



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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**Credit Insurance**  
(Last Updated May 3, 2013)

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## **Credit Insurance Outline**

(Last Updated May 3, 2013)

This outline is current as of May 3, 2013. Subsequent changes to statutes, regulations, circular letters, etc., may not be reflected in the outline. In case of any doubt, please contact the Life Bureau.

### **I) Applicability**

#### **I.A) Scope**

This product outline covers:

- A.1) Credit life insurance, credit disability insurance, and credit unemployment insurance policies and certificates delivered in this state,
- A.2) Group credit life, disability and unemployment certificates deemed to be delivered in this state, and
- A.3) Credit life insurance and credit disability insurance transactions effected solely by mail by an unlicensed insurer. Such credit insurance forms must fully comply with the requirements of New York Insurance Law. See §§1101(b)(1), 1101(b)(2)(B)(i)(I)(bb), and 1101(b)(2)(B)(i)(II)(cc) of the Insurance Law.
  - (a) Unlicensed insurers will not be considered to be doing an insurance business in this state if
    - (i) the credit insurance transactions are effected solely by mail, and
    - (ii) the forms fully comply with the requirements of New York Insurance Law §§3201 (prior approval), 3220 and 4216 for credit life insurance, or §§3201 (prior approval), 3221 and 4235, for credit accident and health; as judged by this Department.
  - (b) This exception is not available for credit unemployment insurance.
- A.4) Credit insurance is typically written on a group basis so the Department does not intend to draft a separate outline for individual credit insurance. However, insurers should apply the requirements discussed in this outline to individual credit insurance forms, where appropriate.

#### **I.B) General Note**

This outline covers the basic statutory and regulatory rules relating to credit insurance. It is not exhaustive, and comments on rules are not intended to cover all issues.

- B.1) It is expected that companies will review all of the statutes, regulations and Circular Letters referenced in this outline prior to any submission.

- B.2) Substantial, unexplained failures to comply with this outline may be grounds for the closure of the file without approval. See Circular Letter No. 14 (1997).
- B.3) During the course of any submission, the company may be asked to certify that it has complied with various aspects of New York insurance laws or regulations not specifically relating to the content of the forms.

**I.C) Rate Approval**

No credit insurance policy form shall be issued unless it and its premium rates have been filed with and approved by the Department. Such rates must be reasonable in relation to the benefits provided. New York Insurance Law §3201(b)(4) & (c)(8); Regulation 27A, §185.3(a); Regulation 27C, §187.2(a).

**I.D) Definitions**

Regulation 27A, §185.1 and Regulation 27C, §187.1

- D.1) 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.
- D.2) Credit insurance, as referred to in §§3201(b)(4), 4216(b)(3), and 4235(c)(1)(E), means credit life insurance and/or credit accident and health insurance.
- D.3) 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.4) Credit unemployment insurance means insurance on a debtor, as authorized by §1113(a)(24) of the Insurance Law, in connection with a specified loan or other credit transaction within the State to provide payment to a creditor in the event of involuntary unemployment of the debtor for the installment payments or other periodic payments becoming due while the debtor is involuntarily unemployed.
- D.5) 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:
  - (a) 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.
  - (b) 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.

(c) 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.

D.6) 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 §185.5(i) of Regulation 27A or §187.4 of Regulation 27C; creditor includes an intended creditor pursuant to a "program." Pursuant to Regulation 27A, "creditor" also includes a "mortgage loan servicer."

D.7) Debtor means a borrower of money (or guarantor of such borrower), lessee, vendee, or purchaser, any of whom is party to a credit transaction; or an intended borrower pursuant to a "program."

D.8) 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.

D.9) Employment shall mean any service under any contract of employment for hire, express or implied, written or oral, and shall include

(a) service as a commissioned salesperson,

(b) service outside of this State and country, and

(c) agricultural labor, railroad service and maritime service.

Any exclusion set forth in §511 of the Labor Law shall be an exclusion from such term.

D.10) Identifiable charge means the amount a creditor charges a debtor or collects from the debtor specifically for credit life insurance, credit accident and health insurance, or credit unemployment 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.

- D.11) 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.
- D.12) 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).
- D.13) 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.
- D.14) 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.
- D.15) 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.
- D.16) Period of insurance means the time for which each premium has provided coverage.
- D.17) 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.
- D.18) 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.

- D.19) Refund liability means the amount that must be refunded to the debtor at any time if the insurance is terminated.
- D.20) Small loans means those loans authorized and defined by §352 of the New York State Banking Law.
- D.21) Term of insurance means the time during which a loss can occur for which benefits are payable.
- D.22) Unemployment shall mean the total lack of any employment for a period of seven calendar days. Such term shall not include
  - (a) the period of seven consecutive weeks beginning with the day after employment ceases as a result of a strike, lockout or other industrial controversy, or
  - (b) voluntary separation from employment, termination from employment for misconduct, or termination from employment for commission of criminal acts.

