, even though the insurance covers only the interest of the creditor.

[28-44-302, added 1983, ch. 119, sec. 3, p. 293.]

28-44-303. LIABILITY INSURANCE. A creditor may not contract for or receive a separate charge for insurance against liability unless the insurance covers a substantial risk of liability arising out of the ownership or use of property related to the credit transaction.

[28-44-303, added 1983, ch. 119, sec. 3, p. 293.]

28-44-304. CANCELLATION BY CREDITOR. A creditor shall not request cancellation of a policy of property or liability insurance except after the debtor's default or in accordance with a written authorization by the debtor, and in either case the cancellation does not take effect until written notice is delivered to the debtor or mailed to him at his address as stated by him. The notice shall state that the policy may be cancelled on a date not less than ten (10) days after the notice is delivered or, if the notice is mailed, not less than thirteen (13) days after it is mailed.

[28-44-304, added 1983, ch. 119, sec. 3, p. 293.]

PART 4.
INSURANCE PURSUANT TO A PREMIUM FINANCE LOAN

28-44-401. CANCELLATION OF INSURANCE PURSUANT TO A PREMIUM FINANCE LOAN. (1) With respect to a premium finance loan, the debtor may give the lender authority to cancel insurance contracts obtained for the debtor pursuant to the premium finance loan agreement.

(2) A lender may not cancel unless he gives the debtor fifteen (15) days' written notice that cancellation of a specified insurance contract will become effective on a stated date and at a stated time unless the debtor before that date cures his default with respect to the premium finance loan. The debtor may cure his default by paying to the lender the amount of the installment payments due, without acceleration of the unpaid balance of the principal, at the time notice is given, together with the amount of delinquency or deferral charges due at that time.

(3) Upon cancellation the lender shall rebate or refund to the debtor the amount of any unearned loan finance charge. The amount of the rebate shall be equal to the amount of the unearned loan finance charge that would have been rebated or refunded pursuant to section 28-42-307, Idaho Code, if the loan had been prepaid in full at the date of cancellation.

(4) All laws of this state relating to cancellation of insurance contracts must be complied with when cancellation occurs pursuant to this section.

(5) If the insurance contract cancelled provides motor vehicle liability insurance:

(a) The notice of cancellation shall briefly inform the debtor of the consequences under the laws of this state of operating a motor vehicle without liability insurance; and

(b) A copy of the notice of cancellation shall be sent to the Idaho transportation department.

[28-44-401, added 1983, ch. 119, sec. 3, p. 293.]