

## CONSUMER CREDIT INSURANCE MODEL REGULATION

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### Section 1. Purpose and Authority

The purpose of this regulation is to protect the interests of debtors and the public in this state by providing a system of rate, policy form, and operating standards for the transaction of credit life, credit accident and health, and credit unemployment insurance. This rule interprets and implements the [insert state] Statutes, including but not limited to the following sections: [insert sections].

### Section 2. Definitions

As used in this regulation:

- A. “Affiliate” has the same meaning as defined in Section [insert reference to state’s insurance holding company registration act].
- B. “Closed-end credit” means a credit transaction that does not meet the definition of open-end credit.
- C. “Control” has the same meaning as defined in Section [insert reference to state’s insurance holding company registration act].
- D. “Evidence of individual insurability” means a statement furnished by the debtor, as a condition of insurance becoming effective, that relates specifically to the health status or to the health or medical history of the debtor.
- E. “Loss ratio” means incurred claims divided by the sum of earned premiums and imputed interest earned on unearned premiums.

**Drafting Note:** Although this definition of loss ratio represents a change from the prior method, the (EX) Committee on Credit Insurance has determined that this definition represents the most appropriate option. While the crediting of imputed interest means that single premium rates will be slightly lower (for a specified loss ratio) under this definition than under the prior methodology, for most states the reduction in single premium rates will be approximately five percent (5%) due to the implementation of this definition.

- F. “Open-end credit” means credit extended by a creditor under an agreement in which:
  - (1) The creditor reasonably contemplates repeated transactions;
  - (2) The creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

- (3) The amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

**Drafting Note:** The definition of open-end credit here is identical to the definition in the Consumer Credit Insurance Model Act. There is generally no need to restate a definition from the Act in this regulation; however, since the definition here of closed-end credit is dependent on the definition of open-end credit, it seems appropriate to include it here as well. States should consider their own drafting procedures to determine where the definitions should be located.

- G. “Person” has the same meaning as defined in Section [insert reference to state’s insurance holding company registration act].
- H. “Preexisting condition” means any condition for which the insured debtor received medical advice, consultation or treatment within six (6) months before the effective date of the coverage and from which the insured debtor becomes disabled within six (6) months after the effective date of this coverage.

### **Section 3. Rights and Treatment of Debtors**

- A. **Multiple Plans of Insurance.** If a creditor makes available to the debtors more than one plan of consumer credit insurance, every debtor must be informed of each plan for which the debtor is eligible and of the premium or insurance charge for each.
- B. **Substitution.** When a creditor requires insurance as additional security for a debt, the debtor shall be given the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor or of procuring and furnishing the required coverage through any insurer authorized to transact insurance business in this state. If this subsection is applicable, the debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.
- C. **Termination of Group Consumer Credit Insurance Policy.**
  - (1) If a debtor is covered by a group consumer credit insurance policy providing for the payment of single premiums to the insurer, or any other premium payment method which prepays coverage beyond one month, then provision shall be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under the policy shall be continued for the entire period for which the premium has been paid.
  - (2) If a debtor is covered by a group consumer credit insurance policy providing for the payment of premiums to the insurer on a monthly basis, then the policy shall provide that, in the event of termination of the policy, termination notice shall be given to the insured debtor at least thirty (30) days prior to the effective date of termination except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The insurer shall provide or cause to be provided this required information to the debtor.
- D. **Remittance of Premiums.** If the creditor adds identifiable insurance charges or premiums for consumer credit insurance to the debt, and any direct or indirect finance, carrying, credit or service charge is made to the debtor on the insurance charges or premiums, the creditor must remit and the insurer shall collect the premium within sixty (60) days after it is added to the debt.
- E. **Refinancing of the Debt.** If the debt is discharged due to refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the refinanced debt. In all cases of termination prior to scheduled maturity, a refund of all unearned premium or unearned insurance charges paid by the debtor shall be paid or credited to the debtor as provided in Section 9. In any refinancing of the debt, the effective date of the coverage as respects any policy provision shall be deemed to be the first date on which the debtor became insured under the policy with respect to the debt which was refinanced, at least to the extent of the amount and term of the debt outstanding at the time of refinancing of the debt.