The interpretations placed upon the terms “industrial controversy,” “voluntary separation,” and “misconduct” within the context of §593 of the Labor Law shall be utilized.

D.23) Vendor means seller of real and/or personal property or services.

## II) Filing Process

### II.A) General Information

- A.1) **Prior Approval Requirement:** New York Insurance Law §3201(b)(1) provides that no policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of the Insurance Law (standard and generally applicable provisions) and not inconsistent with law (federal and state statutory, regulatory and decisional law).
  - (a) Sections 3201(b)(4)(A) and 4216(b)(3)(M) of the Insurance Law require premium rates to be filed with the policy forms.
  - (b) Such premium rates are subject to approval. Policy forms cannot be approved if the premium charged is unreasonable in relation to the benefits provided. See §§3201(c)(8) and 4216(b)(3)(M) of the Insurance Law. See also §185.3(a) of Regulation 27A and §197.2(a) of Regulation 27C.
- A.2) **Discretionary Authority For Disapproval:** Section 3201(c)(1) and (2) permits the Superintendent to disapprove any policy form that contains provisions that are misleading, deceptive, unfair, unjust, or inequitable or if its issuance would

be prejudicial to the interests of policyholders or members. See also §§2123, 3209, 4224, 4226, 4228(h), 4231, 4239. Filings that are incomplete or do not comply with applicable laws and regulations will be rejected. See Circular Letter No. 14 (1997).

A.3) No filing fee required.

## II.B) Types of Filings

B.1) **Prior Approval.** Policy forms submitted under §3201(b)(1) of the Insurance Law are subject to the submission rules noted herein, especially Circular Letter Nos. 6 (1963) and 14 (1997). Submissions are generally handled on a first-in, first-out basis.

B.2) **Alternative Approval Procedure** - Section 3201(b)(6) and Circular Letter No. 2 (1998) provide for an “expedited” approval procedure designed to prevent delays by deeming forms to be approved or denied if the Department or insurer fail to act in a timely manner. Circular Letter No. 2 (1998) provides that the certification of compliance for this type of submission should make reference to any law or regulation that specifically applies or is unique to the type of policy form submitted. An alternative would be to submit a certification of compliance with the applicable laws and regulations cited in this product outline. A statement that the filing is in compliance with all applicable laws and regulations is not acceptable.

B.3) **Prior Approval with Certification Procedure.** Circular Letter No. 6 (2004) provides for an expedited approval procedure based upon an appropriate certification of compliance signed by an officer of the company in the format provided by Circular Letter No. 6 (2004). Certifications that have altered or otherwise modified the language of the certification will not be accepted.

The original signed certification must be provided. The form number of each form and the memorandum of variable material for each form must be listed in the body of the certification. For long lists, it would be acceptable to begin the list in the body of the certification and include the rest of the list in an attachment to the certification. However, it would be unacceptable to list all of the forms in a separate attachment.

The submission letters for paper submissions and the Filing Description for submission made via the State Electronic Rate and Forms Filing System (SERFF) will need to comply with applicable circular letter and product outline guidance.

Substitution filings/follow-up correspondence with post-approval form changes requested prior to initial issuance of forms will not be permitted for Circular Letter No. 6 (2004) filings.

Note: This process is only available for policy form submissions and is not available for rate submissions.

**B.4) Filing of non-English versions of forms**

- (a) The English version of the form must be approved before the non-English version can be approved. The submission letter must identify, by form number, date of approval and Department file number, the previously approved form that is being translated into a non-English version.
- (b) The non-English version must have a different form number to distinguish it from the English version. (For example, the Spanish version of form APP-123 could be APP-123-S).
- (c) An original certification by a translator must be provided indicating that the text of the form is an accurate and complete translation of the English version of the form. The certification must reference the specific form numbers of both the English and non-English forms and must reference the memorandum of variable material. The certification should not use qualifying language such as “to the best of my knowledge and belief.”
- (d) An original certification by an officer of the company must be provided indicating that the officer has exercised due diligence in choosing a competent translator or translation service. The certification must reference the specific form numbers of both the English and non-English forms. Section 3201(b)(H)(3).
- (e) If the approval of the English version of the form was subject to any conditions or limitations, then the non-English language version of the form will be subject to the same conditions or limitations.
- (f) If the non-English version of the form contains variable material, a memorandum of variable material must be provided. The exact language of any non-English alternative text must be set forth.

**B.5) Out-of-State Filings.** Section 3201(b)(2) no longer requires the filing of policy forms to be delivered out of state by domestic insurers (except unallocated group annuity contracts, funding agreements, or any other policy form specified by the superintendent pursuant to regulation.) However, domestic insurers are required to annually file a list of policy forms issued by the insurer for delivery out of state. Section 3201(c)(6)(b).

