

Nebraska Department of Insurance
Guidance Document
IGD - - C1

Title: Credit Insurance

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In the past, there was a practice of effecting the transfer of group credit insurance without prior consent and re-enrollment of the individual debtor–certificate holders and often times with an incomplete comparison of the policy terms, conditions, and benefits. This guidance document advises all insurance companies issuing credit insurance that the NDOI considers such practices to violate Nebraska insurance law.

This practice developed relative to group credit insurance issued to bank credit card holders. In these instances, the group insurance policy issued by the existing insurer is canceled and a new group credit insurance policy issued by a different insurer automatically replaces the existing policy. This transfer of insurance coverage to the new insurer is completed by an agreement between the bank, the creditor and master policyholder, and the new insurer without providing the individual card holder with any prior notice and without obtaining prior written consent from the cardholder. The usual practice has been for the bank, which also serves as the agent of the new insurer, to give the individual card holder notice after the transfer has been completed. Typically, the bank advises the individual card holders that their credit insurance coverage is no longer provided through the existing or original insurance carrier and that comparable coverage at the same total premium with no new waiting or incontestable periods and no interruption of coverage has been arranged with a different insurance carrier. The notice then advises the individual cardholders to notify the bank if they do not wish to continue coverage with the new insurance carrier.

These practices are contrary to Nebraska insurance law in two ways. First, in accordance with NEB. REV. STAT. § 44-1707(4), the new insurance carrier must obtain a signed application, or an appropriate notice of proposed insurance signed by the debtor on or before the date the coverage becomes effective. Shifting the obligation to the debtor-card holder to affirmatively reject the coverage after the transfer has been made is a violation of Nebraska insurance law. Before transferring coverage, the new carrier must re-enroll individual credit card holders with either an application or a notice of proposed insurance signed by the individual insured. Although failure to do so will be considered a violation of Nebraska insurance law and treated as such, such failure will not necessarily nullify the insurance coverage transfer.

Secondly, statements to the effect that the new insurance carrier is providing “comparable coverage” without listing all the material terms and conditions of each policy coverage constitute an incomplete comparison in violation of NEB.REV.STAT § 44-362. This practice may also violate the Unfair Competition and Trade Practices Act. See NEB. REV. STAT §§ 44-1524 et. seq.

The NDOI does not question the right of the master policyholder to cancel its existing group credit insurance contract. In this guidance document, the NDOI advises insurance companies writing group credit insurance to adhere to the appropriate procedures in accepting the transfer of coverage from an existing insurance carrier. The NDOI considers the failure to properly re-enroll individual debtor-insureds as a violation of Nebraska insurance laws. However, this required re-enrollment does not mean that the replacing insurer is required to have a new waiting period, incontestable period, or interruption of coverage.

Nebraska law affords the NDOI broad jurisdiction and control over the issuance of credit insurance coverage in Nebraska. Section 44-1708 provides that credit insurance policies, certificates of credit insurance, and the benefits provided therein are subject to regulation by the NDOI. Accordingly, group credit insurance transactions involving or affecting Nebraska insureds will be expected to conform to the position of the NDOI as stated in the guidance document at least with regard to Nebraska policy or certificate holders. Thus, the requirements of this guidance document are also applicable to group policies issued to banks or lending institutions in states other than Nebraska to the extent.

NDOI’s Examination Division can answer questions related to this guidance document at 402-471-2201.