- F. **Maximum Aggregate Provisions.** A provision in an individual policy or group certificate that sets a maximum limit on total claim payments must apply only to that individual policy or group certificate.

**Drafting Note:** It should be noted that the maximum amount which can be paid for coverage for a single consumer credit transaction may be subject to statutory limitations.

- G. **Prepayment of Debt.** If a debtor prepays the debt in full, then any consumer credit insurance covering the debt shall be terminated and an appropriate refund of the consumer credit insurance premium shall be paid or credited to the debtor in accordance with Section 9. However, if the prepayment is a result of death or any other lump sum consumer credit insurance payment, no refund shall be required for the coverage under which the lump sum was paid. If a claim under credit accident and health coverage or credit unemployment coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit accident and health benefits are payable or during any period of unemployment for which credit unemployment benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period or at the end of the unemployment period.
- H. If a creditor has opened a line of credit for a debtor and, under Section 4A(5) or 4A(6) of the Consumer Credit Insurance Model Act, is charging for this line of credit rather than the amount of debt in the event of the death of the debtor, the insured amount due is the amount of the established amount of credit against which premium was last charged.

**Section 4. Determination of Reasonableness of Benefits in Relation to Premium Charge**

- A. Benefits provided by consumer credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than sixty percent (60%). With the exception of deviations approved under Section 11, the rates shown in Sections 6 and 7, as adjusted pursuant to Section 10, shall be presumed to satisfy this standard. Anticipated losses that develop or are expected to develop a loss ratio of not less than sixty percent (60%) shall be presumed reasonable. Any insurer filing a deviation in accordance with Section 11 must satisfy the sixty percent (60%) loss ratio standard on their total consumer credit insurance business, including that of affiliated insurers, for each type of insurance defined in Section [insert section referring to definitions in state Consumer Credit Insurance Model Act] of the [insert state] Statutes for which the deviation is being filed.

**Drafting Note:** In the event that a state wishes to develop a regulatory framework allowing for component rating, the following is suggested language which should be used in conjunction with suggested language for Section 10B:

Alternative Section 4A:

- A. Benefits provided by consumer credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than sixty percent (60%) or such lower loss ratio as designated by the Commissioner to afford a reasonable allowance for actual and expected loss experience, general and administrative expenses, reasonable creditor compensation, investment income, the manner in which premiums are charged and other acquisition costs, reserves, taxes, regulatory license fees and fund assessments, reasonable insurer profit and other relevant actuarial data. With the exception of deviations approved under Section 11, the rates shown in Sections 6 and 7, as adjusted pursuant to Section 10, shall be conclusively presumed to satisfy the loss ratio standard. Any insurer filing a deviation in accordance with Section 11 must satisfy the loss ratio standard designated by the Commissioner pursuant to Section 10 on their total consumer credit insurance business, including that of affiliated insurers, for each type of insurance defined in Section [insert section referring to definitions in state Consumer Credit Insurance Model Act] of the [insert state] Statutes for which the deviation is being filed.

**Drafting Note:** The NAIC, as a whole, neither endorses nor opposes component rating as the appropriate methodology for developing rates for consumer credit insurance products.

- B. Nonstandard Coverage. If any insurer files for approval of any form providing coverage different than that described in Sections 6 through 8, the insurer shall demonstrate to the satisfaction of the commissioner that the premium rates to be charged for such coverage are: (a) reasonably expected to develop a loss ratio of not less than sixty percent (60%), or (b) actuarially consistent with the rates used for standard coverages.

**Section 5. Limitation on Compensation [Optional]**

- A. An insurer shall not pay compensation in excess of thirty percent (30%) of the net written *prima facie* premium of which not more than twenty-five percent (25%) of net written *prima facie* premium may be paid to a creditor.
- B. For the purpose of Subsection A, *prima facie* premium means premium using the premium rates set out in Sections 6 and 7, or actuarially consistent premium rates for plans not described in Sections 6 and 7, without any adjustment pursuant to Section 10.

**Drafting Note:** This is an optional provision subject to the statutory provisions of the state or jurisdiction. Once a state has established a *prima facie* rate based upon a sixty percent (60%) loss ratio, a state may wish to consider that this provision be deleted.

