

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE JOINT
RESOLUTION NO. 1048

By: Beutler, Cox and Bonny

AS INTRODUCED

A Joint Resolution relating to a rule of the Oklahoma Insurance Department; disapproving proposed amendments to permanent rule OAC 365:10-5-73(b) (3), (4) and (5) regarding credit life and credit accident and health insurance; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is inconsistent with legislative intent and disapprove any rule or any portion thereof; and

WHEREAS, on March 31, 1997, the Oklahoma Insurance Department adopted proposed amendments to permanent rule OAC 365:10-5-73(b) (3), (4) and (5), regarding credit life and credit accident and health insurance relating to agent or representative compensation, and on April 1, 1997, the Oklahoma Insurance Department submitted proposed amendments to permanent rule OAC 365:10-5-73(b) (3), (4) and (5), regarding credit life and credit accident and health insurance relating to agency or representative compensation, to the Legislature for its review; and

WHEREAS, the Legislature recognizes that the proposed amendments to permanent rule OAC 365:10-5-73(b) (3), (4) and (5) have the potential to discriminate against bankers, auto dealers and any

companies or individuals that engage in the reinsurance of credit insurance and are inconsistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 46TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves proposed amendments to permanent rule OAC 365:10-5-73(b) (3), (4) and (5), which read as follows:

365:10-5-73. Agent or representative compensation

"(b) The following allowances are the maximum compensation which may be paid for the sale of credit insurance in this State:

(3) in the aggregate, to all persons independent of the creditor, including but not limited to general agents, an amount not to exceed the lesser of ten percent (10%) or the total percentage, as determined by the Commissioner, used as the general insurance expense component in the calculation of the maximum rate changeable for credit life insurer premium, multiplied by the net written credit life insurer premium and the net written credit accident and health insurance premiums; and,

(4) "Compensation" shall include, but not be limited to, the receipt directly or indirectly or reciprocally of commissions, contingent commissions, service fees, policy fees, expense allowances or reimbursements, ~~dividends or other distribution of earnings based solely upon the profits derived from issuing or reinsuring any policy of credit life or credit disability insurance procured, issued, or delivered by such creditor, agent or limited insurance representative,~~ gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, scripts, or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or

payment for sales made or volume of sales obtained.

~~Experience refunds, retrospective rate credits, and dividends are treated as compensation for the sole purpose of determining maximum reasonable compensation allowances under this Part.~~ Compensation shall also include any amounts or things of value received from or paid by any person other than an insurer in consideration of the sale or retention of credit insurance.

(5) Dividends or other distributions of earnings based upon the profits derived from the sale of credit life or credit accident and health insurance shall be considered compensation if:

(a) such dividends or other distribution of earnings are realized as the result of direct or indirect reinsurance cessions to reinsurance companies, and

(b) such reinsurance companies are controlled or owned wholly or in any part by the creditor receiving such dividends on earnings, and

(c) the amounts ceded to such reinsurers exceeds seventy-five percent (75%) of the risk under any credit life or credit accident and health insurance policy produced by said creditor for the ceding insurance company, or,

(d) such dividends or other distributions of earnings are credited to any class of stock of an insurance company or insurance holding company on the basis of premiums written by a creditor, less loss experience and other charges applied to such premiums, if such participating stock so credited was issued after the effective date of this rule amendment."

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Insurance Commissioner and the Editor of "The Oklahoma Register".

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-7320

TK