

**NEW YORK STATE
INSURANCE DEPARTMENT**

**Regulation 27A
(11NYCRR 185)**

CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

I, Neil D. Levin, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Section 301 of the Insurance Law of the State of New York, do hereby repeal Part 185 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 27A) promulgated on June 1, 1980, and in place thereof, and pursuant to Sections 201, 301, 3201, 4205, 4216, 4224 and 4235 of the Insurance Law of the State of New York, do hereby promulgate the following new Part 185 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 27A), to take effect upon publication in the State Register:

New Part 185 of Title 11 shall read as follows:

(ALL MATERIAL NEW)

Section

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§ 185.0 Preamble.

(a) In the financing of the flow of goods and services, credit insurance provides important stability by protecting the interests of lenders and sellers in the payment of outstanding debts and avoiding hardship to debtors and their families in the event of death or disability.

(b) In the marketing of credit insurance, the inferior bargaining position of the debtor creates a "captive market" in which, without appropriate regulation of such insurance, the creditor can dictate the choice of coverages, premium rates, insurer and agent, with such undesirable consequences as: excessive coverage (both as to amount and duration); excessive charges (including payment for nonessential items concealed as unidentifiable extra charges under the heading of insurance); failure to inform debtors of the existence and character of their credit insurance and the charges therefor, and consequent avoidance of the protection provided the debtor by such coverage.

(c) In the absence of regulation, premium rates and compensation for credit insurance tend to be set at levels determined by the rate of return desired by the creditor in the form of dividends or retrospective rate refunds, commissions, fees, or other allowances, instead of on the basis of reasonable cost. Such "reverse competition," unless properly controlled, results in insurance charges to debtors that are unreasonably high in relation to the benefits provided to them.

(d) Section 3201(b)(4)(A) of the Insurance Law provides that there be filed with the superintendent, subject to his approval, all forms of policies, certificates, certificate statements, applications and other forms pertaining to credit life insurance and credit accident and health insurance, together with premium rates for such policies. Section 3201(b)(4)(B) provides that the superintendent shall promulgate regulations pertaining to credit insurance. Section 3201(c)(8) provides that the superintendent shall not approve any such forms or premium rates if such premium rates are unreasonable in relation to the benefit. Section 3201(c)(2) prohibits the delivery or issuance for delivery in this state of any policy or certificate form, along with any application, rider or endorsement used in connection therewith, pertaining to life insurance or accident and health insurance which "would be prejudicial to the interests of policyholders or members or it contains provisions which are unjust, unfair or inequitable". Section 3201(c)(3) prohibits the delivery or issuance for delivery in this State of any policy form, contract, certificate or other evidence of any such insurance contract pertaining to accident and health insurance and any application, rider or endorsement used in connection therewith if "such form contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive, or contrary to law or the public policy of this state."

(e) The secondary mortgage market has become an important source of funds for consumer credit. The department recognizes the need for efficient operation and the emergence of organizations which provide administration of mortgages that have been assigned by the original lender or consolidated from various lenders has benefited the public. In order to simplify administration and reduce costs, Mortgage Loan Servicers are therefore recognized as a type of creditor under sections 4216(b)(14) and 4235(c)(1)(M).

(f) In the recent past, insurers have left the credit marketplace in New York and concerns have been expressed about the continued availability of coverage in this state. The Department has reviewed the provisions of Regulation 27A and finds that there is a need to update the regulation with respect to the types of products authorized, to simplify the regulatory process related to the sale of credit insurance and to promote a more active marketplace in New York. Pursuant thereto, in order to prevent the aforementioned abuses

without impairing the sound operation of the business of credit insurance, the rules and standards in this Part are hereby adopted.

§ 185.1 Definitions.

For the purpose of this Part:

(a) *Credit accident and health insurance* means insurance on a debtor in connection with a specific loan or other credit transaction in this State to provide indemnity to the creditor for installment payments on the indebtedness becoming due while the debtor is disabled.

(b) *Credit insurance*, as referred to in sections 3201(b)(4), 4216(b)(3) and 4235(c)(1)(E), means credit life insurance and/or credit accident and health insurance.

(c) *Credit life insurance* means insurance on the life of a debtor in connection with a specific loan or other credit transaction in this State to provide payment to a creditor in the event of the death of the debtor.

(d) *Credit transactions secured by real estate mortgages* shall include first mortgage loans, second or junior mortgage loans and home equity loans as defined in this subdivision:

(1) *First mortgage loan* means a loan made to a natural person or persons and secured by a first lien on real estate, or by a first lien on a proprietary lease to a dwelling unit in a housing cooperative and on the share(s) of stock or other interest in such housing cooperative allocable to such dwelling unit.

(2) *Second or junior mortgage loan* means a loan to a natural person or persons and subject to the lien of one or more prior mortgages on real estate, or on a proprietary lease to a dwelling unit in a housing cooperative and on the share(s) of stock or other interest in such housing cooperative allocable to such dwelling unit.

(3) *Home equity loan* means any loan to a natural person or persons, secured by either a first mortgage or a second or junior mortgage, and where the proceeds are not used to acquire title to the real estate or ownership interest in the proprietary lease to a dwelling unit in a housing cooperative and on the share(s) of stock or other interest in a housing cooperative allocable to such dwelling unit.

(e) *Credit unemployment insurance* means insurance, as authorized by section 1113(a)(24) of the Insurance Law, on a debtor in connection with a specific loan or other credit transaction in this State to provide indemnity to the creditor for installment payments on the indebtedness becoming due while the debtor is unemployed.

(f) *Creditor* means a lender, lessor, or vendor to any of whom payment of an underlying indebtedness is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor or lessor; an affiliate, associate or subsidiary of any of the foregoing or any director, officer or employee of any of them, or any other person in any way associated with any of them, and a trustee, trustees or agent designated by two or more creditors as provided in section 185.5(i) of this Part; creditor includes an intended creditor

pursuant to a "program". Creditor also includes a "mortgage loan servicer" who may be a "creditor" for the purpose of taking delivery of one or more policies of group credit insurance if, with respect to each group, it is demonstrated to the superintendent pursuant to sections 4216(b)(14) and 4235(c)(1)(M) that:

(1) the group of debtors has the common economic relationship of making payments of principal and interest to the servicer;

(2) the premiums charged for the coverage are reasonable in relation to the benefit provided; and

(3) the issuance of such policies would result in economies of acquisition, and would be actuarially sound.

(g) *Debtor* means a borrower of money (or guarantor of such borrower), lessee or purchaser, any of whom is party to a credit transaction; or an intended borrower pursuant to a "program."

(h) *Disability* means the inability of the insured to engage in his or her own occupation or any occupation for which he or she is qualified, as defined in the policy. In addition, disability may be defined in terms of the insured's earned income.

(i) *Identifiable charge* means the amount a creditor charges a debtor or collects from the debtor specifically for credit life insurance or credit accident and health insurance in addition to any other stated charges, including interest or discount, permitted by the New York State Banking and Personal Property Laws. Additionally, it will be considered that the debtor is charged a specific amount for the insurance, if there is a differential in finance, interest, service or other similar charge made to debtors who are in like circumstances, except for their insured or non-insured status.

(j) *Indebtedness* means the amount payable by a debtor to a creditor in connection with a loan or other credit transaction, including rentals payable under the lease of real or personal property.

(k) *Mortgage loan servicer* means the person responsible for the process of receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts under section 10 of the Real Estate Settlement Procedures Act, 12 USCS §§ 2601 et seq., and premiums for credit insurance authorized by this Part, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower to the owner of the loan or other third parties as may be required pursuant to the terms of the mortgage loan documents or servicing contract (including the person who makes or holds a loan, if such person also services the loan).

(l) *Net unpaid indebtedness* means the amount required to liquidate the scheduled indebtedness, including any delinquent payments provided for in the policy, but exclusive of any unearned interest.

(m) An *open-end loan or charge plan* is defined as a line of credit loan, a revolving charge plan or any other self-replenishing credit arrangement between the creditor and one of its customers which may be drawn upon from time to time by the customer without renegotiating the lending agreement. The customer may repay the full outstanding balance at any time, or a specified minimum portion of the indebtedness.

(n) *Package* means credit life insurance, credit accident and health insurance and credit unemployment insurance offered in any combination in such manner that the debtor may only elect either the entire combination or no coverage.

(o) *Period of insurance* means the time for which each premium has provided coverage.

(p) *Preexisting condition* means an illness, disease or physical condition for which a debtor received medical advice, consultation or treatment during a specified period immediately prior to the effective date of coverage (exclusive of acute infectious diseases of the upper respiratory tract and other diseases generally considered medically as not affecting future health); or the existence of symptoms which would ordinarily cause a prudent person to seek diagnosis, care or treatment.

(q) *Program* means a program for defraying the cost of attendance of a student at a college or university or at an elementary or secondary school providing education required for minors, which program includes provision for immediate periodic payments by the parent or guardian of such student and a loan commitment to such parent or guardian by a financial institution, or by or on behalf of a college or university or such elementary or secondary school to defray the cost of attendance at such college or university or elementary or secondary school in excess of the accumulated periodic payments by the parent or guardian.

(r) *Refund liability* means the amount that must be refunded to the debtor at any time if the insurance is terminated.

(s) *Small loans* means those loans authorized and defined by section 352 of the New York State Banking Law.

(t) *Term of insurance* means the time during which a loss can occur for which benefits are payable.

(u) *Vendor* means seller of real and/or personal property or services.

§ 185.2 Existing insurance, choice of insurer.

When life insurance or accident and health insurance is required by a creditor, the debtor shall have the option, upon notice to the creditor, of furnishing existing policies of insurance, or procuring and furnishing new policies of insurance, owned or controlled by the debtor and issued by any insurer authorized to transact an insurance business in this State for an amount not less than the indebtedness and for a term not less than the term of the loan. Any such policy furnished by the debtor shall not be subject to this Part, unless procured through or

administered by the creditor or an agent or broker designated by or associated with the creditor. Insurers writing credit life insurance and credit accident and health insurance shall be responsible for establishment of procedures by which debtors are furnished a prominent written notice informing them of said option.

§ 185.3 Filing and approval of forms and premium rates.

(a) Policies of credit life insurance or credit accident and health insurance, and certificates of group insurance, applications for the policy, applications for the certificate, notices of proposed group insurance, or other forms pertaining to credit life insurance or credit accident and health insurance and those portions of loan applications or credit card applications form pertaining to credit life insurance or credit accident and health insurance shall not be issued or delivered in this State unless such forms and the premium rates and identifiable charges therefor have been filed and approved by the superintendent. The submission of language related to the request for insurance and any questions regarding eligibility for coverage in an application may be made in variable language format.