**Section 6. Credit Life Insurance Rates**

- A. Premium Rate. Subject to the conditions and requirements in Section 6B and Section 11, the *prima facie* rates shown below are considered to meet the requirements of Section 4, and may be used without filing additional actuarial support.

- (1) Monthly outstanding balance basis: \_\_\_\_\_ per month per \$1,000 of outstanding insured debt on single life and \_\_\_\_\_ per month per \$1,000 of outstanding insured debt on joint life if premiums are payable on a monthly outstanding balance basis.
- (2) Single premium basis: If the premium is charged on a single premium basis, the rate shall be computed according to the following formula or according to a formula approved by the commissioner which produces rates substantially the same as those produced by the following formula:

$$S_p = \sum_{t=1}^n \left( \frac{O_p}{10 I_1} \times \frac{I_t}{v^{t-1}} \right)$$

$$v = \frac{1}{1 + (\text{dis})}$$

$S_p$  = Single Premium per \$100 of initial consumer credit life insurance coverage.

$O_p$  = \_\_\_\_\_, the *prima facie* consumer credit life insurance premium rate for monthly outstanding balance coverage from Paragraph 1.

$I_t$  = The scheduled amount of insurance for month t.

$I_1$  = Initial amount of insurance. For a net insurance policy,  $I_1$  equals the initial principal balance of the loan.

dis = .0036, representing an annual discount rate of 4 percent for interest plus 0.4 percent for mortality.

**Drafting Note:** The 4 percent discount for interest reflected current rates at the time this model was drafted. States should set the discount rate in their regulation to equal the average of the rates being paid on 3 year United States Treasury Notes as reported in the Wall Street Journal on the last day of sale in the most recent 3 calendar years.

n = The number of months in the term of the insurance.

- (3) If the benefits provided are other than those described in the introduction to this subsection, premium rates for such benefits shall be actuarially consistent with the rates provided in Paragraphs (1) and (2).

**Drafting Note:** Credit life insurance premium rates have not been included in the model regulation. Each state should adopt rates which reflect the experience developed within that state or regionally if a state lacks sufficient credible data. A state may also establish rates by creditor class of business wherever warranted. For those states addressing the issue of delinquencies, the prima facie rates included in Sections 6 and 7 and any other rates approved for use, restricted to premium rates that are computed by formulae such as that contained in Paragraph 6A(2), are presumed sufficient to provide for up to two months of delinquencies. Therefore, the amount of insurance shall not be increased to accommodate such delinquencies.

- B. The premium rates in Subsection A shall apply to contracts providing credit life insurance that are offered to all eligible debtors, that do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within thirty (30) days of the date the debtor becomes eligible and that contain the provisions below:
  - (1) Coverage for death by whatever means caused, except that coverage may exclude death resulting from:
    - (a) War or any act of war;
    - (b) Suicide within six (6) months after the effective date of the coverage; or,
    - (c) Subject to the provisions of Section 6B(2), a preexisting condition or conditions.
  - (2) For the purpose of Section 6B(1)(c),
    - (a) Preexisting condition means any condition for which the debtor received medical advice or treatment within six (6) months preceding the effective date of coverage;
    - (b) No preexisting condition exclusion shall apply unless death is caused by or substantially contributed to by the preexisting condition and unless death occurs within six (6) months following the effective date of coverage; and,
    - (c) A preexisting condition exclusion shall apply only if and to the extent that the amount of coverage to which it would otherwise apply (in the absence of this limitation) exceeds \$1,000.
  - (3) For the exclusions listed in Section 6B(1) and (2) above, the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.
  - (4) At the option of the insurer and in lieu of a preexisting condition exclusion on insurance written in connection with open-ended consumer credit, a provision may be included to limit the amount of insurance payable on death due to natural causes to the balance as it existed six (6) months prior to the date of death if there has been one or more increases in the outstanding balance during the six-month period and if evidence of individual insurability has not been required in the six-month period prior to the date of death. This provision applies only if and to the extent that the amount of coverage to which it would otherwise apply (in the absence of this limitation) exceeds \$1,000.
  - (5) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).

**Drafting Note:** These provisions are intended only to be provisions that correspond to the use of the rates provided for in Subsection 7A. Consistent with the commissioner's authority in the Model Bill, they are neither required provisions nor minimum standards. They are no more than safe harbor provisions. All other policy provisions must be judged based solely on the standard in the Model Bill that prohibits provisions that are unfair, unjust, inequitable, misleading, deceptive or encourage misrepresentation of the coverage or that are contrary to statute or administrative rule.