**II.C) Preparation of Forms for Submission.**

Circular Letters No. 4 (1963), No. 6 (1963), No. 4 (1969), No. 14 (1997), and No. 8 (1999).

**C.1) Duplicates** – Filings, except for SERFF, need to be made in duplicate. §I.E.7 of Circular Letter No. 6. (1963).

- C.2) **Form Numbers** – Form numbers need to appear in the lower left hand corner of the cover page of the form. §I.D. of Circular Letter No. 6. (1963). The lower left-hand corner of the subsequent pages of the form should either contain the same form number as appears on the cover page or should be left blank. The subsequent pages should not contain form numbers that differ from the form number on the cover page. The form number must also appear on any tear-off portion of the form. Such form numbers must remain on the forms at issue.
- C.3) **Hypothetical Data** – All blank spaces for policy forms need to be filled in with hypothetical data. §I.E.1 of Circular Letter No. 6. (1963).
- C.4) **Application** – The application (or enrollment form) to be used with the policy/certificate must be an approved form. When submitting a policy/certificate form to which a copy of the application will be attached when issued, the form and file number for the previously approved application must be supplied. If the application has not been approved, the application form must be submitted with the policy/certificate forms for approval. If the application is already pending approval, please provide the Department’s file number. §I.E.4 of Circular Letter No. 6. (1963).
- C.5) **Final Format** – Policy forms submitted for approval should be submitted in the form intended for actual issue. §I.F.1 of Circular Letter No. 6. (1963). Revisions to font style, paper, weight and ink color are permitted provided that the forms continue to comply with all applicable laws, including but not limited to Insurance Law Sections 3102 and 3201(c)(4).
- C.6) **Submissions Made on Behalf of the Company** – If a filing is made on behalf of the company by another party, a letter authorizing the third party to act on behalf of the company must be provided. The letter must be:
- (a) On company letterhead or include the company name in the subject line of the letter;
  - (b) Specifically addressed to the New York State Department of Financial Services;
  - (c) Properly executed by an authorized officer of the insurer;
  - (d) Dated; and either
    - (i) specific to the file submitted for approval by including the form number(s); or
    - (ii) generally applicable to all policy forms filed on behalf of the insurer as long as a copy of such authorization is included in each submission.
    - (iii) It is the insurer’s responsibility to ensure that their authorizations are accurate and reflect their current relationship with the third party filer.

- C.7) **Incorporation by Reference** – All incorporations by reference should be attached to or accompany the submission. See also §3204.
- C.8) **Riders** - New policy forms should be submitted without amendatory riders or endorsements, unless:
- (a) Changes are necessitated by distinctive New York requirements.
  - (b) Riders are expressly permitted.
  - (c) Riders are permitted to conform policy to change in law, rules or regulations, unless resulting policy would have tendency to confuse or mislead.
- C.9) **Joint Coverage** - The insurer should carefully consider the ramifications of joint coverage prior to any submission. Careful consideration should be given to whether the joint insureds are co-debtors (if the co-insured is a spouse), and how the coverage on the remaining insured will be affected by one insured reaching the termination age or a claim or policy being contested due to an exclusion.

#### II.D) **Submission Letters/ SERFF Requirements**

Circular Letters No. 4 (1963), No. 6 (1963), No. 4 (1969) and No. 8 (1999).

##### D.1) **Caption Requirement**

For paper filings, the “re” of the submission letter must identify each form and the memorandum of variable material for each form that is being submitted for approval or filed for informational purposes and must be in compliance with Circular Letter No. 8 (1999). Section 3201(b)(6) (“Deemer”) filings must be identified in the “re” or caption. Circular Letter No. 6 (2004) filings must be identified in bold print in the body of the submission letter or in the “re” or caption. For SERFF filings, please see the Department’s guidance for SERFF filings available on the Department’s website at <http://www.dfs.ny.gov/insurance/serflife.htm>.

##### D.2) **Submission Letters/SERFF Filing Description** - Circular Letter No. 6 (1963) §I.G

- (a) For paper submissions, the submission letter must be submitted in duplicate and signed by a representative of the company authorized to submit forms for the company. The insurer must be identified. A table of contents of all material in the filing must be provided.
- (b) For SERFF submissions, the Life Bureau no longer requires that a separate signed cover letter be included with submissions. Instead, any information that would ordinarily be included in the signed Cover Letter must be placed in the SERFF Filing Description. Inclusion of “Please see cover letter” or phrases of similar intent in the filing description section will not be considered as meeting filing requirements.

Note: References in this outline to submission letter content requirements are also requirements for the SERFF Filing Description unless otherwise noted.

