

**RULES
OF
TENNESSEE DEPARTMENT OF INSURANCE
INSURANCE DIVISION**

**CHAPTER 0780-1-18
INSURANCE REQUIRED OR ACCEPTED BY AN INDUSTRIAL LOAN AND THRIFT
COMPANY**

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**0780-1-18-.01 PROPERTY INSURANCE ON COLLATERAL ON LOANS IN
GENERAL.**

- (1) Prior to any formal application for the loan or payment of any fees or costs required with the filing of an application, the lender must inform the borrower of his legal rights regarding the placing of insurance.
- (2) Notice must be given to said borrower in a clear and concise statement, in writing, with a copy of said statement to be signed by the borrower and retained by the lender. Nothing in these rules shall be construed to mean that this statement must be a part of the mortgage contract, note or disclosure statement.
- (3) The borrower shall have the right to submit to the lender a list containing a reasonable choice of agents and/or insurers selected by the borrower, who will write the insurance in connection with the loan. The number of agencies comprising a "reasonable choice" shall be construed to be a minimum of three (3) agents and/or insurers. The lender has the right to refuse insurance policies written by agents not located within the trade area normally served by the lender.
- (4) The lender may prescribe reasonable requirements regarding the financial structure and stability of the company. In prescribing these requirements, the adequacy of the insurance coverage provided by an insurance company may be taken into consideration.
- (5) If the insurance submitted by the borrower is acceptable to the lender, the borrower must have available on the day of the closing of the loan and at the time specified by the lender, the policy (or acceptable binder) and coverage agreed upon.
- (6) If the policy is cancelled by the insurer, the borrower must have a new policy, acceptable to the lender, in the hands of the lender not less than thirty-six (36) hours before the expiration date stated in the notice of cancellation to the insured.
- (7) In the event the mortgage is transferred by the original mortgagee to another institution or party during the term of the insurance contract, the insurance coverage shall not be cancelled except by mutual agreement of the borrower and the lender, upon full notice to the borrower, of his rights and powers, and of any expense or penalty charge which he may experience as a result of any such transfer of insurance coverage during such term.

(Rule 0780-1-18-.01, continued)

- (8) Complaints of coercion filed with the Insurance Commissioner must be in the form of a written statement signed by the borrower. Complaints from insurance agents must be accompanied by a written statement signed by the borrower.
- (9) Any requirements adopted by the lender pursuant to these rules shall be filed with the Insurance Commissioner and such requirements shall be made available to the borrower, insurance companies and agents. The Insurance Commissioner shall treat such requirements, when filed, as public records, making such available to interested parties upon request.
- (10) Renewals:
 - (a) The agent shall deliver a renewal policy or a renewal certificate to the lender at least ten (10) days prior to the expiration date of the policy in force, if required by the lender.
 - (b) In cases where the borrower desires to change insurance agents or insurers, the agent writing the renewal business must file with the lender a letter of authorization signed by the borrower, which shall be accepted by the lender in good faith.
 - (c) Where a change of agent is involved in the renewal of a policy, the lender shall notify the agent renewing the insurance and the borrower, in writing, within five (5) business days after tender of the renewal policy if said policy is not acceptable to the lender.
 - (d) Notice of Intention Not to Renew: In the event the company does not intend to renew the contract, it shall mail or deliver to the named insured at the address shown in the policy not less than twenty (20) days' notice of its intention not to renew.
- (11) Cancellations and Refunds:
 - (a) The purchaser or borrower shall be promptly notified in writing of the cancellation of, or change in, the policy, in accordance with the standard ten (10) day advance cancellation notice as contained in the policy. If through payment in advance by the purchaser or borrower of the remaining undue installments or if the indebtedness is discharged in any manner prior to its maturity date, thereby terminating the insurance coverage, the unearned portion of the insurance premium and interest charged thereon, if any, shall be refunded as soon as practicable after the cancellation becomes effective, however, refunds calculated at less than one dollar (\$1.00) need not be made.

Authority: T.C.A. §45-2011. Administrative History: Original rule certified June 10, 1974. Amended: Filed August 5, 1974; Effective September 4, 1974.

0780-1-18-.02 REQUIREMENTS WHICH ARE DEEMED TO BE NECESSARY FOR FULL COMPLIANCE WITH THE LAW. The following procedures are published herewith as requirements which are deemed to be necessary for full compliance with the law:

- (a) Purchasers or borrowers, in all credit transactions where insurance coverage is required, must not be misled concerning their right to purchase insurance from any insurance company licensed by this Department and which company provides the necessary coverage. The finance factor or creditor must act affirmatively in such cases in advising the borrower of his rights to a choice of companies or agents. Where insurance is required, the creditor need not accept

(Rule 0780-1-18-.02, continued)

as evidence of insurance a policy which does not contain a LOSS PAYABLE CLAUSE.