The suicide provision exemplifies this. Subsection 7B provides for use of a six-month exclusionary period for suicide in contracts to which the *prima facie* rate is applied. However, a suicide exclusionary period of one or two years is consistent with statutes enacted in several states. Thus, the use of a suicide exclusionary period exceeding six (6) months is not prohibited by the mere fact that a six-month period is set out as a provision corresponding to the use of *prima facie* rates. The use of a longer exclusionary period may, however, require the use of reduced premium rates.

C. Application of Rates:

- (1) If the insurer, its agent, or the application form for credit life insurance does not request or require that the debtor provide evidence of insurability, then the premium rates deemed reasonable will be the *prima facie* rates in Section 6A.
- (2) Except as provided in Section 6C(3), if the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is \$15,000 or less, then the premium rates deemed reasonable will be the rates in Section 6A multiplied by 90 percent (.90).
- (3) If the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is above \$15,000 or the applicant elects to purchase coverage more than thirty (30) days after the date the debtor became eligible under a group plan of insurance, then the premium rates deemed reasonable will be the *prima facie* rates in Section 6A. For policies insuring open lines of credit, the insurer may require evidence of insurability for advances which increase the outstanding debt above \$15,000.

D. Insurers may use the same application forms for credit life insurance whether or not underwriting questions are asked pursuant to Section 6C. The commissioner will presume that any application form for which all relevant underwriting questions have been left unanswered represents a policy which has not been underwritten and for which *prima facie* rates are permissible. A form for which any relevant underwriting questions have been answered or filled in represents a policy for which premium decreases pursuant to Section 6C are required. Insurers should maintain in their files their rules for those circumstances where underwriting questions shall be asked. Those rules shall be communicated to and followed by the insurer's agents or other producers.

**Section 7. Credit Accident and Health Insurance Rates**

A. Premium Rate. Subject to the conditions and requirements in Section 6B and Section 11, the *prima facie* rates shown below are considered to meet the requirements of Section 4, and may be used without filing additional actuarial support.

- (1) If premiums are payable on a single-premium basis for the duration of the coverage, the *prima facie* rate per \$100 of initial insured debt for single accident and health is as set forth in the table below (rates for monthly periods other than those listed shall be interpolated or extrapolated):

Original Number of Equal Monthly Installments	14 Day retroactive policies	14 Day non-retroactive policies	30 Day retroactive policies	30 Day non-retroactive policies
6				
12				
24				
36				
48				
60				
72				
84				
96				
108				
120				

**Drafting Note:** Consistent with Subsection 6A(2), pursuant to which credit life single premiums are discounted for interest and mortality, credit disability single premiums in the table above should incorporate similar discount for interest (but not for mortality, since on death a refund of the unearned credit disability premium is required to be made).

- (2) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured gross debt, these premiums shall be computed according to the following formula or according to a formula approved by the commissioner which produces rates actuarially consistent with the single premium rates in Subsection 7A(1):

$$OP_n = \frac{10 SP_n}{\dots}$$

$$\frac{n}{\{\sum_{t=1}^n (v^t - 1) \times (n-t+1)\}}$$

where  $v = \frac{1}{1 + (dis)}$

Where  $SP_n$  = Single Premium Rate per \$100 of initial insured debt repayable in n equal monthly installments as shown in Subsection 7A(1).

$OP_n$  = Monthly Outstanding Balance Premium Rate per \$1,000.

n = The number of months in the term of the insurance.

dis = .0033, representing an annual discount rate of 4 percent for interest.

**Drafting Note:** The 4 percent discount for interest reflected current rates at the time this model was drafted. States should set the discount rate in their regulation to equal the average of the rates being paid on 3-year United States Treasury Notes as reported in the Wall Street Journal on the last day of sale in the most recent 3 calendar years.

- (3) If the coverage provided is a constant maximum indemnity for a given period of time, the actuarial equivalent of Section 7A(1) and 7A(2) shall be used.

- (4) If the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in even amounts per month, an appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in even amounts per month shall be used.
- (5) The outstanding balance rate for credit accident and health insurance may be either a term-specified rate or may be a single composite term outstanding balance rate.