- (c) Advise as to whether the form is replacing a previously submitted form. If there have not been a substantial number of changes, submit a highlighted copy showing the material differences or changes made to the form. If the changes are too extensive, then a highlighted copy is not required, but the changes must be identified in the submission letter. State whether the previously submitted form was approved, disapproved, withdrawn or otherwise disposed or is still pending approval (under review) with the Department and provide the form number and file number of such form.
- (d) If a form being filed for formal approval had previously been submitted for preliminary review, a reference to the previous submission and a statement setting out either (1) that the formal filing agrees precisely with the previous submission or (2) the changes made in the form since the time of preliminary review. Submit a highlighted copy showing the differences or changes made to the form. A redlined copy is helpful.
- (e) If a form is intended to replace a very recently approved form because of an error found in the approved form and the approved form was not issued, the insurer may request to make a substitution of the approved form. The substitution request letter must confirm that the form has not been issued and identify the changes made to the corrected form. The insurer may, under these circumstances, use the same form number on the corrected form being submitted. If the original form was approved in paper format the insurer must also return the stamped original of the approved form to the Department. If, however, the form has been issued, the insurer must place a new form number on the corrected form and need not return the previously approved form. This option is not available for policy forms approved under Circular Letter No. 6 (2004) filings.
- (f) If the form being submitted is other than a contract (i.e. rider, endorsement, or insert page), give the form number of the contract with which it will be used, or, if for more general use, describe the type or group of such forms as well as whether the pending form(s) will be used with new and/or previously issued/delivered contracts.
- (g) When the policy form is designed as an insert page form, the insurer must submit a statement of the mandatory pages which must always be included in the policy form, and a list of all optional pages, if any, including application forms, together with an explanation of how the form will be used (previously approved forms should be identified by form number, Department file number and approval date.) We object to

a company's use of the matrix approach that identifies benefit provisions within a document with separate form numbers. See Circular Letter No. 6 (1963) §I.G.8 and Circular Letter No. 4 (1963) §I.A.2.

- (h) A statement as to how the form will be used as described in Circular Letter No. 12 (1976).
- (i) A description of the benefits and coverage provided. Circular Letter No. 6 (1963) §I.G.2 and 7.
- (j) Type of group policyholder (i.e., as defined in §§4216(b)(3) and 4235(c)(1)(E), for example, bank, credit union, lessor, vendor, etc.)
- (k) A statement as to whether the contract is noncontributory, contributory or funded solely by member contributions.
- (l) Submission letters/ SERFF filing descriptions should be as detailed as possible explaining any innovative or unique products or features and any special market or intended use of the form. (In general, an innovative or unique product or feature would include one that has not been previously approved by the Department for the insurer.)
- (m) If the form does not comply with a specific product outline provision or if the company has an alternative interpretation of a product outline provision, the submission letter must identify the provision and provide a complete explanation of the company's position on the issue. Such submissions may not be submitted through the Circular Letter No. 6 (2004) certified process unless the Department has given permission.
- (n) For individual policies, if there are similar (same product type) forms that are not being replaced, then identify those forms and indicate why they cannot be replaced.
- (o) A statement that all disclosure requirements of Regulations 27A and 27C have been fulfilled, e.g. §185.5(a) of Regulation 27A.
- (p) Indicate which policy forms, certificates, application and enrollment forms will be used with one another (including form number, Department file number and approval date if not contained within the submission).
- (q) For §3201(b)(6) "expedited" approval submissions, the caption of the submission letter should identify the submission as a §3201(b)(6) Deemer Submission. The certification of compliance should be attached to the submission letter.
- (r) A statement as to whether rates have been filed. If the rates are to be based on a previously approved rating plan, then the Department file number(s) under which the plan was approved must be provided.

- (s) A specific description of the type of loan(s) for which the insurance is written, including, if it is secured by real estate, as well as the coverage provided.

### **D.3) Resubmissions**

If the form has been previously submitted to the Department and the file was closed or withdrawn, any resubmission of the form to the Department must be complete by itself, reference the file number of the previously closed file and address all outstanding issues in the new submission letter.

### **D.4) Circular Letter No. 14 (1997)**

Filings that are incomplete or do not comply with laws and regulations will be closed. See Circular Letter No. 14 (1997). Note a product that does not comply with a specific product outline requirement or which is considered a substantive non-complying product will be a factor in determining whether a file will be closed, unless a noncompliance explanation is included in the submission letter.

### **D.5) Informational Filing**

An informational filing should be identified in the “Re” of the submission letter. All informational filings will be acknowledged by the Department indicating that the information submitted has been placed on file with the Department for informational purposes only. The company should wait for the acknowledgement from the Department that the information has been filed prior to its use. For the submission of an informational filing through SERFF, the company should use a SERFF TOI of “Life – Informational”, a SERFF Sub-TOI of “Form or Rate Related”, a SERFF Filing Type of “Form”, and a SERFF requested Filing Mode of “Informational”.

