

THOMAS J. MILLER
ATTORNEY GENERAL



CONSUMER PROTECTION DIVISION
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515-281-5926
TELEFAX: 515-281-6771

Department of Justice

June 11, 1996

RE: Iowa Administrative Code Chapter 61-14

Dear

Iowa Division of Banking Bureau Chief Larry Kingery forwarded your April 2, 1996 correspondence for our review. Your April 2 letter inquired concerning the application of 61 IAC 14,¹ in light of Iowa Code section 537.2501(2)(b).

Please be advised that, pursuant to Iowa Code section 537.6103, the Attorney General is the Administrator of the Iowa Consumer Credit Code (hereinafter, "ICCC"). The Director of the Consumer Protection Division has been appointed by the Attorney General as Administrator, pursuant to 61 IAC 2.15(2).

Your specific questions include:

- 1) whether 61 IAC 14 prescribes involuntary unemployment covered issued pursuant to Iowa Code section 537.2501(2)(b);
- 2) whether enactment of Iowa Code section 537.2501(2)(b) repealed 61 IAC 14 by implication; and,
- 3) whether 61 IAC 14 applies only to involuntary unemployment coverage issued pursuant to Iowa Code section 537.2501(1)(h).

First, I am unclear of the intent of your inquiry as to whether 61 IAC 14 "prescribes" involuntary unemployment insurance issued pursuant to Iowa Code section 537.2501(2)(b). Clearly, 61 IAC 14 addresses the same type of involuntary unemployment insurance as is the subject of section 537.2501(2)(b). The definition of "involuntary unemployment insurance" in

¹ "IAC" refers to the Iowa Administrative Code.

61 IAC 14.1(16)(1) does not materially differ from the "credit unemployment insurance" referenced in section 537.2501(2)(b).

Your second question concerns whether enactment of the provisions of Iowa Code section 537.2501(2)(b) regarding credit unemployment insurance repealed 61 IAC 14 by implication. The effective date of 61 IAC 14 was the 45th calendar day of the 1986 session of the Iowa General Assembly. The amendment to Iowa Code section 537.2501(2)(b) concerning credit unemployment insurance was passed during the 1986 session and went into effect July 1, 1986.

Iowa Code section 537.2501(1)(f) was cited as the basis for 61 IAC 14. As you noted, that section is now codified as section 537.2501(h). Pursuant to that section, charges for benefits, such as insurance, may only be included as an additional charge in a consumer credit transaction if: 1) the benefits are of value to the consumer, 2) the charges are reasonable in relation to the benefits, 3) the charges are of a type which is not for credit, and 4) the charges are authorized as permissible additional charges by rule adopted by the administrator.

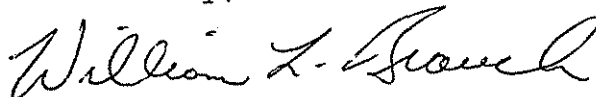
Enactment of the 1986 amendment to section 537.2501(2)(b) specifically displaced section 537.2501(1)(h) in relation to consumer credit insurance providing unemployment coverage. Instead of the four-part test cited in the above paragraph, the new section required a different test relating to credit unemployment insurance which did not require that the charge imposed for the insurance be authorized as a permissible additional charge by rule by the administrator. Therefore, enactment of the 1986 amendment to Iowa Code section 537.2501(2)(b) rendered 61 IAC 14 inapplicable. Thus, the administrator plans to repeal the rule.

The above-stated analysis renders your third question moot.

Please note that section 537.2501(2)(b)(3), among other things, requires that the premium rates imposed for the credit unemployment insurance be affirmatively approved by the insurance division of the department of commerce.

Please contact me at the above address or telephone number with any questions concerning this matter.

Sincerely,



WILLIAM L. BRAUCH
ASSISTANT ATTORNEY GENERAL
DIRECTOR-CONSUMER PROTECTION DIVISION
ADMINISTRATOR-IOWA CONSUMER CREDIT CODE