B. Subject to the conditions and requirements in Section 7C and Section 11, the *prima facie* rates for credit accident and health insurance shown below are considered to meet the requirements of Section 4 in the situation where the insurance is written on an open-end loan. These *prima facie* rates and the formulae used to calculate them may be used without filing additional actuarial support. Other formulae to convert from a closed-end credit rate to an open-end credit rate may be used if approved by the commissioner.

- (1) If the maximum benefit of the insurance equals the net debt on the date of disability, the term of the loan is calculated according to the formula:  $1/(\text{minimum payment percent})$ . The *prima facie* rate is determined by applying the calculated term to the rates shown in Section 7A. A composite minimum payment percentage may be used in place of the minimum payment percentage for a specific credit transaction.
- (2) If the maximum benefit of the insurance equals the outstanding balance of the loan on the date of disability plus any interest accruing on that amount during disability, the term of the insurance (n) is estimated by using the following formula:

$$n = \ln\{1-(1000i/x)\}/\ln(v)$$

where:

- i = interest rate on the account or a composite interest rate used for the type of policy;
- x = monthly payment per \$1000 of coverage consistent with the term calculated above;
- and,
- v =  $1/(1 + i)$ .

The calculated value of the term is used to look up an initial rate in Section 7A. The final *prima facie* rate is calculated by multiplying the initial rate by:

$$\text{the adjustment } n/a_n$$

where:

n is the term calculated above; and

$$a_n = (1 - v^n)/i.$$

- C. If the accident and health coverage is sold on a joint basis (involving two people), the rate for the joint coverage shall be filed with the commissioner prior to use.
- D. If the benefits provided are other than those described in Section 7A or 7B above, rates for those benefits shall be actuarially consistent with rates provided in Section 7A and 7B.
- E. The premium rates in Subsection A shall apply to contracts providing credit accident and health insurance that are offered to all eligible debtors, that do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within thirty (30) days of the date the debtor becomes eligible and that contain the provisions below:



- (1) Coverage for disability by whatever means caused, except that coverage may be excluded for disabilities resulting from: (a) normal pregnancy; (b) war or any act of war; (c) elective surgery; (d) intentionally self-inflicted injury; (e) sickness or injury caused by or resulting from the use of alcoholic beverages or narcotics (including hallucinogens) unless they are administered on the advice of and taken as directed, by a licensed physician other than the insured; (f) flight in any aircraft other than a commercial scheduled aircraft; (g) a preexisting condition.
- (2) For the exclusion listed in Section 7B(1)(g) above, the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.
- (3) A definition of disability providing that for the first twelve (12) months of disability, total disability shall be defined as the inability to perform the essential functions of the insured's own occupation. Thereafter, it shall mean the inability of the insured to perform the essential functions of any occupation for which he or she is reasonably suited by virtue of education, training or experience.
- (4) No employment requirement more restrictive than one requiring that the debtor be employed full-time on the effective date of coverage and for at least twelve (12) consecutive months prior to the effective date of coverage. "Full time" means a regular work week of not less than thirty (30) hours.
- (5) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).
- (6) A daily benefit of not less than one-thirtieth of the monthly benefit payable under the policy.

**Drafting Note:** These provisions are intended only to be provisions that correspond to the use of the rates provided for in Subsection 7A. Consistent with the commissioner's authority in the Model Bill, they are neither required provisions nor minimum standards. They are no more than safe harbor provisions. All other policy provisions must be judged based solely on the standard in the Model Bill that prohibits provisions that are unfair, unjust, inequitable, misleading, deceptive or encourage misrepresentation of the coverage or that are contrary to statute or administrative rule.

The preexisting condition exemplifies this. Subsection 7B contemplates that a six (6) month exclusionary period for preexisting conditions will be used in contracts to which the *prima facie* rates are applied. This alone does not, however, prohibit the use of a longer exclusionary period for preexisting conditions. A longer exclusionary period could be prohibited only if it is reasonably determined to be unjust or unfair, etc. Use of a longer exclusionary period would, however, remove the presumption that the *prima facie* rates are acceptable for use in connection with that form and use of lower rates may be required to reflect the difference in expected claims.