(b) If a group policy of credit life insurance or credit accident and health insurance has been or is delivered in another state before or after the effective date of this Part, the insurer shall be required to file the certificate of group insurance, notice of proposed group insurance, if any, to be delivered or issued for delivery in this state as specified in sections 185.5(c) and 185.5(d) of this Part (together with its certification that the provisions of said group policy are consistent or shall be made consistent with the provisions of said certificate or notice of proposed group insurance) and such forms shall be approved if:

(1) they conform to the requirements specified in sections 185.5(c) and 185.5(d) of this Part; and

(2) the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates on file with and approved by the superintendent.

(c) No individual credit insurance policy nor any related form shall be offered or effected, directly or indirectly, as an inducement to, or in combination with, the purchase by the public of any goods, securities, commodities, services or subscriptions to periodicals. Use of an individual credit insurance policy or related form shall be limited to insurance, otherwise lawful, of an individual borrower or other person obligated under a loan not arranged by, or in cooperation with, a seller of goods, securities, commodities, services or subscriptions to periodicals. Where not prohibited and where otherwise lawful, use of an individual policy may be in lieu of or in addition to coverage under a group credit insurance policy.

(d) Notwithstanding any other provisions of this Part, an individual policy of life insurance written in conjunction with a real estate mortgage loan of more than five years duration on a form regularly issued by an insurer at its regular premium rates shall be exempt from the provisions of section 185.2 of this Part, and shall be deemed prima facie in compliance with the requirements of this Part.

(e) Along with the required filing of the credit insurance form, the superintendent may require or request at any time the filing for informational purposes of a copy of any loan agreement form.

§ 185.4 Forms of credit life insurance and credit accident and health insurance.

(a) Credit life insurance and credit accident and health insurance policies which provide benefits differing in kind or character from those set forth in paragraphs (1), (2) and (3) of this subdivision shall be deemed not to conform with section 3201(b) of the Insurance Law:

(1) individual policies of credit life insurance issued to debtors on the term plan;

(2) group policies of credit life insurance issued to creditors providing insurance upon the lives of debtors on the term plan which may include disability benefits commonly described as waiver of premiums, extended death benefit or total and permanent disability benefits, provided such additional disability and death benefits are provided at no additional charge to the debtor. The provisions of this paragraph pertaining to disability benefits shall not be deemed to preclude the continued issuance of disability benefits on debtors in this State, on a basis other than that specified herein, under a group policy of credit life insurance delivered outside this State and in force prior to October 1, 1958; provided, however, that issuance of such other disability benefits was permitted under the laws of the state in which such policy was delivered; and

(3) individual policies of credit accident and health insurance issued to debtors and group policies of credit accident and health insurance issued to creditors, in either case on a term plan providing:

(i) periodic benefits payable on any one of the following plans:

(a) after the 14th day of disability due to sickness or accident and retroactive to the first day of such disability;

(b) after the 14th day of disability due to sickness or accident;

(c) after the 30th day of disability due to sickness or accident and retroactive to the first day of such disability; or

(d) after the 30th day of disability due to sickness or accident;

(ii) lump sum benefits payable where the coverage is on open-end loans or charge plans and the maximum amount of insurance does not exceed \$2,500 after the 90th day of disability due to sickness or accident; and

(iii) any other plan approved by the superintendent.

(b) Credit life insurance and credit accident and health insurance may be provided on each of two co-debtors.

§ 185.5 Policy and certificate provisions and disclosure to debtors.

(a) No credit life insurance or credit accident and health insurance shall be effected on a debtor unless evidenced by an individual policy or, in the case of group insurance, by a certificate of group insurance, which policy or certificate shall be delivered to the debtor within 30 days from the time the indebtedness is incurred or the election to purchase insurance coverage is made. Within such 30 day period, any cosigner or guarantor of the indebtedness shall be notified of the possible existence of this insurance by the use of a copy of the instrument of indebtedness, a copy of the loan application or a separate notice.

(b) If a separate charge is made to the debtor or debtors, then the signature of each debtor to be insured must be obtained requesting the coverage. However, in the case of married joint debtors, the insurer may allow one of the debtors to request joint coverage. If a debtor or debtors must satisfy an insurer's eligibility requirements for insurance including age, condition of health, employment status or other conditions for eligibility, the debtor's application for insurance, the notice of proposed group insurance, credit insurance disclosure statement or equivalent form shall set forth each such condition which would identify the debtor's eligibility or ineligibility and include a declaration for each debtor in regards to their eligibility. It is the responsibility of each insurer to ensure that every application, notice of proposed insurance, credit disclosure form and sales material provides an accurate description of the coverage provided in the policy and certificate and does not mislead the applicant as to the nature of the benefit.

(c) Each such individual policy or certificate of group insurance shall, in addition to other requirements of law, set forth:

(1) the name and home office address of the insurer;

(2) the identity of the debtor by name or otherwise;

(3) the amount and term of the coverage which, in the case of group insurance, may be by description rather than by stated amount and term;

(4) the amount of premium for an individual policy or the identifiable charge to the debtor, if any, under a group policy, stated separately in connection with credit life insurance, credit accident and health insurance and credit unemployment insurance when coverage is not packaged, unless in the case of group insurance, such identifiable charge has been disclosed to the debtor as hereinafter provided in subdivision (d) of this section;

(5) the circumstances and formula under which refunds of premiums or identifiable charges are payable pursuant to the provisions of section 185.8 of this Part;

(6) a description of the insurance coverage, including any exceptions, limitations or restrictions;

(7) a description of the eligibility requirements for the insurance, as referred to in subdivision (b) of this section; and

(8) that the benefits shall be paid to the creditor to reduce or extinguish any unpaid net indebtedness to the creditor and, where the amount of insurance exceeds any such unpaid net indebtedness, that any such excess shall be payable to the debtor or to a designated beneficiary, other than the creditor, or, if none designated, to the estate of the debtor or pursuant to the provision of a facility of payment clause.

Any such certificate shall appropriately describe the refund provision required pursuant to section 185.8 of this Part. The insurer shall be responsible to ascertain that appropriate procedures are set up by the creditor to implement the above. Where appropriate, the insurer may pay any such excess directly to such beneficiary or the estate of the debtor.

(d) If said individual policy or certificate of group insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed group insurance, signed by the debtor and setting forth:

(1) the name and home office address of the insurer;

(2) the name of the debtor;

(3) the amount of premium for an individual policy or the identifiable charge to the debtor, if any, under a group policy, separately in connection with credit life insurance, credit accident and health insurance and credit unemployment insurance when coverage is not packaged;

(4) the amount and term of the coverage provided which, in the case of group insurance, may be by description rather than by stated amount and term;

(5) a brief description of the coverage provided;

(6) a brief description of any limitations, reductions or exceptions, such as a preexisting condition limitation;

(7) a description of the eligibility requirements for the insurance, as referred to in subdivision (b) of this section (this requirement may be provided in the credit insurance disclosure statement or equivalent form); and

(8) that, if the insurance is declined by the insurer or otherwise does not become effective, any premium or identifiable charge will be refunded or credited to the debtor pursuant to the provisions of section 185.8 of this Part.

shall be delivered to the debtor at the time such indebtedness is incurred; provided, however, that where no identifiable charge is made to the debtor, the notice of proposed group insurance need not be signed by the debtor nor set forth the debtor's name except as provided in subdivision (b) of this section. The copy of the application for an individual policy and the

notice of proposed group insurance shall refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless set forth therein in a separate provision with an appropriate and prominent caption on the face or reverse thereof in boldface type at least equal in size to the type used for the other provisions thereof; provided that the name of the debtor proposed for insurance, any figures relating to the amount and term of the coverage and the amount of the premium or identifiable charge to the debtor need not be contained in a separate provision of the instrument but may be set forth elsewhere in the instrument. The insurer shall be responsible for establishment of procedures for delivery of the individual policy or certificate of group insurance to the debtor upon the insurance becoming effective, or within 30 days of the date upon which the indebtedness is incurred. Said application or notice of proposed group insurance shall provide that, upon acceptance by the insurer, the insurance coverage provided shall become effective as specified in section 185.6(c) of this Part, unless the insurer has previously demonstrated to the satisfaction of the superintendent that in deferring the effective date of the insurance the contract conforms to the standards of section 3201(b).

(e) An exclusion for preexisting conditions may only be used as described in paragraphs (1), (2) and (3) of this subdivision.

(1) A policy of credit life insurance or credit accident and health insurance other than those subject to section 185.13 of this Part may contain a provision excluding or denying a claim for death or disability during the first six months of coverage resulting from a preexisting condition during the six month period immediately preceding the effective date of the debtor's coverage.

(2) For credit life insurance or credit accident and health insurance policies where the policy is subject to section 185.13 of this Part, the exclusion set forth in paragraph (1) of this subdivision may be used when the effective date of insurance is the certificate date.

(3) For credit accident and health insurance policies where the policy is subject to section 185.13 of this Part and each credit transaction is considered to have its own effective date of insurance, the policy may contain either:

(i) a provision limiting liability for a claim for disability for each credit transaction during the six months prior to the date of loss, where there was a preexisting condition during the six months prior to the date of the credit transaction; or

(ii) a provision limiting liability for a claim for disability for each credit transaction during the nine months prior to the date of loss, where there was a preexisting condition during the nine months prior to the date of loss and before the credit transaction.

The liability may not be reduced by more than the sum of the credit transactions subject to a preexisting condition less the excess of all payments made by the debtor to the account since the earliest credit transaction subject to a preexisting condition for this loss over the sum of the minimum payments which were required when each of these payments were made.

(f) Except as set forth in subdivision (e) of this section, no policy of credit insurance shall contain any provision that excludes or restricts liability for any reason other than:

(1) death by reason of suicide; or

(2) disability by reason of intentionally self-inflicted injuries; or

(3) death or disability by reason of:

(i) war or special hazards to which a person in military service is exposed in the line of duty; or

(ii) such other exclusions that have been shown to the satisfaction of the superintendent not to be contrary to the standards prescribed in section 3201(b).

(g) A credit insurance policy may exclude from the classes eligible for insurance, classes of debtors determined by age and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of specified ages:

(1) No age for ineligibility shall be less than age 65 at date of indebtedness or age 66 at the maturity date; and

(2) No age for termination or reduction in the amount of insurance shall be less than age 66; except that for credit accident health insurance the use of a younger age may be approved by the superintendent.

(h) A group credit insurance policy which provides for payment of single premiums or of advance premiums to the insurer shall contain a provision that, in the event of termination of such policy by the insurer or creditor, insurance coverage with respect to any debtor insured under such policy shall be continued for the entire period for which a single premium or advance premium has been paid for such debtor, except as otherwise provided in section 185.6(c) of this Part, unless such coverage is immediately assumed by the same or another insurer. A group credit insurance policy under which premiums are paid to the insurer monthly on outstanding balances shall contain a provision that, in the event of termination of such policy by the insurer or creditor, 31 days' notice of such termination shall be given to any debtor insured under the policy by the insurer where practicable, otherwise by the creditor, unless there is immediate replacement of the coverage by the same or another insurer.