## **II.E) Attachments to Submission**

### **E.1) Memorandum of Variable Material**

- (a) The submission must include a separate detailed Memorandum of Variable Material to explain any variable material in the policy forms other than illustrative material (i.e. names, dates, etc.) The Memorandum of Variable Material is subject to approval and must comply with all substantive and procedural filing guidance issued by the Department.
- (b) Variable material must be clearly indicated in the forms (i.e. with bracketing or underlining). How material is designated as variable should be stated in the submission letter and in the Memorandum of Variable Material.
- (c) The Memorandum of Variable Material should be drafted in sufficient detail to determine the scope and variation for each variable item. Where text is variable, the memorandum should include alternative text

and/or an explanation of when the bracketed text will be omitted from the form. Similarly, variable numerical items should include the range (i.e. minimum and maximum) of variation. An explanation of variable material that the variations “will conform to law” or “as requested by the policyholder” is not acceptable.

- (d) It should be clear which item in the explanation corresponds to which variable item in the form. One option would be to number the items in the memorandum of variable material and place the number of the item from the memorandum next to the corresponding variable item in the form.
- (e) Open-face riders or endorsements may be filed for general use in amending illustrative or variable material within the scope of the approved memorandum or variable material for the form being amended. The memorandum should include an explanation to that effect.

#### **E.2) Flesch Score Certification -- Readability Requirement**

- (a) Where appropriate, provide a Flesch score certification signed by an officer of the company in accordance with Section 3102. The Flesch score must be at least 45. The number of words, sentences and syllables in the form should be set forth as part of the certification. Please refer to the Department’s February 18, 1982 letter, available on the Department’s website, for a sample certification. See <http://www.dfs.ny.gov/insurance/life/guidance/3102Intro.doc>.
- (b) Section 3102(b)(1) excludes among other things any group insurance policy covering a group of one hundred or more lives, other than dependents, at the date of issue, provided that this exclusion does not apply to certificates delivered or issued for delivery in this state.

#### **II.F) Rate Filings**

- F.1) Letter of transmittal of forms or SERFF filing description should include reference to premium rates.
  - (a) Premium rate filing should not be included with the form submission.
  - (b) Premium rate filing should not be filed through the Prior Approval with Certification Procedure pursuant to Circular Letter No. 6 (2004).
  - (c) Reference should be made to the date of submission, departmental file number, and, if applicable, the date of Departmental approval.
- F.2) Credit Life and Credit Accident and Health Insurance Premium Rates.
  - (a) Prima facie identifiable charges are as given in or derived from information provided in subdivisions (d), (e), (f), (g) and (h) of §185.7 of Regulation 27A.

- (b) The **actual rates to be charged any account** in each experience unit, as defined in subdivision (i) of §185.7, shall be based upon the procedures as outlined in subdivisions (j), (k) and (l) of §185.7.

F.3) Credit Mortgage Life and Credit Mortgage Accident and Health Insurance Premium Rates.

- (a) Premium rates for credit mortgage life insurance shall be as given in or derived from information provided in subdivision (c) of §185.14 of Regulation 27A.
- (b) For credit mortgage life insurance, reference should be made to compliance with the benefit ratio requirement of subdivision (d) of §185.14. Alternative plans for compliance must be submitted for approval in accordance with paragraph (4) of subdivision (d) of §185.14.
- (c) Premium rates for credit mortgage accident and health insurance shall be as given in or derived from information provided in subdivision (e) of §185.14 of Regulation 27A.

F.4) Credit Unemployment Insurance Premium Rates.

- (a) Standard rates are as given in or derived from information provided in subdivision (b) of §187.6 of Regulation 27C.
- (b) The **actual rates to be charged any account** in each experience unit, as defined in subdivision (c) of §187.6, shall be based upon the procedures as outlined in subdivisions (c) and (d) of §187.6.
- (c) A plan for the creation of a claim fluctuation reserve, in accordance with subdivision (e) of §187.6, may be submitted for approval.
- (d) The New York State Department of Labor no longer publishes the *Current Population Survey Data* and *Operations and Job Service and Unemployment Insurance*. The insurer should use corresponding data available from other sources.

II.G) **Compensation Filings** - §4216(e)

G.1) Filings required by all licensed insurers for all group life insurance transactions within and without the state.

- (a) Agent Compensation: Schedule of rates, commission, compensation and other fees or allowances to agents pertaining to the solicitation or sale of group life insurance.
- (b) Service/Administration Expense: Schedule of any fees, or allowances to any individuals, firms or corporations pertaining to the service or administration of group life insurance, exclusive of amounts payable to regular employees of the insurer other than agents.
- (c) Revised schedules must be filed.

