

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Section 3703(b) (18 **Del.C.** §3703(b))
18 **DE Admin. Code** 1701

PUBLIC NOTICE

PROPOSED

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of intent to adopt proposed Department of Insurance Regulation 1701 relating to Credit Life and Credit Health Insurance. The docket number for this proposed amendment is 587.

The purpose of the proposed regulation is to correct an error in the existing Regulation 1701 and to replace the existing mortality table with a more current one. The text of the proposed amendment is reproduced in the December 2007 edition of the *Delaware Register of Regulations*. The text can also be viewed at the Delaware Insurance Commissioner's website at: <http://www.delawareinsurance.gov/departments/documents/ProposedRegs/ProposedRegs.shtml>.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, compilations of data or other materials concerning the proposed amendments. Any written submission in response to this notice and relevant to the proposed changes must be received by the Department of Insurance no later than 4:30 p.m., Monday January 5, 2008, and should be addressed to Mitchell G. Crane, Esquire, Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.2021 or email to mitch.crane@state.de.us.

1701 Credit Life and Credit Health Insurance [Formerly Regulation 5]

1.0 50% Loss Ratio Benchmark

1.1 18 **Del.C.** §3707(b) of the Delaware Insurance Laws authorizes the Insurance Commissioner to disapprove any credit life or credit health insurance form "...if the premium rates charged or to be charged are excessive in relation to benefits..... After review of such insurance transactions in the State of Delaware, and after careful analysis of the studies and recommendations of the National Association of Insurance Commissioners, it is hereby ruled that premium rates are not excessive in relation to benefits as provided for in 18 **Del.C.** §3707(b), if an anticipated loss ratio of 50% is developed. NAIC Reporting Forms required to be filed annually will be used to determine if this standard is being met.

2.0 Prima Facie Acceptable Credit Insurance Rates

2.1 It shall be presumed that premium rates charged or to be charged are not excessive in relation to the benefits if the premiums or premium rates as filed with the Commissioner do not exceed the following, or actuarially equivalent, rates:

2.1.1 Credit Life Insurance:

2.1.1.1 For decreasing term credit life insurance, a single premium of 650.65 (65 cents) per annum per \$100 of initial insured indebtedness. A premium payable monthly at the rate of \$1.00 per \$1000 of outstanding unpaid insured indebtedness will be deemed the actuarial equivalent of the foregoing rate.

2.1.1.2 For level term credit life insurance a single premium of \$1.22 per annum per \$100 of initial indebtedness pursuant to 18 **Del.C.** §3704. Note exception in 18 **Del.C.** §3708.

2.1.1.3 The premium rates specified are presumed not excessive only in relation to a plan of death benefits, with or without requirements for evidence of insurability:

2.1.1.3.1 which contains no exclusions, exceptions or limitations on coverage other than for suicide within one year from the effective date of insurance;

2.1.1.3.2 which contains no age restrictions, or only age restrictions making ineligible for the coverage, debtors 65 or over at the time the indebtedness is incurred.

2.1.2 Credit Health Insurance:

2.1.2.1 For credit health insurance the following single premium rates per \$100 initial insured indebtedness:

STANDARD SINGLE PREMIUM RATE PER \$100 OF INITIAL AMOUNT OF INDEBTEDNESS

No. of Months in Which in the Indebtedness Is Repayable in Equal Installments	Benefits Not Retroactive Elimination Period			Retroactive Benefits Waiting Period		
	7 Days	14 Days	30 Days	7 Days	14 Days	30 Days
2	.70			1.30		
3	1.00	.60	.30	1.80	1.30	\$.90
6	1.50	1.00	.40	2.50	1.80	1.30
12	2.00	1.40	.80	3.00	2.20	1.70
18	2.50	1.80	1.20	3.50	2.60	2.10
24	3.00	2.20	1.60	4.00	3.00	2.50
30	3.50	2.60	2.00	4.50	3.40	2.90
36	4.00	3.00	2.40	5.00	3.80	3.30
42	4.40	3.30	2.70	5.40	4.10	3.60
48	4.70	3.50	2.90	5.70	4.30	3.80
54	5.00	3.70	3.10	6.00	4.50	4.00
60	5.30	3.90	3.30	6.30	4.70	4.20

2.1.2.2 Rates for policies of credit health insurance on which premiums are paid other than on a single premium basis or for benefits or durations on a basis other than illustrated above shall be actuarially consistent with the rates specified above.

2.1.2.3 The premium rates specified are for policies which contain no exclusion for pre-existing conditions except for those conditions which were manifested requiring medical diagnosis or treatment within the six months preceding the effective date of the insurance and which caused loss within the six months following the effective date of the insurance; provided, however, that disability commencing thereafter resulting from such conditions shall be covered.

2.1.2.4 Any contract to which the foregoing rates apply may contain provisions excluding or restricting coverage in the event of total disability resulting from pregnancy, intentionally self-inflicted injuries, foreign travel or residence, or flight in non-scheduled aircraft. It is not anticipated that military personnel will be sold accident and health insurance except in unusual cases and the company and/or agent shall stand ready to justify any such sale. The policy may contain the same age limitation for eligibility as set forth for credit life policies.

2.1.3 Restricted Coverages:

2.1.3.1 If a credit life or credit health insurance form provides for coverages which are more restrictive than provided for in section 2.1.1.3 or 2.1.2.3 above, the insurer shall demonstrate to the satisfaction of the Commissioner that the schedule of premium rates applicable to such forms will, or can reasonably be expected to, produce a loss ratio of 50% in accordance with the basic test set forth in section 1.0.