(i) No group policy of credit life insurance or credit accident and health insurance replacing a group policy of similar benefits with the same or another insurer shall be written unless all debtors insured under the prior policy are eligible without evidence of individual insurability or restrictions as to preexisting conditions, except those contained in the prior policy from which transfer is made. In the case of refinancing with the same creditor, any incontestable period or the periods of time subject to a preexisting condition exclusion shall be measured from the dates of the original transaction, with respect to loan amounts and durations in force immediately prior to such refinancing.

(j) A group credit insurance policy issued to a trustee, trustees or agent designated by two or more creditors shall set forth:

- (1) the duties and obligations pertaining to the service and administration of said group policy of the trustee, trustees, or agent;
- (2) the class or classes of creditors that may be included in the group policy and the condition for eligibility of any such class or classes;
- (3) the method of computation and manner of charging and collecting premiums for each class or classes of creditors;
- (4) the insurer's method and manner of computing and crediting dividends or experience rate adjustments if different for any class or classes of creditors or debtors;
- (5) the class or classes of debtors to be insured under said group policy; and
- (6) the method of computation and manner of charging and collecting premiums or identifiable charges for each class or classes of debtors.

No such policy shall be issued until after the trust or agency agreement has been filed with and found unobjectionable by the superintendent.

(k) A policy of credit life insurance covering a tenant's lease, or covering a lease of real or personal property shall comply with the provisions of this subdivision.

- (1) A copy of the lease must be obtained and reviewed by the insurer.
- (2) If the lease does not give the lessee's estate the right to continue the lease and/or purchase the leased property, credit life insurance may not be written.
- (3) If the lease gives the lessee's estate the right to continue the lease by payment of the remaining lease payments in a lump sum exclusive of any unearned lease charges, the amount of insurance shall be for a lump sum equal to the sum of the lease payments excluding any unearned lease charges.
- (4) If the lease allows for the lessee's estate to continue making payments, but does not meet the requirements of paragraph(3) of this subdivision, the amount of insurance shall equal the periodic payment of the scheduled lease payments as such payments become due.
- (5) Any insurance payable in a lump sum in excess of the net amount due the lessor shall be paid to the insured's estate or a beneficiary other than the creditor. Notwithstanding anything to the contrary, the amount of insurance in connection with a tenant's lease shall be as permitted by section 4216(b)(3).

§ 185.6 Amount and term of credit life insurance and credit accident and health insurance.

(a) The amount of credit life insurance is limited as follows.

(1) The amount of insurance on any person insured under a policy shall not at any time exceed, but may be less than:

(i) in all cases, except as hereinafter provided, the lesser of any statutory limit or the greater of the actual amount of unpaid net indebtedness and the scheduled amount of the unpaid net indebtedness;

(ii) in the case of a loan commitment pursuant to a program for defraying the cost of attendance of a student at a college or university or at an elementary or secondary school, the lesser of any statutory limit and the total of the unpaid balance of the scheduled periodic payments, whether due or not due, and the amount of any outstanding loan commitment pursuant to such a program;

(iii) in the case of a transaction secured by a real estate mortgage, the lesser of any statutory limit and the amount of the indebtedness so secured;

(iv) with respect to loans made by production credit associations organized pursuant to the Farm Credit Act of 1933, 12 USCS §§ 2001 et seq., as amended, and with respect to loans made by a bank, trust company or industrial bank to a borrower engaged in the business of farming, crop production or the raising, breeding, fattening or marketing of livestock for the purposes of such business and other requirements of the borrower, the amount of insurance may exceed the unpaid indebtedness but shall not exceed the greater of the loan commitment or the outstanding balance of the loan at the inception of the period for which the borrower is insured; or

(v) with respect to loans made by farm credit banks organized pursuant to the Federal Farm Loan Act, 12 USCS §§ 2011 et seq., as amended, the amount of insurance on any person insured under the policy shall not at any time exceed the amount of unpaid indebtedness at the inception of the period for which premiums are paid, but is not otherwise limited.

(2) The amount of insurance with respect to any person insured under a policy insuring persons who are tenants or stockholders of a mutual or other housing corporation (organized pursuant to the provisions of the Private Housing Finance Law, as amended, and regulated by such statute as to rent, dividends and profits) issued with identifiable charges or fixed amounts of premiums to such corporation or to a trustee or trustees or agent designated by one or more such corporations may be continued for the term of the tenant's lease with such corporation or 36 months or whichever is the greater period, and the amount of insurance with respect to any person insured under such policy may be a fixed amount not greater than the lesser of any statutory limit and an amount equal to 36 times the monthly installments due under such lease.

(3) Where indebtedness repayable in installments is secured by an individual or group policy of credit life insurance, the amount of insurance shall be written as decreasing term and shall not exceed the greater of the unpaid net indebtedness and the scheduled unpaid net indebtedness on the date of death. Where the initial indebtedness for loans repayable in installments exceeds the maximum amount of insurance as stated or described in the policy, the insurance may be written for either:

(i) the lesser of such maximum and of the indebtedness, provided, that if the scheduled indebtedness exceeds such maximum for more than seven years, then after seven years the amount of insurance may not exceed the ratio of the maximum to the scheduled unpaid net indebtedness at the end of seven years times the greater of the actual unpaid net indebtedness and the scheduled unpaid net indebtedness;

(ii) the greater of the actual unpaid net indebtedness and the scheduled unpaid net indebtedness times the ratio of the maximum to the initial indebtedness; or

(iii) such other amount reasonably consistent with subparagraph (i) or (ii) of this paragraph.

(4) Subject to any maximums in this section or any stated or described in the policy, the amount of credit life insurance shall be written to include the payment of a portion of at least two months of delinquent payments. The portion of delinquent payments covered shall be at least as great as the ratio of the scheduled amount of insurance to the scheduled net unpaid indebtedness. In the case of subparagraph (3)(ii) of this subdivision the appropriate ratio of maximum to initial net indebtedness may be substituted. In the case of co-insurers, the amount of credit life insurance shall be written subject to limits consistent with the above.

(b) The amount of credit accident and health insurance is limited as follows and the amount of indemnity payable with respect to any person insured thereunder shall not at any time exceed:

(1) in all cases except as hereinafter provided the lesser of any statutory limit and the amount due from such person;

(2) in the case of a loan commitment pursuant to a program for defraying the cost of attendance of a student at a college or university or at an elementary or secondary school providing education required for minors, the lesser of any statutory limit and the total of the unpaid balance of the scheduled periodic payments whether due or not due and the amount of any outstanding loan commitment pursuant to such a program; or

(3) in the case of a transaction secured by a real estate mortgage, the lesser of any statutory limit and the amount of the indebtedness so secured.

(c) The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer if required, and unless otherwise permitted pursuant to section 185.5(d) of this Part, commence on the date when the debtor becomes obligated to

the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness, unless otherwise expressly authorized by the superintendent, shall commence on the effective date of the policy. The term of an individual policy of credit life insurance or credit accident and health insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness. If insurance on the life of a debtor is provided under a group policy, the term of such insurance shall not be continued for a period greater than the duration of the indebtedness, and in no event:

(1) in the case of an indebtedness repayable in installments, shall such insurance be continued for a period greater than 35 years from the date the indebtedness is incurred; and

(2) in the case of other indebtedness, shall such insurance be continued for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding six months in the case of default, extension or recasting of the indebtedness.

Notwithstanding anything to the contrary, the term of insurance in connection with tenant's leases shall be as permitted by sections 4216(b)(3) and 4235(c)(1)(E).

(d) Notwithstanding anything in the preceding subdivisions to the contrary:

(1) the insurance of borrowers, who incur indebtedness arising from the granting of policy loans pursuant to policy provision therefor, provided under a group policy issued to the insurance company granting the policy loan, may be continued for the duration of the indebtedness;

(2) under any plan expressly approved by the superintendent, the insurance of debtors under a group policy with respect to an agreement which does not provide for repayment in installments may be continued for the duration of such indebtedness, but not more than seven years from the date such indebtedness is incurred; and

(3) for loans where the term may be extended due to changes in the loan interest rate, as provided for under the terms of the loan, and where the insurance is written for the full term of the loan, then subject to all other termination provisions, the insurance must be extended along with the loan for a period of at least three months.

(e) If the indebtedness is discharged due to prepayment, the insurance in force shall be terminated and, if the indebtedness is discharged due to renewal or 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 renewed or refinanced indebtedness. For any renewed or refinanced indebtedness, the application of any preexisting condition limitation in the credit life or credit accident and health policy must conform to the requirements in section 185.5(e) of this Part. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 185.8 of this Part.

(f) For loans in excess of 63 months, coverage for less than the full term of the loan may be written, provided the period of insurance is 60 months or more.

(g) An individual policy of credit accident and health insurance by its terms shall not be cancelable by the insurer, except for nonpayment of premium, prior to the earliest of:

(1) the scheduled maturity date of the indebtedness;

(2) the date on which the indebtedness is discharged due to prepayment, refinancing, or renewal; or

(3) the expiration of the longer of the four year period following the date on which the indebtedness was insured or the period for which the premium has been paid. In the case of a specific loan or other credit transaction of more than four years' duration, this rule shall be applicable to each successive four year period during which the credit accident and health insurance is renewed or otherwise continued in force.

§ 185.7 Premiums and identifiable charges.

(a) Premium rates in connection with any indebtedness where there are no identifiable charges to the debtor will be considered not unreasonable in relation to the benefits provided.

(b) Prima facie identifiable charges are as given in or derived from information provided in subdivisions (d), (e), (f), (g) and (h) of this section. The actual rates to be charged any account in each experience unit, as defined in subdivision (i) of this section, shall be based upon the procedures as outlined in subdivisions (j), (k) and (l) of this section. If not in excess of the standards of this section, proposed premium rates or identifiable charges to debtors or creditors for:

(1) credit insurance provided by a group term policy; or

(2) credit insurance provided by individual term policies distributed on a mass merchandising basis and administered by group type methods;

shall be considered not unreasonable in relation to the benefits provided.

(c) Premiums paid to the insurer specifically for credit life insurance or credit accident and health insurance for any account in each experience unit as described in subdivision (i) of this section at least equal to those produced by the procedures outlined in subdivisions (j), (k), and (l) of this section shall be considered adequate.

(d) Credit life insurance.

(1) Prima facie monthly outstanding balance rates per \$1,000 of insurance shall be based on the following formula:

$$\frac{(ECC + F)}{.95}$$

where, for other than small loans, ECC is the expected claim cost per month per \$1,000 of insurance as set forth in paragraph (2) of this subdivision and F is the fixed expense margin per month per \$1,000 of insurance as set forth in paragraph (3) of this subdivision. For small loans, ECC and F shall be 125% of the corresponding values for other than small loans.