- G.2) Payments to an agent for services provided cannot exceed schedules filed with the Department, but computation of dividends or experience rating credits will not be affected.
- G.3) Schedules or Independent Commission Manual shall contain the following Circular Letter No. 6 (1963), (III)(B).
- (a) The schedule of rates payable.
  - (b) The factors to which applicable, clearly stated, (e.g. a percentage of the annual premium or a dollar amount per certificate, or a dollar amount per \$100 of weekly indemnity).
  - (c) Where rates are applicable to premiums, the filing shall state the premiums to which they apply, as for instance, monthly, yearly, first year or renewal.
  - (d) Where different rates are payable for different types of coverages, agents, and areas, etc., the filing shall clearly indicate the nature of such classes.
  - (e) The nature of administrative services shall be set forth, together with the allowances therefor.
  - (f) Where rates are varied by policy year, the filing shall explicitly state the rates and policy years. Where such rates can be payable under an alternate scale, the formula for converting to such alternative scales shall be stated or the alternate scale included.
  - (g) Where rates are graded, the complete scale shall be included or the nature and factors of the graduation shall be stated.
- G.4) Schedules of rates of commissions and compensation and other fees or allowances required to be filed in triplicate separately from the cover letter/SERFF filing description, also in triplicate - Circular Letter Nos. 6 (1963); No. 4 (1969). Contents of filing letter SERFF filing description:
- (a) A specific reference to the section, page numbers and edition dates being submitted.
  - (b) The area and nature of any revisions, the pages on file being replaced, and the new pages being submitted.
- G.5) In the filing of group life insurance compensation schedules, please observe the following:
- (a) The compensation schedule filing should not be included in the form filing.
  - (b) The compensation schedule filing should not be filed through the Prior Approval with Certification Procedure pursuant to Circular Letter No. 6 (2004).

- (c) The filing should be separate from all other material not pertaining directly to the compensation payable including the transmittal letter.
  - (d) The Company's name should appear on each and every page of the filing.
  - (e) The product the filing is to be used with should be clearly indicated.
  - (f) If compensation is to vary by year, then the meaning of year should be clear. In the group setting year could mean Group Policy Year, Certificate Year, Year of Participating in a Trust or possibly some other meaning.
  - (g) The actual level of compensation to be paid should be filed and not just some possible maximum.
  - (h) Adequate description and information should be presented in the filing that the amount of compensation payable is reasonably determined.
- G.6) Credit Life and Accident and Health Insurance compensation filings should be in compliance with §185.9 of Regulation 27A.
- G.7) Credit Unemployment Insurance compensation filings should be in compliance with §187.8 of Regulation 27C.

### III) Eligibility

#### III.A) Eligible Group Requirements

- A.1) **Creditor/Vendor Group:** Creditor or vendor, or trustee or agent designated by two or more creditors or vendors, §§4216(b)(3)(A), 4216(g), 4235(c)(1)(E). This creditor, vendor, trustee or agent shall be the policyholder.
- A.2) **Discretionary Groups,** §4216(b)(14) and 4235(c)(1)(M) of the Insurance Law.
  - (a) A group approved by the Superintendent upon a finding that:
    - (i) the group of debtors has the common economic relationship of making payments of principal and interest to the servicer;
    - (ii) the premiums charged for the coverage are reasonable in relation to the benefit provided; and
    - (iii) the issuance of such policies would result in economies of acquisition, and would be actuarially sound.
  - (b) *Mortgage loan servicers* have been recognized as a type of creditor under §§ 4216(b)(14) and 4235(c)(1)(M) of the Insurance Law. See §185.1(f) of Regulation 27A. Each such group must demonstrate compliance with §§ 4216(b)(14) and 4235(c)(1)(M) of the Insurance Law.
    - (i) The secondary mortgage market has become an important source of consumer credit;

- (ii) The need for efficient operation and the emergence of organizations that administer mortgages that have been assigned by the original lender has benefited the public.

### III.B) Eligible Insureds

New York Insurance Law §4216(b)(3)(B): The policy shall insure all of the members, but may exclude any as to whom evidence of individual insurability is not satisfactory to the insurer, of a group of debtors or vendees, defined as follows:

- B.1) all of the borrowers, or borrowers and guarantors of borrowers, or intended borrowers (under 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 and guardian by a financial institution, or by or on behalf of a college or university or such an 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) from one financial institution and its subsidiary or affiliated companies, or from two or more creditors or vendors so designating such trustee, trustees or agent, or
- B.2) all of the purchasers of securities, merchandise or other property from one vendor, or from two or more vendors so designating such trustee or agent, or
- B.3) all of any class or classes of such debtors or purchasers determined by conditions pertaining to the type of indebtedness or purchase.

### III.C) Other Requirements

- C.1) **Age Limitations.** The policy may specify the ages to which the insurance provided shall be limited, provided however that if the insurance terminates at a particular age, the age at which it terminates shall be prominently displayed on the application for insurance. §4216(b)(3)(C).
- C.2) **Benefit Payments.** Benefits will be paid to policyholder to repay indebtedness (i.e., applied to discharge the obligation of the insured). Any excess over indebtedness is payable to beneficiary named by debtor or if none, to the debtor's estate or paid under facility of payment clause. §4216(b)(3)(F).
- C.3) **New Entrants.** New entrants must number at least 25 persons yearly. §4216(b)(3)(G).
- C.4) **Source of Premium.**
  - (a) The creditor or the vendor shall pay the premium, either from charges collected from insured debtors or purchasers, or from both. §4216(b)(3)(H).