#### F. Application of Rates:

- (1) If the insurer, its agent, or the application form for credit life insurance does not request or require that the debtor provide evidence of insurability, then the premium rates deemed reasonable will be the *prima facie* rates in Section 7A.
- (2) Except as provided in Section 7F(3), if the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is \$15,000 or less, then the premium rates deemed reasonable will be the rates in Section 7A multiplied by 90 percent (.90).
- (3) If the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is above \$15,000 or the applicant elects to purchase coverage more than thirty (30) days after the date the debtor became eligible under a group plan of insurance, then the premium rates deemed reasonable will be the *prima facie* rates in Section 7A. For policies insuring open lines of credit, the insurer may require evidence of insurability for advances which increase the outstanding debt above \$15,000.

- G. Insurers may use the same application forms for credit accident and health insurance whether or not underwriting questions are asked pursuant to Section 7F. The commissioner will presume that any application form for which all relevant underwriting questions have been left unanswered represents a policy which has not been underwritten and for which *prima facie* rates are permissible. A form for which any relevant underwriting questions have been answered or filled in represents a policy for which premium decreases pursuant to Section 7F are required. Insurers should maintain in their files their rules for those circumstances where underwriting questions shall be asked. Those rules shall be communicated to and followed by the insurer's agents or other producers.

## Section 8. Credit Unemployment Insurance Rates

- A. Each insurer filing rates for credit unemployment insurance shall include in its rate filing with the commissioner the appropriate rate formula upon which its rates are based, including a provision for anticipated losses. Anticipated losses that develop or are expected to develop a loss ratio of not less than sixty percent (60%) shall be presumed reasonable. Anticipated losses may include an amount for fluctuation in loss due to catastrophe based on the experience of at least the latest nine (9) policy years or as long as the company has been writing this line of business.
- B. Credit unemployment insurance policies must contain benefits at least as favorable to insureds as the provisions below:
- (1) Coverage for unemployment for any reason, except that coverage may be excluded for: (a) voluntary forfeiture of salary, wage or other employment income; (b) resignation; (c) retirement; (d) general strike; (e) illegal walk out; (f) war; (g) separation from the military; (h) willful misconduct or criminal misconduct or unlawful behavior; and (i) disability caused by injury, sickness or pregnancy.

**Drafting Note:** State laws may vary on whether strikes or labor disputes may qualify an individual for unemployment insurance benefits.

- (2) For credit unemployment insurance which provides for a monthly benefit in the event of unemployment, benefits must start after a waiting period of not longer than thirty (30) days but need not be retroactive to the first day of unemployment and must have a maximum benefit period that is no shorter than six (6) months.
- C. Credit unemployment insurance policies may not contain eligibility requirements more restrictive than the restrictions below:
- (1) Exclusion from qualification for coverage: (a) self employed individuals; (b) workers in seasonal or temporary jobs, defined as jobs designed to last six (6) consecutive months or less; and, (c) debtors who have been notified either orally or in writing of any layoff or of employment termination either now or within the next sixty (60) days. This exclusion must be disclosed to all prospective insureds.

**Drafting Note:** States may wish to adjust the time period that defines temporary and seasonal workers to be appropriate for the types of businesses in their state.

- (2) No employment requirement more restrictive than one requiring that the debtor be employed full-time on the effective date of coverage for at least twelve (12) consecutive months prior to the effective date of coverage. "Full time" means a regular work week of not less than thirty (30) hours.
- (3) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).

## Section 9. Refund Formulas

- A. In the event of termination, no charge for consumer credit insurance may be made for the first fifteen (15) days of a month and a full month may be charged for sixteen (16) days or more of a month.

**Drafting Note:** States should verify that the use of 15 days in the above section does not conflict with their banking laws.

- B. The requirements of the consumer credit insurance law that refund formulas be filed with the commissioner shall be considered fulfilled if the refund formulas are set forth in the individual policy or group certificate filed with the commissioner.
- C. No refund of \$5 or less need be made.