(2) The prima facie premium rates and identifiable charges are based on the following expected claim cost (ECC) per month per \$1,000 of insurance:

Certificates Issued	Without Questions as to Specific Medical Conditions	With Questions as to Specific Medical Conditions
Without any age limits	0.513	0.467
With age limits of age 70 and greater	0.446	0.416
With age limits between ages 65 and 69	0.380	0.362

(3) The prima facie premium rates and identifiable charges are based on the following fixed expense margin (F) per month per \$1,000 of insurance:

	Packaged	F
Single Premium Contract	NO	\$0.170
Monthly Premium Contract	NO	\$0.210
Single Premium Contract	YES	\$0.153
Monthly Premium Contract	YES	\$0.185

(4) Single identifiable charges.

(i) The maximum single identifiable charge wherein the creditor imposes a finance charge thereon, shall be equal to the sum of the monthly premiums discounted for interest and, at the insurer's election, mortality. The discount for interest shall be at interest rate J. If the insurer elects to discount for mortality, then discount MD equal to .0004 should be used, otherwise MD should be set equal to 0. The maximum single identifiable charge shall be computed by the following formula or other formula approved by the superintendent:

$$SPL = MLR \times \sum_{t=1}^m \frac{I_{(t)}}{(1 + J + MD)^{t-1}}$$

Where: SPL is the single identifiable charge for credit life insurance for the Period of Insurance;

MLR is the monthly premium per \$1.00 of insured indebtedness;

m is the term of the Period of Insurance in months; and

$I_{(t)}$ is the scheduled amount of insurance for month t.

(ii) The amount of insurance $I_{(t)}$ may approximate, subject to the approval of the superintendent, the amounts of insurance assuming repayment of loan on schedule, without any delinquent payments.

(iii) The interest rate J shall be determined from the maximum reserve valuation interest rate (MRVIR) for ordinary life insurance with a guarantee period of less than 10 years, expressed as a decimal. $J = (MRVIR)/12$, rounded down to 5 decimal places.

(iv) The determination of J shall be done every three years starting in the year 2002 and shall be based on the MRVIR for the first calendar year in that three year period. For calendar years 1999, 2000 and 2001, J is equal to .00458.

(5) As an alternative to the foregoing provisions of this subdivision, an insurer may, where credible age data applicable to the insured persons is available, determine, under a plan approved by the superintendent, identifiable charges on the basis of such age data.

(6) Notwithstanding anything to the contrary, the superintendent may require that the premium rates and identifiable charges for mutual funds, margin accounts, farm loans (including loans by production credit associations), home equity loans, second or junior mortgage loans, and such other loans so designated, shall be graded by age. The premium and identifiable charges for credit life insurance on first mortgage loans, other than home equity loans, are subject to the standards in section 185.14 of this Part. The superintendent may require that age-graded rates be used either with the initial writing of a group or upon renewal if the experience indicates it is appropriate.

(7) The rates and identifiable charges for when coverage is available on two lives shall be:

(i) If there is a choice whether one life or both lives are insured, then the rate for joint life coverage shall be no greater than 160% of the rates for single life coverage; otherwise

(ii) the rate will be the weighted average of the one life rate and the two life rate based on the best estimate available as to the portion of the coverage that will involve one life versus two lives.

If single life rates vary by age, the insurer shall submit for approval its rules for determining joint life rates and/or the joint life rates themselves.

(e) Credit accident and health insurance - single premiums.

(1) Prima facie premium rates or identifiable charges of this subdivision shall apply where:

(i) a single identifiable charge is made for either the entire Term of Insurance or for a Period of Insurance in excess of 12 months;

(ii) the policy has provisions which are not less favorable to insured debtors than those set forth in sections 185.5(e) and 185.5(f) of this Part; and

(iii) eligibility for coverage is limited to debtors who are attained age 64 years or less on the effective date of coverage.

(2) Where the benefits are payable in an equal amount each month for the Term of the Insurance and the amount of insurance decreases by an equal amount each

month, the prima facie premium and identifiable charge is the product of the appropriate rate from the following table times the initial insured indebtedness.

Rates per \$100.00 of initial insured indebtedness

Number of equal monthly benefits	After 14th day of disability retroactive to first day of disability	After 14th day of disability	After 30th day of disability retroactive to first day of disability	After 30th day of disability
6	1.74	1.15	1.37	0.76
12	2.30	1.65	1.97	1.25
18	2.64	1.96	2.34	1.55
24	2.89	2.19	2.60	1.78
30	3.09	2.37	2.83	1.98
36	3.27	2.54	3.02	2.15
42	3.43	2.68	3.19	2.30
48	3.57	2.81	3.34	2.43
54	3.70	2.93	3.49	2.56
60	3.82	3.05	3.62	2.68
66	3.94	3.15	3.74	2.79
72	4.04	3.25	3.86	2.89
78	4.14	3.34	3.96	2.99
84	4.23	3.42	4.06	3.08
90	4.31	3.50	4.15	3.16
96	4.39	3.57	4.24	3.24
102	4.47	3.64	4.33	3.32
108	4.54	3.71	4.40	3.39
114	4.60	3.77	4.48	3.46
120	4.66	3.83	4.54	3.52
Anticipated Loss Ratio (EOLR)	68.8%	64.9%	67.8%	62.0%

(3) The prima facie identifiable charges for other benefit plans subject to this subdivision shall be actuarially consistent with the above rates, and shall be submitted to the superintendent for approval.

(f) Credit accident and health insurance - periodic premiums - periodic benefits.

(1) Prima facie premium rates or identifiable charges of this subdivision shall apply where:

(i) the identifiable charge is made for less than the entire Term of Insurance and for a Period of Insurance of twelve months or less;

(ii) the policy has provisions that are not less favorable to insured debtors than those set forth in sections 185.5(e) and 185.5(f) of this Part;

(iii) eligibility for coverage is limited to debtors who are attained age 64 years or less on the effective date of coverage or where coverage terminates upon the attainment of age 65; and

(iv) the benefits are payable in equal monthly installments.

(2) The monthly identifiable charges per \$10.00 of monthly benefit are:

Number of equal monthly benefits	After 14th day of disability retroactive to first day of disability	After 14th day of disability	After 30th day of disability retroactive to first day of disability	After 30th day of disability
6	0.330	0.275	0.289	0.196
12	0.409	0.356	0.374	0.274
18	0.464	0.413	0.433	0.328
24	0.512	0.460	0.482	0.374
30	0.556	0.505	0.529	0.416
36	0.596	0.547	0.572	0.455
42	0.635	0.585	0.612	0.493
48	0.671	0.621	0.650	0.528
54	0.704	0.656	0.686	0.560
60	0.737	0.689	0.720	0.591
66	0.767	0.721	0.752	0.621
72	0.797	0.751	0.784	0.650
78	0.826	0.779	0.814	0.678
84	0.852	0.806	0.842	0.704
90	0.878	0.833	0.870	0.729
96	0.904	0.859	0.896	0.753
102	0.928	0.883	0.922	0.776
108	0.950	0.906	0.947	0.799
114	0.973	0.929	0.971	0.820
120	0.995	0.952	0.994	0.841
126	1.016	0.973	1.016	0.863
132	1.037	0.995	1.037	0.883
138	1.057	1.015	1.057	0.903

Number of equal monthly benefits	After 14th day of disability retroactive to first day of disability	After 14th day of disability	After 30th day of disability retroactive to first day of disability	After 30th day of disability
144	1.078	1.035	1.078	0.923
150	1.098	1.056	1.098	0.941
156	1.117	1.076	1.117	0.960
162	1.136	1.095	1.136	0.979
168	1.154	1.114	1.154	0.996
174	1.172	1.131	1.172	1.014
180	1.190	1.150	1.190	1.031
Anticipated Loss Ratio (EOLR)	66.1%	60.0%	60.5%	58.6%

(3) For Periods of Insurance subject to this subdivision and greater than a month, the identifiable charge shall be the sum of the monthly identifiable charges discounted at 0.3% per month.

(4) In lieu of the rates appearing in paragraph (2) of this subdivision, composite rates may be developed based on average loan amounts, loan terms, loan interest rates to be applied to the actual outstanding indebtedness. The assumptions as to average loan amount, loan term and loan interest rate must be reviewed at any time rate changes are considered. The calculation of the actual premium charged to debtors shall take into account the insurance maximum adjusted to reflect the premium rate being applied to the actual indebtedness.

(g) Credit accident and health insurance - periodic premiums - lump sum benefits.

(1) Prima facie premium rates or identifiable charges of \$1.65 per month per \$1000 of insurance shall apply where:

(i) the policy has provisions that are not less favorable to insured debtors than those set forth in sections 185.5(e) and 185.5(f) of this Part;

(ii) eligibility for coverage is limited to debtors who are attained age 64 years or less on the effective date of coverage or where coverage terminates upon the attainment of age 65; and

(iii) the benefits are payable in a lump sum.

(2) The expected loss ratio is 76.5%.

(h) The prima facie premiums set forth in subdivisions (e), (f), and (g) of this section are expected to produce the indicated overall loss ratios (EOLR) where the credit accident and health insurance is provided on one life and is not packaged with any other coverage.

(1) In the case where the credit accident and health insurance is written as part of a package, the following adjustments shall apply:

	After 14th day of disability retroactive to first day of disability	After 14th day of disability	After 30th day of disability retroactive to first day of disability	After 30th day of disability
Rates Decreased By	4.6%	5.3%	4.8%	6.0%
EOLR increased by (+)	3.4%	3.6%	3.4%	3.8%

(2) In the case where the credit accident and health insurance is available on two lives and there is a choice whether one life or both lives are insured, the following adjustments shall apply:

	After 14th day of disability retroactive to first day of disability	After 14th day of disability	After 30th day of disability retroactive to first day of disability	After 30th day of disability
Rates Increased By	90.0%	90.0%	90.0%	90.0%
EOLR increased by (+)	6.9%	6.4%	6.7%	6.1%

In the case where the credit accident and health insurance is available on two lives and there is not a choice whether one life or both lives are insured, where the same rate is to be used for the coverage of either one life or two lives, then the prima facie rates will be the weighted average of the one life rate and the two life rate based on the best estimate available as to the portion of the coverage which will involve one life versus two lives. The EOLR will be actuarially consistent with the calculation of the rates.

(3) The adjustments to the prima facie premium for coverage subject to subdivision (g) of this section shall be the same as those for a plan with benefits payable after the 30th day of disability.

(i) The definitions of experience units and experience period for premium determination purposes for credit life insurance and credit accident and health insurance, for other than vendor business with Periods of Insurance in excess of 12 months shall be in accordance with this subdivision.

(1) Unless an insurer files and receives approval by the superintendent for an alternative plan for determining experience units, each insurer shall consider all of its credit life insurance business subject to this subdivision one experience unit and all of its credit accident and health insurance business subject to this subdivision as another unit. The

experience period for each, shall be the most recent period of full calendar years for which experience is available, but not more than three such years without specific approval of the superintendent, which shall be sufficient to be considered at least 85% credible if less than three years are used. Notwithstanding the preceding, the superintendent may require a period of more than three years be used.