- (b) A policy on which all or part of the premium to be derived from the collection from the insured debtors or purchaser of identifiable charges not required of uninsured debtors or purchasers may be issued only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants in any year become insured and provided that such policy shall not include, in the class or classes of debtors or purchasers eligible for insurance, debtors or purchasers under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors or purchasers elect to pay the required charges. §4216(b)(3)(H).

#### IV) **Extraterritorial Jurisdiction**

A.1) As used herein, extraterritorial jurisdiction refers to the assertion of jurisdiction over New York credit transactions, regardless of the situs of delivery of the group policy.

##### A.2) **Unauthorized Insurers: Mail Order Prohibition**

- (a) **Prohibition.** In general, unauthorized insurers are prohibited from conducting an insurance business through the mail in this State by virtue of §1101(b)(1).
- (b) **Group Exception.** An unauthorized insurer will not be doing an insurance business in this State if it transacts insurance solely by mail with New York residents through an out-of-state group policy if the group is specified in New York Insurance Law §1101(b)(2)(B), and the master policy is lawfully issued without the state in a jurisdiction where the insurer is authorized to do an insurance business.
- (c) **Special Rule For Credit Transactions.**
  - (i) Any credit transaction from an unlicensed insurer must fully conform to applicable requirements in §§3201, 3220, 3221, 4216 and 4235. Section 1101(b)(2)(B)(i)(I)(bb) and (b)(2)(B)(i)(II)(bb) specifies the forms are subject to full conformance requirement. See also §3436 (second) for credit unemployment insurance.
  - (ii) The Submission Letter/SERFF Filing Description must specify that the submission is being forwarded under New York Insurance Law §1101 and must completely explain how the company complies with this exception.

#### V) **Contract Provisions**

##### V.A) **Explanatory Note**

###### **Certificate Validity**

- A.1) We insist that the terms of the certificate control in the event of a conflict between the policy and certificate. Any inconsistencies between policy and

certificate should be eliminated prior to submission. Otherwise, the certificate could be misleading.

- A.2) The traditional view that insureds are merely third-party beneficiaries of a group policy between the insurer and policyholder does not make sense where the insured pays the entire premium for the insurance protection.

#### **V.B) Cover Page (Policy and Certificate)**

##### **B.1) Company's Name and Address**

- (a) Only the licensed New York company's name should appear on the cover page (front or back) of the certificate and contract, other than the Section 1101(b)(2)(B)(i)(I)(bb) and (b)(2)(B)(i)(II)(bb) exceptions.
- (b) Full street address of the company's Home Office for disclosure purposes on front or back cover pages.

##### **B.2) Free Look Provision**

If a free look provision is provided by the company, it must be clearly explained on the cover page.

##### **B.3) Form Identification Number**

A form identification number should appear in the lower left-hand corner in accordance with Circular Letter No. 6 (1963), (I)(D). Such form numbers must appear on all issued forms.

##### **B.4) Brief Description of Policy**

A description should be included, describing the type of credit/loan involved, the type of insurance offered, and if it involves real estate.

##### **B.5) Officer's Signatures**

The signature of at least one officer of the company in order to execute the contract is required as a matter of contract law. Signatures are usually underlined or bracketed to denote variable material. When changed the insurer should notify the Department for informational purposes. (Policies do not need to be re-filed).

#### **V.C) Specifications Page/Schedule**

Complete with hypothetical data. Circular Letter No. 6 (1963), (I)(E)(1).

#### **V.D) Table of Contents**

A table of contents is required for policies that are over 3,000 words or more than three pages regardless of the number of words in accordance with New York Insurance Law §3102(c)(1)(G).

#### **V.E) Joint Coverage**

The forms must specifically explain the effect a misstatement of age, suicide, the termination age of one of the insureds, or any other exclusion, would have on joint coverage. Such explanation should describe any refund amount and that insurance would remain in effect on the surviving insured. However, it is the Department's position that coverage should not continue on a non-debtor insured once the debtor is no longer insured.

#### V.F) **References to Application for Insurance**

Any references within the forms to the insured debtor's application should make it clear that it refers to the insured's application or enrollment form for credit insurance, and not to the insured's application for the credit transaction.