## Section 10. Experience Reports and Adjustment of *Prima Facie* Rates

- A. Each insurer doing insurance business in this state shall annually file with the commissioner and the National Association of Insurance Commissioners (NAIC) Support and Services Office a report of consumer credit insurance written on a calendar year basis. The report shall utilize the Credit Insurance Supplement—Annual Statement Blank as approved by the NAIC, and shall contain data separately for each state, rather than an allocation of the company's countrywide experience. The filing shall be made in accordance with and no later than the due date in the Instructions to the Annual Statement.
- B. The commissioner will, on a triennial basis, review the loss ratio standards set forth in Section 4 and the *prima facie* rates set forth in Sections 6 and 7 and determine therefrom the rate of expected claims on a statewide basis, compare such rate of expected claims with the rate of actual claims for the preceding three (3) years determined from the incurred claims and earned premiums at *prima facie* rates reported in the Annual Statement Supplement or other available source, and publish the adjusted actual statewide *prima facie* rates to be used by insurers during the next triennium. The rates will reflect the difference between (a) actual claims based on experience; and (b) expected claims based on the loss ratio standards set forth in Section 4 applied to the *prima facie* rates set forth in Sections 6 and 7.
- C. The commissioner will, on a triennial basis, review the discount rates for interest included in the formulae in Sections 6A and 7A, and adjust those discount rates to equal the average of the rates being paid at that time on three-year United States Treasury Notes as reported in the Wall Street Journal on the last day of sale in the most recent three (3) calendar years.

**Drafting Note:** This contemplates automatic adjustment of premium and discount rates every three years, based on state-wide experience. The need for notice and public hearing will be dictated by the provisions of the Administrative Procedures Acts in the various states. It is contemplated that the rate adjustments, as a purely administrative procedure, should generally require only notice, without formal hearings.

**Drafting Note:** States should verify that the wording in Section 10C is specific enough to allow the commissioner to change the interest rate in an administrative action, rather than by having to readopt the regulation.

## Section 11. Use of Rates - Direct Business Only

- A. Use of *Prima Facie* Rates.

An insurer that files rates or has rates on file that are equivalent to the *prima facie* rates shown in Sections 6 and 7, to the extent adjusted pursuant to Section 10, may use those rates without further proof of their reasonableness.

B. Use of Rates Higher Than *Prima Facie* Rates.

An insurer may file for approval of and use rates that are higher than the *prima facie* rates shown in Sections 6 and 7, to the extent adjusted pursuant to Section 10, as long as the filed rates are consistent with the provisions of Section 4 of this regulation.

If rates higher than the *prima facie* rates shown in Sections 6 and 7, to the extent adjusted pursuant to Section 10, are filed for approval, the filing shall specify the account or accounts to which the rates apply. The rates may be:

- (1) Applied uniformly to all accounts of the insurer; or
- (2) Applied on an equitable basis approved by the commissioner to only one or more accounts of the insurer for which the experience has been less favorable than expected; or
- (3) Applied according to a case-rating procedure on file with the commissioner.

C. Approval Period of Deviated Rates.

- (1) A deviated rate will be in effect for a period of time not longer than the experience period used to establish the rate (i.e. one year, two years or three years). An insurer may file for a new rate before the end of a rate period, but not more often than once during any twelve-month period.
- (2) Notwithstanding the provision of Subsection A of this section, if an account changes insurers, the rate approved to be used for the account by the prior insurer is the maximum rate that may be used by the succeeding insurer for the remainder of the rate approval period approved for the prior insurer or until a new rate is approved for use on the account, if sooner.

D. Use of Rates Lower than Filed Rates.

An insurer may at any time use a rate for an account that is lower than its filed rate without notice to the commissioner.

E. Glossary of Terms and Definitions as Used in Section 11.

- (1) "Experience" means "earned premiums" and "incurred losses during the experience period.
- (2) "Experience period" means the most recent period of time for which earned premiums and incurred losses are reported, but not for a period longer than three (3) full years.
- (3) "Incurred losses means total claims paid during the experience period, adjusted for the change in claim reserve.

**Section 12. Supervision of Consumer Credit Insurance Operations**

- A. Each insurer transacting credit insurance in this state shall be responsible for conducting a thorough periodic review of creditors with respect to their credit insurance business with such creditors, to assure compliance with the insurance laws of this state and the regulation promulgated by the commissioner.
- B. Written records of such reviews shall be maintained by the insurer for review by the Insurance Commissioner.