(2) An insurer may submit for approval an alternative plan for determining alternative experience units. The alternative plan should be consistent with the following:

(i) An experience unit may be defined as an account which, based on the standards set forth in subdivision (n) of this section, has experience that is considered at least 75% credible.

(ii) An experience unit may be defined as any combination of all of the insurer's credit insurance accounts of the same plan, classification of business and type of loan, as defined by the insurer and approved by the superintendent, having at least one year's experience, excluding all accounts which meet the definition in subparagraph (i) of this paragraph.

(iii) An experience unit may be defined as, any other combination or combinations of credit insurance accounts, as defined by the insurer and approved by the superintendent.

(iv) Account means the aggregate credit life insurance or credit accident and health insurance coverage for a single plan of benefits, a single classification of business, a single rate classification and/or a single type of loan, written through a single creditor by the insurer whether coverage is written on a group or individual policy basis.

(v) The experience period for each experience unit shall be the most recent period of full calendar years for which experience is available, but not more than three such years without specific approval of the superintendent, which will be sufficient to be considered at least 85% credible, based on the standards appearing in subdivision (n) of this section, if less than three years are used.

(vi) Credit life insurance and credit accident and health insurance experience or experience units shall not be combined for rate determination purposes, unless specifically approved by the superintendent. An insurer may use additional requirements for considering an account as an experience unit based on combined credit life insurance and credit accident and health insurance as long as the standards set forth in this subdivision are also applied separately.

(j) Rate determination for an experience unit shall be by the following:

(1) The prima facie adjusted earned premiums (PFAEP) for each year in the experience period to be used for rate determination purposes, shall be as follows:

(i) the actual premiums written during the year adjusted to the most recent prima facie rates; minus

(ii) any refunds made during the year adjusted to the most recent prima facie rates; plus

(iii) the difference produced by subtracting the refund liability at the end of the year adjusted to the most recent prima facie rates from the refund liability at the beginning of the year adjusted to the most recent prima facie rates; plus

(iv) for Periods of Insurance in excess of one month, the premium discount rate applicable to the next full calendar year divided by two applied to the sum of actual premiums written, the refund liability at the beginning of the year and refund liability at the end of the year minus any refunds made during the year, all adjusted to the most recent prima facie rates. In the case of credit accident and health insurance in the absence of any specified discount, the same discount as would apply to credit life insurance should be used. In lieu of the formula outlined in this subparagraph, an insurer may for any year develop a more exact estimate of their investment earnings on the refund liabilities, assuming the discount rate indicated above.

(2) The experience unit loss ratio (EULR) shall be the incurred losses divided by such prima facie adjusted earned premiums as defined in paragraph (1) of this subdivision.

(3) The expected overall loss ratio (EOLR) for an experience unit shall be the expected loss ratio underlying the most recent prima facie rates. If more than one loss ratio is anticipated, then the weighted average shall be used.

(4) The experience shall be limited to New York State transactions, or, if approved by the superintendent, may be based upon transactions of any combination of states.

(5) Consistency must be maintained from year to year in the definition and composition of experience, experience units, experience periods and any factors affecting the adjustment of rates. Changes therein shall be specifically filed with and approved by the superintendent.

(6) Upward rate changes shall not be allowed more frequently than annually. Downward rate changes shall be considered at the earlier of at least every 36 months and a year after there has been a change in discount rate that is not reflected in the current rates.

(7) The new maximum monthly outstanding balance rate for credit life insurance for each account in an experience unit shall be equal to:

$(ECC+F)/.95+Z \times 1.100 \times (ACC-ECC)$, if ACC is greater than or equal to ECC; and

$(ECC+F)/.95+Z \times 1.025 \times (ACC-ECC)$, if ACC is less than ECC.

Where;

- Z is the credibility factor as defined in subdivision (n) of this section;
- ACC is incurred claims \times PFR/PFAEP
- PFAEP are the prima facie adjusted earned premiums as defined in paragraph (1) of this subdivision;
- PFR is the prima facie rate in subdivision (d) of this section;
- ECC are the expected claim costs set forth in paragraph (2) of subdivision (d) of this section; and
- F is the expense factor set forth in paragraph (3) of subdivision (d) of this section.

(8) New maximum rates for credit accident and health insurance for each account in an experience unit shall be equal to:

$PFR \times (1 + Z \times 1.120 \times (EULR - EOLR))$, if EULR is greater than or equal to EOLR; and

$PFR \times (1 + Z \times 1.070 \times (EULR - EOLR))$, if EULR is less than EOLR.

Where:

- PFR is the prima facie rate in subdivision (e), (f), or (g);
- Z is the credibility factor as defined in subdivision (n) of this section;
- EULR is the experience unit loss ratio calculated in accordance with paragraph (2) of this subdivision; and
- EOLR is the expected overall loss ratio for the experience unit as defined in paragraph (3) of this subdivision.

(k) Vendor business with Periods of Insurance in excess of 12 months.

(1) By July 1 of the year end prior to the calendar year for which the interest discount rate is to be recalculated according to subparagraph (iv) of paragraph (4) of subdivision (d) of this section, the superintendent shall publish rates to be used in conjunction with vendor business with Periods of Insurance in excess of 12 months. Such rates shall be based on the aggregate of all vendor business with Periods of Insurance in excess of 12 months written in this state during the preceding three full calendar years and shall be based on the formulas set forth in paragraphs (7) and (8) of subdivision (j) of this section. These rates must be implemented by the end of year in which they are published. For single premium business, the revised interest discount rate must be used.

(2) Insurers may use the rates specified in paragraph (1) of this subdivision at any time after the effective date of this Part and shall implement such rates by January 1, 2000.

(l) Calculation of rates for accounts in force on the effective date of this Part and for any new accounts other than those subject to subdivision (k) of this section shall be determined in accordance with this subdivision.

(1) With respect to each account in each experience unit existing on the effective date of this Part and established pursuant to this Part, new maximum rates shall be determined

for each account in accordance with subdivisions (i) and (j) of this section. Actual account rates not exceeding such new rates shall be implemented not later than January 1, 2000. Until such new rates are implemented, actual rates not exceeding the rates in effect on the effective date of this Part shall be used for new indebtedness insured.

(2) For any new account issued after the effective date of this Part that was not previously insured, the current rate for an account of the experience unit to which the account is expected to be assigned, may be charged. However, if no such experience unit exists then the prima facie rates shall be used.

(3) If an account changes insurers after the effective date of this Part, the rate approved for the account for the prior insurer is the maximum rate that may be used by the succeeding insurer for the remaining period of time for which such rate had been approved for the prior insurer or until a new rate is approved for use with the account.

(4) Subsequent to the implementation of the rates for existing and for new business in accordance with paragraphs (1), (2) and (3) of this subdivision, rates may be implemented by the insurer without specific approval of the superintendent, if they are in accordance with any plan approved under subdivisions (i) and (j) of this section. Rate increases shall not occur more frequently than annually for any one experience unit without specific approval of the superintendent.

(5) Subsequent to the implementation of rates in accordance with paragraphs (1), (2) and (3) of this subdivision, each experience unit shall be considered by the insurer for possible downward rate change no less frequently than once in every 36 months, including period of coverage with previous insurers.

(6) Each insurer shall calculate new rates in accordance with the plan approved under subdivisions (i) and (j) of this section whenever the experience unit loss ratio, as defined in paragraph (2) of subdivision (j) of this section for the most recent experience period is less than the expected overall loss ratio for the experience unit, as defined in paragraph (3) of subdivision (j) of this section. Whenever the calculated new rates are within seven percent of the current rates, no change need be made. Any calculated new rates more than seven percent below the current rates shall be implemented within the later of six months from the end of the period of experience or within 36 months from the implementation of the current rates. Each insurer shall file annually with the superintendent a report detailing compliance with the above downward rate change requirements, showing appropriate experience figures, including experience unit loss ratios for each experience unit and the calculated new rates for accounts within each experience unit. Such new rates may be shown on a representative unit basis rather than in their entirety (e.g., single sum rate per \$100 of initial insured indebtedness for a 12 month loan for credit accident and health insurance).

(m) Charging and collecting of premium and identifiable charges.

(1) Whenever an identifiable charge is collected from the debtor, charged to the account of the debtor or whenever the creditor advances the identifiable charge to the

debtor and assesses finance charges thereon, the group credit insurance policy shall contain a provision that the policyholder or creditor must remit such amount without undue delay to the insurer.

(2) In connection with indebtedness longer than 123 months, no premium or identifiable charges collected from or charged to the account of a debtor providing coverage beyond the 120th month may have a period of insurance in excess of one year.

(3) The amount charged to a debtor for any credit life or credit accident and health insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined. This shall not prohibit the determination of the aggregate premium to be remitted by the creditor from being calculated by approximate methods.

(4) The total premium remitted by the creditor shall be assumed to provide coverage for those insured debtors whose payments are not more than two months overdue, regardless of whether or not the debtor has paid a charge for such two months' coverage.

(n) The credibility factor Z shall be determined from the following table:

Number of Incurred Claims	Z
8 or less	0
9 through 11	.25
12 through 14	.30
15 through 17	.35
18 through 22	.40
23 through 27	.45
28 through 32	.50
33 through 37	.55
38 through 47	.60
48 through 57	.65
58 through 72	.70
73 through 87	.75
88 through 102	.80
103 through 127	.85
128 through 152	.90
153 through 199	.95
200 or more	1.00

(o) No insurer shall charge a premium rate for new indebtedness after the effective date of this Part in excess of the rate approved pursuant to this section.

§ 185.8 Premium refunds.

(a) Each individual policy of credit life insurance and credit accident and health insurance on which the premium is paid by the debtor and each group certificate or statement of group insurance for which an identifiable charge is made to the debtor shall provide that, in the event

of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of premium or identifiable charge due shall be paid or credited promptly to the debtor.

(b) If a creditor requires a debtor to pay the premium or an identifiable charge for credit life insurance and credit accident and health insurance and such insurance is declined by the insurer or otherwise does not become effective, the insurer or creditor shall immediately give written notice to such debtor and shall promptly arrange for refund or credit to the debtor of any premium or identifiable charge so paid for such insurance.

(c) In the case of credit life or accident and health insurance, a refund of premium or identifiable charge shall be made for any portion of premium or charge actually charged to the debtor which provides coverage for any period of insurance ending beyond any one of the following:

(1) the date on which termination of insurance becomes effective;

(2) in the case of monthly installment, the installment due date nearest the date of termination;

(3) the date based on a procedure allowed by the Banking Law and used for determining any unearned interest on the loan; or

(4) the date based on any other procedure filed by the insurer and approved by the superintendent.

Termination shall include termination for any reason, except death in the case of credit life insurance where the premium has been discounted for mortality as described in section 185.7(c)(4)(i) of this Part. For each Period of Insurance for which a refund is due, such refund shall be equal to the premium for the portion of the Period of Insurance after the termination date. The premium for each such Period of Insurance shall be calculated using the same assumptions that were used to calculate the premium or identifiable charge. Each insurer shall file for approval and include in the policy appropriate formulas and/or factors for refund, or reference to such formulas and/or factors as are on file with the superintendent. No refund or credit is required if the amount is less than one dollar.