2.1.4 Deviation From Prima Facie Acceptable Credit Insurance Rates:

2.1.4.1 An insurer may file and receive approval of a different premium rate or a schedule of premium rates to be used in connection with a particular policy form providing insurance on the debtors of a creditor or a class or classes of debtors, if the insurer demonstrates to the satisfaction of the Commissioner that the prima facie acceptable rates, if used with such forms will or can reasonably be expected to produce a loss ratio of 60% or more. The insurer may use said deviated rates for a period two years. Prior to the expiration of the two-year period the insurer must submit evidence satisfactory to the Commissioner justifying the continued use of said rates for an additional two-year period, provided that a loss ratio of not less than 60% shall not be considered for purposes of an upward deviation.

2.1.5 Downward Rate Adjustments:

2.1.5.1 If the Commissioner has reason to believe that any premium rate or schedule of premium rates theretofore approved by him is producing a loss ratio of less than 50%, the Commissioner may require the insurer to show cause why the premium rate or schedule of premium rates should not be adjusted so as to produce a loss ratio of 50% in accordance with section 1.0

2.1.6 Filing of Experience Information:

2.1.6.1 Insurers doing credit life and/or credit health insurance business in this State shall annually file with the Insurance Department a report of its credit life insurance experience and credit health insurance experience separately on forms prescribed by the Commissioner, and set forth in Appendix A of this regulation. (See Bulletin No. 75-13. Page 1206.)

3.0 Unfair Trade Practices

3.1 The use of compensating balances or special deposits as an inducement to a creditor to place a credit insurance program with the insurer, making or offering to create such compensating balance or special deposit is considered by the Insurance Commissioner to be a prohibited practice within the meaning of the Unfair Trade Practices Act (Sec. 2301-2316) and this section is intended to serve notice as to his determination in this regard.

4.0 Collection and Remittance of Premiums

4.1 A creditor may remit and an insurer may collect premiums on either a single premium basis or on a monthly outstanding balance basis, unless the creditor adds identifiable charges or premium for credit life insurance to the total amount of the indebtedness, and makes any direct or indirect finance, carrying, credit or service charge whatever to the debtor in connection with such insurance charge. Under such circumstances, the creditor has loaned the premium or insurance charge to the debtor and the premium or the insurance charge is deemed collected for the insurer as soon as it is added to the indebtedness, in which event the creditor must remit and an insurer must collect on a single premium basis only. A creditor may remit and an insurer may collect on the monthly outstanding balance basis if no direct or indirect finance, carrying, credit or service charge is made to the debtor in connection with the insurance charge of premium.

5.0 Refunds

5.1 In the event of termination of insurance prior to the scheduled maturity date of indebtedness by any circumstance including death, there shall be a refund or credit to the debtor of the proper portion of any amount paid by the debtor for the insurance.

5.1.1 The amount of the refund in the case of reducing term credit life insurance or of credit health insurance on which such charges to the debtor are payable to the insurance company by other than a single sum and of level term credit life insurance shall not be less than the pro rata gross unearned premium.

5.1.2 The amount of the refund in the case of reducing term credit life insurance or of credit health insurance on which the insurance charges to the debtor are payable to the insurance company in a single sum shall not be less than the amount computed by the "sum of digits" formula, commonly known as the "Rule of 78."

5.1.3 A premium refund or credit need not be made if the amount thereof is less than \$1.00.

6.0 Reserves

6.1 In order to determine that sufficient reserves are available to guarantee performance of all policy obligations, the minimum reserve standards shall be as follows:

6.1.1 The aggregate reserves on credit life insurance shall not be less than the 1958 Commissioner's Extended Mortality Table.

6.1.2 The reserve for credit health insurance should not be less than the gross unearned premium calculated upon a pro rata basis or a proper morbidity table, whichever is applicable.

Section 6.1.1 was amended by an order effective ~~January 1, 1986~~ of February 11, 2007, by substituting the words "the ~~1958~~ 2001 Commissioner's ~~Extended Mortality Standard Ordinary~~ Table" for the words "a reserve computed in accordance with the Commissioner's ~~1944~~ 1958 Standard Ordinary ~~Mortality~~ Table."

7.0 Separability

7.1 If any provision of this regulation shall be held invalid, the remainder of the regulation shall not be affected thereby.

8.0 Effective Date

8.1 This regulation shall become effective ~~February 15, 1974~~ February 1, 2008. All credit life and credit health insurance rates and forms, delivered or issued for delivery on or after ~~February 15, 1974~~ February 1, 2008, except as hereinafter provided, shall conform to the provisions of this regulation as of that date. With regard to existing group credit life and health insurance policies, the rates and forms shall be filed with the Commissioner, or be terminated, not later than the anniversary date of the date of issuance of the contract next following the effective date of this regulation. Existing group credit life and health insurance contracts that are renewed, reissued or replaced other than on their normal anniversary date and all group life and health insurance contracts newly issued to replace or supplement a creditor's existing insurance program on or after ~~October 6, 1970~~ February 1, 2008 shall conform to the requirements of the effective date of this regulation. No replacements or amendment of group policies to postpone the effect of this regulation will be recognized for the purpose of this section.

11 DE Reg. 727 (12/01/07) (Prop.)