**Note:** The states may wish to specify the minimum time in accordance with their respective statutes.

### **Section 13. Prohibited Transactions**

The following practices, when engaged in by insurers in connection with the sale or placement of credit insurance, or as an inducement thereto, shall constitute unfair methods of competition and shall be subject to the Unfair Trade Practices Act of this State.

- A. The offer or grant by an insurer to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract, other than the payment of agent's commissions;
- B. Agreement by an insurer to deposit with a bank or financial institution money or securities of the insurer with the design or intent that the same shall affect or take the place of a deposit of money or securities which otherwise would be required of the creditor by the bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement; and
- C. Deposit by an insurer of money or securities without interest or at a lesser rate of interest than is currently being paid by the creditor, bank or financial institution to other depositors of like amounts for similar durations. This subsection shall not be construed to prohibit the maintenance by an insurer of such demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of the insurer's business.

### **Section 14. Readability [Optional]**

The commissioner shall not approve any form unless the policy or certificate is written in non-technical, readily understandable language, using words of common everyday usage:

- A. Each insurer is required to test the readability of its policies or certificates by use of the Flesch Readability Formula, as set forth in Rudolf Flesch, *The Art of Readable Writing*, (1949, as revised 1974);
- B. A total readability score of forty (40) or more on the Flesch scale is required;
- C. All policies or certificates within the scope of this section shall be filed with the commissioner, accompanied by a certification setting forth the Flesch score and certifying the compliance with the guidelines set forth in this Section.

**Drafting Note:** This optional section should be included only in those states which have not enacted a policy language simplification act.

### **Section 15. Severability**

If any provision or clause of this regulation or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared severable.

### **Section 16. Effective Date**

- A. This regulation shall take effect [insert date] as to premium rates.
- B. Approval of all forms not in compliance with this regulation is hereby withdrawn as of [insert date]. No such form may be issued after said date unless it has been submitted to and approved by the commissioner subsequent to [30 days prior to effective date], or unless a rider approved subsequent to such date has been attached bringing the form into compliance with this regulation.
- C. Any deviations thought to be appropriate by an insurer as a result of promulgation of this regulation shall be filed in accordance with the provisions of Section 11 no later than [insert date].

- D. Certificates, notices of proposed insurance and premium rates in connection with existing group policies shall conform to the requirements of this regulation not later than the anniversary date of the group policy next following the effective date of this regulation.
- E. Any group policy issued to replace an existing group policy of consumer credit insurance or an amendment to an existing group policy of consumer credit insurance shall be ignored for the purposes of determining the anniversary date if the change is made on or after [insert the date of publication of notice].

**Drafting Note:** This section should be drafted in accordance with the state statutes regarding approval and disapproval of forms.

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*Chronological Summary of Action (all references are to the Proceedings of the NAIC).*

1960 Proc. I 176 (implementation recommendations for model bill: 50% loss ratio benchmark recommended).  
1966 Proc. II 402-403 (Richmond resolution expanding on 50% loss ratio benchmark).  
1968 Proc. II 575 (interpretation of Richmond resolution) (Las Vegas resolution).  
1969 Proc. II 770-772 (Richmond resolution amended) (Neff amendment).  
1971 Proc. I 295-296 (Richmond resolution amended) (O'Hare resolution).  
1971 Proc. I 288-293 (Richmond resolution amended to eliminate accident and health insurance, with deviation and credibility methods).  
1971 Proc. II 478-487 (New York resolution with deviation and credibility methods).  
1972 Proc. I 582 (amended New York resolution).  
1973 Proc. II 18, 21, 471, 481, 485-531 (model adopted).  
1974 Proc. II 501 (corrected).  
1979 Proc. II 31, 10, 326, 409 (established 60% loss ratio for credit accident and health).  
1980 Proc. I 34, 38, 406, 473, 475-484 (amended and reprinted).  
1981 Proc. I 47, 51, 421, 488-489, 490-498 (amended).  
1988 Proc. I 9, 21-22, 828, 851-853, 859-871 (amended and reprinted).  
1988 Proc. II 5, 14, 758, 785-787, 788-791 (adopted technical amendments).  
1994 Proc. 2nd Quarter 13, 39, 44, 73-91 (amended and reprinted).  
1995 Proc. 4th Quarter 11, 33, 98, 108, 111-112 (amended).