(d) An insurer may file for approval alternative methods of calculating refunds, which will be approved by the superintendent if they produce results comparable to the refund produced by the method described in subdivision (c) of this section.

(e) An insurer shall promptly refund to an individual policyholder and refund or credit to a group policyholder any refund of premium due on termination of insurance prior to the scheduled maturity date of the indebtedness, and a group policyholder or creditor shall promptly refund or credit to the debtor any refund due pursuant to this section. Insurers shall be responsible for conducting a periodic review of creditor accounts to assure that procedures are in place for such refunds or credits to be made.

§ 185.9 Commissions and fees or other allowances.

(a) An insurer issuing group credit life and group credit accident and health insurance policies may pay commissions on said business only to the insurance agent who solicits the master group policy and/or is designated the agent of record. The general agent or agent of record may not be:

(1) the policyholder or any of its employees, officers or directors;

(2) a trustee, trustees or agent or any of their employees, officers or directors, in the event that a group credit insurance policy is issued to a trustee, trustees or agent designated by two or more creditors or vendors; or

(3) the creditor or vendor member of a trust or agency or any of its employees, officers or directors.

The aforesaid general agent or agent of record may share commissions only with another agent who aids in the solicitation of the master policy but in no event, either directly or indirectly, with any of the above enumerated parties.

(b) The agent of record and/or any agent sharing commissions for solicitation of the master policy of credit insurance, as authorized by subdivision (a) of this section, shall be licensed in accordance with Insurance Law Section 2103.

(c) Fees or other allowances shall include administration fees, service fees or any other payment of a similar nature payable by an insurer to an insurance agent or to any other person, firm, association or corporation. Fees may be paid only for such services as are performed on behalf of the insurer and only in such amounts as would reflect the reasonable cost of performing such services. Fees may only be paid to such party or parties, including the policyholder or creditor, who perform the services. The amount of service fees must be justified by the insurer and, at least initially, stated as a dollar amount per transaction that may then be related as a percentage of premium to approximate the aggregate service fee. Other approximations may be used subject to the approval of the superintendent. Services for which fees may be payable include but are not limited to, the following: computation of premium, collection of premiums, issuance of certificates, making refunds and processing claims.

(d) In no event shall the aggregate of commissions and all service fees be such as to render the policy not self-supporting based on the loss ratio requirements underlying the calculation of the rates, along with reasonable assumptions as to expenses.

(e) Each insurer shall file with the superintendent its schedule of rates of commissions, and other fees or allowances to agents and brokers pertaining to the solicitation or sale of credit insurance and of fees or allowances, exclusive of amounts payable to persons who are in the regular employ of the insurer other than as agent, to any individuals, firms or corporations pertaining to the service or administration of the credit insurance. Such schedules must separate compensation for solicitation or sale from compensation for services or administration of the credit insurance. An insurer may revise such schedules from time to

time, and shall file such revised schedules with the superintendent. No insurer shall pay an amount of compensation other than as filed with the superintendent.

(f) Fees for service or administration may be payable to a policyholder or creditor to the extent the policyholder or creditor performs such service on behalf of the insurer, and must be set forth in the group policy. Fees for service or administration may not exceed the amounts set forth in the following paragraphs of this subdivision.

(1) For credit life insurance where there are identifiable charges for periods of insurance in excess of twelve months, the following amounts are the maximum per month per \$1,000 of insured indebtedness:

SERVICE	Single Premium Not Packaged	Single Premium Packaged
Enrolling Debtor	.051	.035
Making Refunds	.010	.007
Processing Claims	.005	.005
General Administration	.013	.011
Settling Claims	.005	.005
Electronic Records Transfer	.010	.010

These amounts may be expressed as a percentage of the actual written premium. Any fee paid on a portion of premium that is refunded or credited to the debtor shall be returned to the insurer.

(2) For credit life insurance not subject to section 185.14 of this Part, where all identifiable charges are for periods of insurance of twelve months or less, the following amounts are the maximum per month per \$1,000 of insured indebtedness:

SERVICE	Not Packaged	Packaged
Enrolling Debtor	.060	.045
General Administration	.035	.025
Processing Claims	.007	.007
Settling Claims	.007	.007
Electronic Records Transfer	.010	.010

These amounts may be expressed as a percentage of the actual written premium.

(3) For credit life insurance subject to section 185.14 of this Part, the following are the maximum percentages of prima facie written premium:

SERVICE	FEE
Enrolling Debtor	5.00%
General Administration	3.00%
Processing Claims	.25%
Settling Claims	.25%

Electronic Records Transfer	1.00%
Annual Distribution of Premium Charge Adjustments	1.50%

(2) For credit accident and health insurance on closed-end loans where there is an identifiable charge for a period of insurance in excess of twelve months and the coverage is not packaged, the following are the maximum percentages of prima facie written premium:

SERVICE	After 14th day of disability, retroactive to first day of disability	After 14th day of disability	After 30th day of disability, retroactive to first day of disability	After 14th day of disability
Enrolling Debtor	6.1%	7.8%	6.5%	9.0%
Making Refunds	0.9%	1.0%	0.9%	1.2%
Processing Claims	1.4%	1.8%	1.6%	2.1%
General Administration	1.2%	1.5%	1.3%	1.6%
Settling Claims	3.4%	3.2%	3.4%	3.1%
Electronic Records Transfer	1.7%	2.2%	1.8%	2.5%

For credit accident and health insurance that is packaged, fees which are 85% of the above table may be paid.

(5) For credit accident and health insurance, not subject to section 185.14 of this Part, where all identifiable charges are for periods of insurance of twelve months or less and the coverage is not packaged, the following are the maximum percentages of prima facie written premium:

SERVICE	After 14th day of disability, retroactive to first day of disability	After 14th day of disability	After 30th day of disability, retroactive to first day of disability	After 14th day of disability
Enrolling Debtor	5.8%	6.1%	5.9%	7.4%
Processing Claims	1.2%	1.2%	1.3%	1.5%
General Administration	3.2%	3.0%	3.2%	3.4%
Settling Claims	2.8%	2.2%	2.7%	2.3%
Electronic Records Transfer	1.4%	1.5%	1.4%	1.8%

For credit accident and health insurance that is packaged, fees which are 85% of the above table may be paid.

(6) For credit accident and health insurance subject to section 185.14 of this Part, the following are the maximum percentages of written premium:

SERVICE	FEE
Enrolling Debtor	3.50%
General Administration	2.50%

Processing Claims	.25%
Settling Claims	.25%
Electronic Records Transfer	1.00%

(7) For credit accident and health insurance as described in section 185.4(a)(3)(ii) of this Part, the following are the maximum percentages of prima facie written premium:

SERVICE	FEE
Enrolling Debtor	5.40%
General Administration	2.50%
Processing Claims	1.10%
Settling Claims	1.60%
Electronic Records Transfer	1.30%

(g) Compensation for other premium arrangements or plans of insurance may be submitted for approval on a case by case basis.

(h) Each insurer shall file or refile its schedules of compensation no later than the dates on which new premium rates are to be filed in accordance with sections 185.7(k) and 185.7(l) of this Part, for classes of policies to which such compensation schedules apply and shall be implemented on the same dates as such new filed premium rates are implemented.

(i) Any fee paid on a portion of premium that is refunded or credited to the debtor shall be returned to the insurer.

§ 185.10 Dividends, retrospective rate credits and retrospective premiums.

(a) For the purposes of this section, the following definitions apply:

(1) A retrospective rate credit or retrospective rate refund is an amount payable under nonparticipating group policies. It reflects the difference between the premium charged and the actual experience as calculated at the end of the policy year based upon a formula approved by the board of directors. It is analogous to a dividend payable to a participating group policyholder.

(2) A deposit premium is the scheduled premium paid by the creditor during the policy year before the determination of the retrospective premium.

(3) Standard premium is the maximum premium calculated in accordance with the provisions of section 185.7 of this Part.

(4) A retrospective premium is the premium calculated at the end of the policy year based upon a formula and factors stated in the policy and the actual incurred losses.

(b) Dividends and retrospective rate credits must:

(1) be based upon an equitable, objective formula applicable to all credit insurance policies;

(2) be set forth explicitly in writing;

(3) be uniformly applied; and

(4) have been approved by the insurer's board of directors.

(c) No insurer issuing group credit insurance may, by contract or otherwise, guarantee a dividend or retrospective rate credit or guarantee the amount of premium to be retained by the company for expenses, risk, and profit, as used in calculating such dividend or retrospective rate credit. Any retention letter or other statement given to a policyholder illustrating or describing the operation of dividends or retrospective rate credits shall clearly state that it is not a guarantee and that the dividend or retrospective rate credit is fully subject to change by the insurance company.

(d) When the deposit premium exceeds the identifiable charge to the debtor, an insurer may incorporate into the policy, by rider or amendment thereto, a retrospective premium plan provided the formula and range or description thereof, or applicable factors are approved by the superintendent and such formula and applicable factors are set forth in the policy. Such formula and factors shall be subject to the following:

(1) The deposit premium may not exceed the standard premium, but any differences shall be justified and the deposit premium must be self-supporting based on reasonable assumptions;

(2) Any retrospective premium determination must be based on loss ratios at least equal to those used in determining the standard premium under section 185.7 of this Part;

(3) At the end of any policy year, if the deposit premium exceeds the retrospective premium, any excess not exceeding the creditor's cash contribution may, in accordance with the terms of the policy, either be returned to the creditor or retained in the form of a claim fluctuation fund to offset losses in later years;

(4) Contributions to any claim fluctuation fund shall be accumulated solely from creditor funds and limited to the excess of 125 percent of the standard premium over the deposit premium, if payable in advance, and to any excess of deposit premiums over retrospective premiums. The amount of any claim fluctuation fund shall not exceed 100 percent of the standard premiums for the latest policy year;

(5) At the end of any policy year, or at termination of the policy, if the retrospective premium exceeds the deposit premium and if the policy so provides, the insurer may charge the policyholder for such excess up to the amount of the claim fluctuation fund, if any, plus up to 25 percent of the year's deposit premium. Upon termination of the policy, any balance remaining in the claim fluctuation fund shall be refunded to the policyholder within two years from the date of termination; and

(6) Any additional premium shall be paid out of the creditor's funds and not charged to insured debtors.

§ 185.11 Payment of claims.

(a) All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

(b) All claims shall be paid either by draft drawn upon the insurer, by the insurer or its claim representative, payable to the individual or firm to whom payment of the claim is due or, upon direction of such individual or firm, to a person designated by such individual or firm..

(c) No plan or arrangement shall be used whereby any person, firm or corporation, other than the insurer or its designated claim representative, shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group policyholder may, by arrangement with the insurer, draw drafts in payment of claims due to the group policyholder subject to audit and review by the insurer. The insurer shall make periodic audits of claim payments made on its behalf by claim representatives or group policyholders.