- (b) When the purchaser or borrower chooses to purchase insurance from the insurer represented by the finance factor or creditor, the seller must furnish the purchaser with evidence of the insurance at the time the sales contract or purchase order is executed. Such insurance evidence must be in the form of an insurance binder. The policy shall be delivered to the purchaser or borrower within twenty-five (25) days following the execution of the initial evidence of insurance.
- (c) Where single interest is written in connection with a finance or loan transaction, a clear and concise statement shall be furnished to the purchaser or borrower, advising him that the insurance effected is solely for the interest of the dealer, finance factor or lender, and that no protection thereunder exists for the benefit of the purchaser or borrower. Such policies shall be clearly stamped or printed in not less than fourteen point type of the title page, "LENDER'S INTEREST ONLY."
- (d) If an automobile physical damage policy does not afford automobile bodily injury and property damage insurance, the policy shall state the following notification:

"THIS POLICY DOES NOT PROVIDE AUTOMOBILE BODILY INJURY OR PROPERTY DAMAGE INSURANCE AND IS NOT IN COMPLIANCE WITH THE MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW OF ANY STATE."

This notification must be not less than FOURTEEN point type and it shall be displayed in RED across the face on the filing back of the policy and may be displayed as an overprint or by a rubber stamp impression. This notification shall also be displayed on sales instruments which afford only material damage insurance. USE OF STICKERS FOR THIS PURPOSE IS PROHIBITED.

- (e) Property insurance shall not be written in an amount greater than the lessor of
 - 1. the actual cash value of the collateral less any amount which would be payable under existing insurance, or
 - 2. the amount of the loan.
- (f) If the borrower has the same collateral insured under more than one policy or certificate, each policy or certificate shall be deemed to be primary coverage for the purpose of paying claims.
- (g) Each policy or certificate shall be written for a dollar amount and specific term, each of which shall be stated therein.

Authority: T.C.A. §45-2011. **Administrative History:** Original rule certified June 10, 1974. Amended: Filed August 5, 1974; Effective September 4, 1974.

0780-1-18-.03 PROPERTY INSURANCE ON DUAL COLLATERAL.

- (1) When an automobile and household goods are both used as collateral on loans, insurance may be written only on the actual cash value of the automobile according to its current market value, and then either single or dual interest insurance on the household goods on the difference between the value of the automobile and the amount of the loan.

- (2) Single interest auto insurance shall insure only the interest of the creditor loss payee or assignee against loss caused by fire, theft, and collision.
- (3) A licensee shall not divide the amount of insurance written on collateral in such a manner as to penalize a borrower in the amount of insurance premium he is required to pay.
- (4) No insurance may be written which is not in compliance with all requirements of Section 45-2007(k), Tennessee Code Annotated, especially as regards the relationship of the insurance and the property to the existing hazards and risk of loss.
- (5) Cancellation of policies on Dual coverage shall be pro-rata, and on Single interest by Rule of 78's.

Authority: T.C.A. §45-2011. *Administrative History:* Original rule certified June 10, 1974. Amended: Filed August 5, 1974; Effective September 4, 1974.

0780-1-18-.04 DUAL INTEREST INSURANCE ON HOUSEHOLD GOODS AS SOLE COLLATERAL ON LOAN.

- (1) In case of a total loss, the insurance company shall issue a check payable to the loan company and the borrower for the full amount of the policy, as of the date of loss.
- (2) The loan company shall pay the borrower by check the difference between the amount of the settlement check and the net unpaid balance of the loan. The loan company shall then give the borrower his promissory note stamped "PAID."

Authority: T.C.A. §45-2011. *Administrative History:* Original rule certified June 10, 1974. Amended: Filed August 5, 1974; Effective September 4, 1974.

0780-1-18-.05 SINGLE INTEREST INSURANCE ON HOUSEHOLD GOODS AND SINGLE INTEREST AUTO AS COLLATERAL. In the case of a total loss, the insurance company shall issue a check payable to the loan company for the amount of insurance in effect as of the date of loss. The loan company, after applying the amount of insurance then in effect, shall pay all refunds to the borrower by check, and then give the borrower his promissory note stamped "PAID."

Authority: T.C.A. §45-2011. *Administrative History:* Original rule certified June 10, 1974. Amended: Filed August 5, 1974; Effective September 4, 1974.