STATE OF NEW HAMPSHIRE

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NH INSURANCE DEPT.

OFFICE OF LEGISLATIVE SERVICES

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February 23, 2011

Received from the Commissioner, Insurance Department

the following declaratory ruling filed with the Director of Legislative Services, in accordance with RSA 541-A, the Administrative Procedures Act.

Document #: 9868

Relative to: Regarding American Health and Life Insurance Company, RSA 408-A:II(a) does not prohibit the sale of consumer credit insurance in connection with loans of 15 years or more.

Number of Pages: 3

Date Issued: 2-15-11

Filing Date: 2-16-11

Notes: N/A

In all communications with this office concerning the above declaratory ruling, please cite the appropriate document number, as indicated above.

Carol J. Holahan, Director
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THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

21 South Fruit Street Suite 14
Concord, New Hampshire 03301

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

VIA E-mail & U.S. Mail

February 15, 2011

John D. Hatch, Senior Counsel
Citi Assurance Services
3011 Meacham Boulevard, Suite 200
Forth Worth, Texas 76137

RE: Docket No.: Ins 11-001-DR
Declaratory Ruling - Credit Insurance in Connection with Loans of 15 Years or More

Dear Mr. Hatch:

Pursuant to American Health and Life Insurance's Petition for Declaratory Ruling dated January 18, 2011, please find enclosed the Department's Declaratory Ruling in the matter dated February 15, 2011. Please note that credit insurance for loans of 15 years or more remains subject to all applicable New Hampshire insurance laws other than RSA chapter 408-A, including but not limited to life insurance requirements under RSA chapter 408, and disability and health requirements under RSA chapter 415.

Please do not hesitate to contact me with any questions.

Sincerely,

Jennifer J. Patterson
Attorney III

JP:dol

enclosure

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THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

PETITION OF AMERICAN HEALTH AND LIFE INSURANCE COMPANY
(CREDIT INSURANCE FOR LOANS OF 15 YEARS OR LONGER)

Docket No. INS 11-01-DR

DECLARATORY RULING

On January 19, 2011, the New Hampshire Insurance Department ("Department") received a petition for declaratory ruling filed pursuant to RSA 400-A:15, I, and N.H. Code of Admin. Rules Part Ins 205 by American Health and Life Insurance Company ("AHL"). The Department has reviewed its files in this matter and finds them consistent with AHL's factual allegations. AHL's petition meets all the procedural requirements of Ins 205.01(a), and issuance of a ruling on the petition is appropriate under Ins 205.02(c).

In its petition, AHL asserts that it is a life insurance corporation domiciled in the State of Texas and authorized to do business in New Hampshire, that in April of 2009 it submitted a debtor group credit life insurance policy form designed for use in connection with loans secured by real estate which have a loan duration greater than 15 years, and that the Department disapproved the AHL filing in June of 2009 on the grounds that credit insurance could not be sold in New Hampshire for loans with a duration of 15 years or greater.

AHL asks the Department to rule that New Hampshire insurance law, RSA 408-A:2, II, does not prohibit the sale of consumer credit insurance in connection with loans of 15 or more years. AHL argues that RSA 408-A:2, II(a), on which the Department relied in denying AHL's filing, does not bar the sale of insurance products sold in connection with loans of greater than 15 years, but simply states that they are not subject to regulation under RSA Chapter 408-A, the Credit Life and Accident and Health Insurance Act. AHL further asserts that no other New Hampshire insurance law bars the sale of such insurance, and that courts in two other states have concluded that statutes with similar language to RSA 408-A:2, II did not prohibit the sale of such insurance.

The only provision of Chapter 408-A that discusses the duration of the loan or other credit transaction, or could be read to prohibit the sale of insurance sold in connection with loans or other credit transactions of greater than 15 years' duration, is RSA 408-A:2, II(a). RSA 408-A:2, II states:

> All life insurance and all accident and health insurance sold in connection with loans or other credit transactions shall be subject to the provisions of this chapter except such insurance sold in connection with:
> (a) A loan or other credit transaction of more than 15 years' duration; or
> (b) A first real estate mortgage; or
> (c) A loan secured by a filing under the Uniform Commercial Code pursuant to RSA 477:44, IV.

The plain language of the statute provides that all life, accident and health policies sold in connection with credit transactions are subject to regulation under Chapter 408-A, except the types of policies listed under (a)-(c). There is no indication from this language that insurance sold in connection with the listed loans or credit transactions cannot be sold in this state, only that it is not subject to the provisions of RSA 408-A.

The legislative history of RSA Chapter 408-A supports a conclusion that the statute was not intended to prohibit the sale of insurance on credit transactions of greater than 15 years' duration. Originally enacted in 1959, the New Hampshire law closely tracked the National Association of Insurance Commissioners ("NAIC") model act of 1958, which imposed a regulatory scheme only on insurance products sold in connection with loans of less than five years' duration. 1959 N.H. Laws Chapter 66. As Senator Dunlap explained, the purpose of the bill was

> to give the Insurance Commissioner jurisdiction over the amount of premium that the TV sales, or auto dealer, or any one of a number of dealers who sell household things on credit may charge . . . This premium which is paid is to insure for the length of the term of the credit extension up to five years. This is an insurance to cover allowances for death or health breakdown.

Senate Journal, April 14, 1959, at 297. From the bill's language and the Senator's statement, it is clear that the legislature intended to allow the continued, unregulated sale of credit insurance for transactions that fell outside the statutory time limit; the emphasis was on regulating insurance for loans of short duration. Subsequent amendments did not

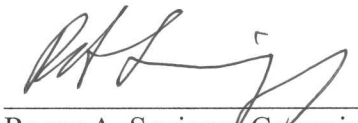
alter this fundamental purpose, although the applicable time period changed to the present standard of 15 years.[1]

DECISION

New Hampshire insurance law, RSA 408-A:2, II(a), does not prohibit the sale of consumer credit insurance in connection with loans of 15 or more years.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 2-15-11



Roger A. Sevigny, Commissioner

[1] In 1973, the law was amended to change "five years" to "ten years" in both sentences of RSA 408-A:2(2). 1973 N.H. Laws Chapter 585. In 1977, the applicable time period was changed from "ten years" to "15 years," and the legislature added an exception for first real estate mortgages, except those issued for mobile homes. 1977 N.H. Laws Chapter 406. In 1985, the legislature eliminated the special treatment of mobile homes, and adopted the present language. 1985 N.H. Laws 259:1.