§ 185.12 Experience statistics.

(a) Each insurer writing credit life insurance and credit accident and health insurance shall maintain statistics on a calendar year basis, and submit them to the superintendent by July 1st each year for the previous calendar year. The experience shall reflect direct business. For each experience unit the following shall be supplied:

- (1) gross premiums received;
- (2) refunds of premium on terminated insurance;
- (3) beginning and ending value of the refund liability;
- (4) earned premiums;
- (5) interest required on advance premiums and/or any active life reserves;
- (6) number and amount of claims paid;
- (7) increase in claim reserve;
- (8) claims incurred;
- (9) reserve increases other than paragraphs (3) and (7) of this subdivision;

- (10) commissions;
- (11) fees and other allowances;
- (12) dividends and experience rating refunds;
- (13) mean amount of life insurance in force;
- (14) mean number of individual policies in force during the calendar year; and
- (15) number of accident and health claims on which first payment for any claim was made during the calendar year.

For each paragraph the statistic shall be submitted separately by rate basis. Rate classes shall be determined by varying age restrictions, extent of underwriting, and presence of a preexisting condition exclusion.

- (b) The superintendent may specify an electronic format for the above submission.

§ 185.13 Open-end loans and charge plans.

(a) These rules, and the provisions of all other sections of this Part not in conflict with the following, shall apply to credit insurance on open-end loans or charge plans:

(1) If a premium or charge for the insurance is to be made to the debtor by the creditor, insurance may be issued on a debtor only if he elects in writing to become insured and agrees to pay the premium or charge for the insurance. The debtor shall be given the right to discontinue the insurance at any time by advance notice to the creditor. If the insurance benefits are reduced, or if the premium rate for the insurance is increased, the creditor shall give the insured debtors advance notice of the change and remind them of their right to discontinue the insurance.

(2) The disclosure requirements in sections 185.5(a) or 185.5(d) of this Part for policies, certificates, or notices of proposed insurance shall apply only when the credit insurance on the open-end loan or charge plan is first issued. A new policy or certificate of insurance need not be issued each time the insured debtor incurs indebtedness on the account.

(3) If the insured person has incurred no indebtedness or if at any time he has repaid all outstanding indebtedness, the amount of his insurance will be zero. Subject to any maximums, the amount of credit life insurance on an insured debtor shall be the unpaid indebtedness balance owing by him on the date of his death, including any amount received by him during his lifetime and recorded after his death, including any accrued interest. The amount of a periodic credit disability insurance benefit shall not exceed the greater of the amount of the minimum payment which the debtor is required to make on his loan or charge plan on the date his disability commenced, or a specified percentage, not to exceed six percent, of the debtor's unpaid indebtedness balance on the date his disability

commenced. For credit disability policies with a maximum amount of insurance of \$2,500 or less, the benefit may be written for a lump sum payment with a waiting period of 90 days and the amount payable equal to the amount outstanding on the day of disability.

(4) A debtor's insurance may be terminated on the earliest of any of the following dates, but such termination of insurance shall not prejudice a claim existing on date of termination:

(i) on the date requested by the debtor or the date he fails to pay any required premium or charge on insurance;

(ii) on the premium billing date coinciding with or next following the date the debtor attains a stated age, which will not be less than age 66;

(iii) on the date the open-end loan or charge plan is terminated;

(iv) on the date the debtor is in default, as defined by the creditor's rules;

(v) subject to the notice requirement of section 185.5(h) of this Part, on the date the group policy is terminated; or

(vi) on the date the policyholder terminates coverage on all revolving accounts of the same class as that held by the debtor, subject to a minimum 31 day notice to all debtors.

(5) Credit disability insurance may include the preexisting exclusion specified in section 185.5(e) of this Part. This provision shall apply separately to each new indebtedness incurred by the debtor, and shall not be reapplied to the total indebtedness balance each time a new indebtedness is incurred.

(6) The disability insurance shall exclude from benefits, indebtedness incurred by the debtor while he was disabled. An identifiable charge shall not be charged on any new indebtedness incurred by the debtor while he is receiving disability benefits, unless the forms clearly indicate that the debtor may request the coverage to terminate and that such termination will in no way affect a claim incurred prior to the termination. Any identifiable charges paid by the insured after the date of such termination are subject to the refund requirements of section 185.8 of this Part.

(7) Total benefits for any period of disability may be limited to any or all of the following:

(i) an amount stated in the policy;

(ii) an amount described in the policy;

(iii) a specified number of payments; or

(iv) until a specified age.

If item (iv) of this paragraph is used then such age may not be less than 66 and benefits may not terminate because of the attainment of the specified age before the earlier of either when 12 months of benefits have been paid or when the benefits would have stopped if the termination due to age did not appear.

(8) The insurance may include a reinstatement provision for a debtor who has been paid the full benefits of the insurance. In the event the debtor has been paid the full benefits, the insurer shall so notify the insured, describe the circumstances under which he would be again eligible for benefits, describe the amount of such benefits if less than full benefits are available and give the insured 90 days to cancel coverage with a full refund of any identifiable charges made during the 90 day period.

(9) Insurance on a debtor for an open-end loan or charge plan, may only be provided on a periodic outstanding balance premium basis. The periodic charge may be applied to either:

(i) the average daily indebtedness balance in the debtor's account during the billing period;

(ii) the indebtedness balance in the debtor's account on the billing date; or

(iii) by any other method as the superintendent may approve.

The method used shall be set forth in the group policy and certificate.

(10) The charge for insurance may be added to the debtor's indebtedness balance periodically and shall be shown separately from any other charge. If the charges for credit life, credit accident and health and credit unemployment insurance are not shown separately, then the Forms must indicate either that the debtor will be informed of the current rates in writing at least every 15 months or that the debtor will be informed in writing as to all of the rates within two months of a change in any of the rates.

§ 185.14 Special rules for credit insurance on transactions secured by real estate mortgages.

(a) In addition to all other provisions of this Part, this section shall apply to policy forms and certificates for credit transactions in this State involving first mortgage loans, other than home equity loans, and shall be controlling in any conflict with other provisions of this Part. This section shall not apply to policies and certificates covering home equity loans or second or junior mortgage loans, unless an insurer advises the superintendent in writing that it opts for a particular policy or policies and certificates to be subject to the requirements of this section in lieu of those of section 185.7 of this Part. For the purpose of this section, the addition of a new creditor or a change in premium rates, other than that required by subdivision (c) of this section, shall be considered an amendment to the policy.

(b) The following provisions shall apply to mortgage credit life and accident and health insurance policies issued, altered, modified or amended on or after the effective date of this Part.

(1) No coverage shall terminate prior to the earliest of:

(i) termination of the mortgage by prepayment, refinancing, foreclosure or maturity;

(ii) transfer of title by debtor to other than his spouse;

(iii) attainment of age 70 for life insurance or attainment of age 65 for accident and health insurance;

(iv) nonpayment of premium within 31 days of the due date (modified as noted in paragraph (5) of this subdivision);

(v) any payment under a mortgage note becoming six months overdue;

(vi) assumption of coverage by another insurer;

(vii) in the case of a group policy, the opportunity for the covered person to obtain an individual conversion policy when the indebtedness is assigned to any other party or when the group policy terminates, or for such other reasons as approved by the superintendent (see paragraph (5) of this subdivision); or

(viii) in the event of joint coverage for life insurance or accident and health insurance, the coverage may cease on the older life at the limiting age, but shall continue on the younger life until the limiting age.

(2) Premium rates meeting the standards set forth in subdivisions (c) and (e) of this section, and any revision thereto, shall be approved by the superintendent.

(3) If questions as to specific conditions of health are requested of individuals, insurance shall be considered to be underwritten. However, an age exclusion, a general statement as to good health or, the use of a preexisting condition exclusion permitted under section 185.5(e) of this Part, shall not constitute underwriting for purposes of this section. For debtors who enroll after the issuance of the policy and more than two months beyond the effective date of their mortgage, questions as to specific conditions of health or other underwriting will not change the status of a nonunderwritten group to underwritten.

(4) A policy may provide for discontinuance of acceptance of new covered persons, but may not provide for termination of covered persons except as provided in paragraph (1) of this subdivision.

(5) If the policyholder discontinues the collection of premiums, or if the indebtedness is transferred to another lender, unless another insurer agrees to insure persons then covered, any person then covered shall have the right, within two months after such discontinuance or transfer and notice to the insured, to continue coverage by the timely payment of premiums direct to the insurer, unless the insurer offers conversion to an individual policy providing the same coverage which may be terminated only as stated in

applicable provisions of paragraph (1) of this subdivision; or, alternatively in the case of life insurance, to an individual policy with fixed benefits and reasonably similar coverage as to amount and term. Premiums paid direct to the insurer may be reasonably adjusted to reflect the difference in administrative costs if approved by the superintendent. If life insurance is continued under an individual policy with fixed benefits and reasonably similar coverage as to amount and term, the premium shall be in accordance with the premium applicable to the class of risk to which the insured belongs, and at the insured's then attained age. If premiums under the group policy had been approved under paragraph (10) of subdivision (c) of this section, any additional refunds shall be made direct to the covered person when a conversion policy is issued or coverage is assumed by another insurer and such insurer does not assume the obligations of additional refunds.

(6) If an insurer agrees to assume existing coverage from another insurer, all persons then covered under the original policy shall be offered coverage by the assuming insurer without underwriting by the assuming insurer. Benefits shall be on the same basis as the original policy or, at the option of the insurer, on the same basis as those provided debtors under the new policy, without being subject to incontestability and suicide provisions of the policy. At the option of the assuming insurer, either the existing rates or the assuming insurer's rates may be used. If the assuming rates are used for persons then covered, the use of underwritten or nonunderwritten rates shall be consistent with the underwriting of the original policy. For accident and health plans, rates shall be based on original issue age if the premium rates of both insurers are level based on issue age. Other procedures for assumption of coverage may be approved by the superintendent.

(c) The following provisions shall apply to premium rates and refunds for mortgage credit life insurance policies and certificates issued on or after the effective date of this Part.

(1) Premium rates not in excess of those contained in this paragraph shall be considered adequate and not unreasonable in relation to the benefits provided for coverage that is underwritten, with no requirement of refund other than the unearned premium or identifiable charge. With respect to policy renewal years, such rates shall be subject to adjustment in accordance with subdivision (d) of this section.

**LEVEL MONTHLY PREMIUM RATES
PER \$1,000 OF INITIAL INSURANCE COVERAGE TO AGE 70**

Age at issue-	balance in years of mortgage period at issue of insurance					
	10	15	20	25	30	35
22	\$.11	\$.13	\$.15	\$.17	\$.19	\$.19
27	.13	.15	.18	.18	.20	.23
32	.17	.18	.21	.22	.25	.26
37	.22	.25	.27	.30	.35	.39
42	.27	.34	.42	.50	.57	.63
47	.45	.57	.69	.81	.89	.95
52	.73	.91	1.11	1.25	1.34	1.39
57	1.15	1.47	1.71	1.84	1.91	1.96
62	1.91	2.29	2.47	2.57	2.63	2.66

The above rates are for single life coverage. Rates for other ages and balances may be determined by straight line interpolation or extrapolation from the rates shown above. An additional monthly premium amount of \$.50 per certificate for single life coverage and \$.80 per certificate for joint life coverage, or \$.03 per \$1,000 of initial insurance for single life coverage and \$.05 for joint life coverage, may be charged.

