

Bulletin 225

Credit insurance commission issues

December 3, 1993

The following questions have frequently arisen in the context of the implementation of the requirements of 24-A M.R.S.A. § 2860-A providing that a commission not exceeding 5% of credit life and health insurance premiums may be paid to any creditor who is a licensed credit insurance agent. In order to ensure that the standards of the Insurance Code are adhered to, the following advisory bulletin has been drafted.

Question 1. Must an employee of an automobile insurance agency be licensed in order to enroll a debtor in a group credit insurance plan?

Answer 1. No.

Question 2. Must an employee or the owner of an automobile insurance agency be licensed to sell credit insurance in order to receive the 5% commission contemplated by 24-A M.R.S.A. § 2860-A?

Answer 2. Yes, the agent to whom the commission is paid must be licensed to sell credit insurance.

Question 3. If the automobile dealership is licensed as an insurance agency, may commission be split between the licensed agent and the agency?

Answer 3. The Bureau of Insurance does not generally regulate the contractual reimbursement arrangement between an agent and an agency.

Question 4. If multiple automobile dealerships are owned by one person, must that person obtain more than one credit insurance license?

Answer 4. No.

Question 5. May an insurer fail to charge-back commission payments when insurance is canceled?

Answer 5. If the failure to charge-back commission results in commission payment at a rate in excess of 5%, the procedure is unacceptable.

Question 6. Is a reinsurance program, which returns certain favorable positive underwriting margins to a creditor, acceptable?

Answer 6. Many reinsurance programs are not prohibited by the Maine Insurance Code. Insurers with specific provisions should contact the Bureau of Insurance for clarification.

Question 7. Is a retroactive experience refund, based on favorable underwriting experience, acceptable?

Answer 7. Retroactive credit experience refunds to the creditor are generally prohibited by the provisions of 24-A M.R.S.A. § 2627-A and 24-A M.R.S.A. § 2812-A if the premium was paid by the debtor.

Question 8. May a commission be paid to a person with an expired credit insurance license or who is in the process of becoming licensed?

Answer 8. No.

Question 9. Is the commission contemplated by § 2860-A 5% of actual or prima facie premium?

Answer 9. The Bureau is seeking legislative clarification that the standard is 5% of prima facie premium. Until that clarification is received either standard is acceptable so long as applied consistently by the insurer. It is unacceptable for an insurer to individually evaluate each credit insurance account to determine which standard would result in a higher commission payment.

Insurers and agents are urged to contact the Bureau of Insurance if other questions concerning the applicability of provisions of the Maine Insurance Code arise.

Brian K. Atchinson
Superintendent of Insurance

NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Insurance if additional information is needed.