(2) The rates for joint life coverage shall be computed in accordance with one of the following methods:

(i) 140 percent of the single life rate for the older insured;

(ii) 100 percent of the single life rate for the older insured, plus 60 percent of the rate for the younger insured; or

(iii) any other method reasonably consistent with subparagraphs (i) and (ii) of this paragraph approved by the superintendent, including but not limited to use of husband and wife in lieu of older and younger, and to use of the younger insured as the principal insured.

(3) When the insurance for the older life terminates due to limiting age, the insurance shall be continued on the younger life until the limiting age, and the rate shall be adjusted in accordance with one of the following methods as filed by the company:

(i) 100 percent of the rate for such younger insured, based on the original age, original amount of insurance and original Term of Insurance;

(ii) 100 percent of the rate of such younger insured, based on the age attained, remaining balance and remaining term on the date insurance is terminated on the older insured; or

(iii) such other method as approved by the superintendent.

(4) Reasonable groupings of mortgage periods may be used, subject to the approval of the superintendent.

(5) With respect to level premium rates per \$1,000 of initial insurance, no age groupings of more than five years for ages 40 and above shall be used. The maximum premium rate for the age group shall be that for the central age of the group.

(6) If insurance is not underwritten in accordance with paragraph (3) of subdivision (b) of this section, applicable rates may be increased 20 percent.

(7) The maximum gross premium rates for modes of payment other than monthly are as follows:

(i) quarterly -- not greater than 3.00 times monthly;

(ii) semiannually -- not greater than 5.95 times monthly; and

(iii) annually -- not greater than 11.79 times monthly.

(8) In lieu of the rates prescribed in paragraph (1) of this subdivision, an insurer may use other rates for new policies issued and/or for new certificates issued to existing group policies, and may use a different set of rates for those insured before a given date (e. g., effective date of a new premium scale for new insureds), than for those insured after such date, subject to the approval of the superintendent.

(9) A refund of the premium shall be made for termination for any reason in accordance with the rules in section 185.8 of this Part, except that for good cause, upon application by the insurer, the superintendent may waive the requirement for refund of that portion of the premium for the balance of the month, as measured from the premium due date, in the month in which termination occurs. In addition, a refund of any additional reserve may be required as a condition for approval of an accumulation of reserves in addition to any unearned premium reserves.

(10) Level premium rates higher than those in paragraphs (1) and (8) of this subdivision may be charged, provided a plan for the maintenance of reserves in addition to any unearned premium reserves, and for payment of refunds in addition to those provided for in paragraph (9) of this subdivision in the event of termination other than by death, if approved by the superintendent.

(11) Other patterns of rates, such as the use of attained age rates either per \$1,000 of initial amount of insurance or per \$1,000 of outstanding balance, may be submitted for approval by the superintendent. Such rates shall conform to the requirements of this subdivision, except to the extent of necessary modifications for such pattern of rates.

(12) Other plans of insurance not specifically provided for in this subdivision may be submitted for approval by the superintendent.

(13) Rates for policies in force on the effective date of this Part may be continued for new certificates issued under such policies.

(14) Notwithstanding anything to the contrary, the superintendent may approve rates with no grading by age or with grading by age in broader bands than permitted by paragraph (5) of this subdivision. The superintendent may require that age graded rates be used either with the initial writing of a group, or upon renewal, if the experience indicates it is appropriate.

(d) The following provisions shall apply to mortgage credit life policies:

(1) As of December 31st of each year, each insurance company shall set aside for distribution in the following year any amount needed so that the total benefits for the experience period equal at least 72 percent of earned premiums attributed to contributions

from debtors for the life insurance for such period, exclusive of benefits and premiums for those persons insured for less than one year.

(i) For purposes of this paragraph, benefits shall include: (a) incurred claims; and (b) premium charge adjustments returned to or applied for the sole benefit of those persons contributing to premiums by payment of identifiable premium charges, who are insured on the date such premium charge adjustments are distributed to the policyholder by the insurance company. A company may establish a minimum duration for eligibility for premium charge adjustments.

(ii) For purposes of this paragraph, benefits and earned premium for each year shall be combined with respect to all insured residents of New York, exclusive of those residents insured for less than one year for mortgage credit life with any insurer.

(iii) For purposes of this paragraph, the experience period shall be, as of each December 31st, the most recent calendar years up to a maximum of three, including the calendar year then ending, using estimates for the most recent calendar year. The first calendar year of experience to be considered shall be 1998.

(iv) No premium charge adjustment, refund or credit is required if the amount thereof is less than one dollar. The benefit ratio requirement shall be based on refunds made or credited. If the total monies to be credited include monies for refunds of less than one dollar and such refunds are not made or credited, then the amount for such refunds shall be added to the total to be distributed in the following year.

(v) Insurers shall be responsible for the establishment of procedures by which premium charge adjustment refunds or credits are made. Such refunds or credits may be paid directly by the insurer to the insured debtors, or total monies may be turned over to the policyholder for distribution in accordance with the directions and eligibility conditions outlined by the insurer. The policyholder may make the distribution by direct payment to the insured debtor or by crediting his escrow account. If the policyholder fails to make the distribution within a reasonable time, no later than one year from date of receipt from insurer, then the insurer shall make future distribution directly to the insureds and the policyholder shall forfeit all right to any fees, and the cost of distribution shall be charged against the policyholder before determining any dividends or experience rating credits available after satisfying the benefit requirements.

(2) If the ratio of claims incurred to premiums earned for the experience referred to in paragraph (1) of this subdivision exceeds 72 percent, exclusive of first year insureds, then premiums during the following year may be adjusted without the approval of the superintendent, if such premiums would have produced a 72 percent claim ratio. Such adjusted premiums may be used for new issues as well as inforce business. If premiums adjusted with the intention of producing at least a 72 percent ratio of claims incurred to premiums earned fail to produce the intended claim ratio for three consecutive calendar years of experience, then, in addition to premium charge adjustments, the rates shall be reduced to the greater of: (i) such rates as would have produced the intended claim ratio;

or (ii) the rates in effect prior to any adjustment designed to produce the intended claim ratio.

(3) By June first of each year, each insurer shall submit a report to the superintendent of its mortgage credit life experience, showing losses paid, losses incurred, premium charge adjustments distributed to insured mortgagors, actual premiums written, refunds due to terminations, reserve increases (separately for unearned premium and additional reserves), actual premiums earned, premium charge adjustments to be distributed and, if applicable, adjusted premiums earned for purposes of computing new premiums.

(4) In lieu of paragraphs (1) and (2) of this subdivision, a company may use other plans designed to produce a reasonable relationship of benefits to premiums, provided such plans are approved by the superintendent and are applied uniformly to all policies and certificates. Such plans may take into consideration such factors as, but not limited to, the following: policy year experience and adjustments; differentiation by size; appropriate limits for credibility factors; reserves in addition to unearned premium reserves; written premiums; select and ultimate experience; and form of expense factors. Such plans may provide for an accumulation of a reserve in addition to the unearned premium reserve, and such reserve may be in lieu of some or all premium charge adjustments, provided provision is made for refund upon termination other than by death; but an allowance shall be made for interest earnings on such reserves and in the event of termination of the master contract, the additional reserve may be transferred to a new carrier if such new carrier assumes responsibility for the plan and any refunds. A date other than that specified in paragraph (3) of this subdivision may be approved by the superintendent as appropriate for any alternative plan approved under this paragraph.

(5) For any policy to which this subdivision is not applicable as of December 31, 1997, the premium charge adjustment plan or alternative plan in effect immediately prior to the effective date of this Part shall apply for the 1998 distribution.

(e) The following provisions shall apply to mortgage credit accident and health insurance policies and certificates issued, altered, modified or amended on or after the effective date of this Part.

(1) All premiums must be calculated on either an issue age or attained age rate basis using reasonable age groupings. The premium should be calculated such that a 70% loss ratio is expected for single life coverage and a 75% loss ratio is expected for joint life coverage. Except where alternatives are established on the basis of credible evidence, no premium shall exceed the premium developed on the basis of the following assumptions and considerations:

(i) claim costs based on 110 percent of the 1985 Commissioners' Individual Disability Tables A, at three percent interest for coverage which is not underwritten and 100 percent of such claim costs for underwritten coverage; and

(ii) monthly premiums are the annual premiums divided by twelve.

(2) No policy shall provide a maximum benefit period of less than one year for continuous total disability commencing prior to age 65.

(3) No policy shall provide coverage beyond the original term of indebtedness.

(4) No policy shall provide an elimination period of less than 14 days.

(5) No policy shall provide retroactive benefits for a period of more than 30 days.

(6) Where level premiums are computed on a 10 year term or term to age 65 basis, level premium reserves shall be maintained on the same basis.

§ 185.15 Prohibited practices.

(a) No insurer, parent or subsidiary, officer, agent, solicitor or representative thereof shall engage in any of the following practices:

(1) deposit of premiums to the account of the insurer in the financial institution when such account is controlled by the creditor and pays no interest, or a rate of interest less than customary;

(2) allowing the remittance of premiums to the insurer after the expiry of the grace period on a regular basis;

(3) the retention of premiums by an agent or broker to whom the creditor remits premiums for a period of time which is not reasonably related to the time normally expected to be needed for the agent or broker to remit the premiums to the insurer, if such delay is a continuing feature of the premium paying process; or

(4) any other practice which unduly delays receipt of premiums by the insurer on a regular basis.

(b) The foregoing criteria apply regardless of whether premiums are due the insurer on the single premium advance system or on the monthly outstanding balance system. Nothing herein shall be construed to prevent the insurer from making deposits in a financial institution which is a creditor in an amount of up to three months' expected claims for purposes of drawing drafts for claim payments, provided such procedure is available to all creditors of a given minimum size. Nothing herein shall prevent an insurer from making deposits, in a financial institution, which are unrelated to a credit insurance program and which are reasonably necessary for use in the ordinary course of business of the insurer.

§ 185.16 Separability provision.

If any provision of this Part or the application thereof to any person or circumstance is for any reason held invalid, the remainder of the Part and the application of such provision to other persons or circumstances shall not be affected thereby.

I, Neil D. Levin, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is 11 NYCRR 185 promulgated by me pursuant to the authority granted by Sections 201, 301, 3201, 4205, 4216, 4224 and 4235 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on December 23, 1998. No other publication or prior notice is required by statute.

Dated: April 26, 1999

Neil D. Levin
Superintendent of Insurance