#### V.G) **Required Provisions – Life *and* Disability Insurance - Regulation 27A**

- G.1) **Identifying Information.** Pursuant to Regulation 27A, §185.5(c), each individual policy or certificate for life and disability must contain the following:
- (a) The name and home office address of the insurer, for disclosure purposes.
  - (b) The identity of the debtor, by name or otherwise.
  - (c) The amount and term of coverage, which in the case of group insurance, may be by description rather than by stated amount and term.
  - (d) The amount of premium or identifiable charge to the debtor, stated separately with regards to life, disability or unemployment insurance when coverage is not packaged, unless such identifiable charges are described in the notice signed by the debtor at the time the indebtedness is incurred pursuant to §185.5(d).
  - (e) The circumstances and formula under which refunds of premiums will be made; this may be included by reference to the relevant filing with the Department.
  - (f) A description of the insurance coverage, including any exceptions, limitations and restrictions.
  - (g) A description of the eligibility requirements for the insurance.
  - (h) The benefits shall be payable 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 will be paid to the debtor or a designated beneficiary, other than the creditor. If no designated beneficiary exists, then the excess shall be payable to the estate of the debtor or pursuant to a facility of payment clause.
- G.2) **Single/Advance Premiums Regulation 27A, §185.5(h)**

Any policy that provides for a single premium or advance payments of premium must contain a provision that in the event the policy itself is terminated, the individual coverage would continue for the entire period for which the premium has been paid, unless such coverage has been replaced. But see §185.6(c). See also §185.7(m)(2).

**G.3) Policies Issued to Trusts** Regulation 27A, §185.5(j)

- (a) Any policy issued to a trustee, trustees or agent of two or more creditors shall include
  - (i) The duties and obligations pertaining to the service and administration of said group policy of the trustee, trustees or agent;
  - (ii) 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;
  - (iii) The method of computation and manner of charging and collecting premiums for each class or classes of creditors;
  - (iv) 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;
  - (v) The class or classes of debtors to be insured under said group policy;
  - (vi) The method of computation and manner of charging and collecting premiums or identifiable charges for each class of debtors.
- (b) No such policy shall be issued until the trust or agency agreement has been filed with and found unobjectionable by the superintendent.

**G.4) Leases**

A policy of credit life insurance covering a tenant's lease or covering a lease or real or personal property may be written, under the circumstances and conditions prescribed in Regulation 27A, §185.5(k).

**G.5) Prepayment – Premium Refund**

If the indebtedness is discharged due to prepayment, the policy and certificate must provide that the insurance will be terminated and a refund shall be paid or credited as provided for in Regulation 27A, §185.8.

**G.6) Premium Collection.**

If any identifiable charge is collected from the debtor, the policy shall contain a provision that the creditor shall remit such amount to the insurer without undue delay. See §185.7(m)(1).

**G.7) Service Fees:**

The group policy must set forth the fees for service or administration that may be payable to a policyholder or creditor; this may be included by reference to the relevant filing with the Department. Regulation 27A, §185.9(f).

**G.8) Open-ended loans:**

- (a) Regulation 27A, §185.13(a)(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.
  - (iv) The method used shall be set forth in the group policy and certificate.
- (b) Regulation 27A, §185.13(a)(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.
- (c) The forms should clearly explain how they will comply with §185.13(a)(6).

**G.9) Policy Termination.** Regulation 27A, §185.5(h):

- (a) Single premium payment or advance premiums: 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 §185.6(c) of Regulation 27A, unless such coverage is immediately assumed by the same or another insurer.
- (b) Monthly premiums: 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. The notice shall be given by the

insurer where practicable, otherwise by the creditor, unless there is immediate replacement of the coverage by the same or another insurer.

**G.10) Discharge of Debt.** Regulation 27A, §185.6(e):

- (a) If the indebtedness is discharged due to prepayment, the insurance in force shall be terminated.
- (b) 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.
- (c) 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 §185.5(e).
- (d) In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in §185.8.

**V.H) Standard Provisions, Credit Life Insurance**

New York Insurance Law §3220:

Group credit life policies (and certificates) must contain in substance the following provision **or** provisions which in the opinion of the superintendent are more favorable to certificate holders or not less favorable to certificate holders and more favorable to policyholders. But see §3220(b).

**H.1) Entire Contract** – §§3204 and 3220(a)(2) of the Insurance Law.

- (a) Section 3204(a) requires that the policy contain the entire contract between the parties.
  - (i) Nothing shall be incorporated therein by reference to any writing, unless a copy thereof is endorsed upon or attached to the policy when issued.
  - (ii) No application shall be admissible in evidence unless a true copy was attached to the policy when issued.
  - (iii) Such policy cannot be modified, nor can any rights or requirements be waived, except in writing signed by a person specified by the insurer in such policy.
  - (iv) All statements made by, or by the authority of, the applicant for the issuance, reinstatement or renewal of any such policy shall be deemed to be representations and not warranties. See also §3105.
  - (v) No insertion in or other alteration of any written application shall be made by any person other than the applicant without his/her written consent, except that the insertions may be made by the insurer for administrative purposes only in such manner as to

indicate clearly that the insertions are not to be ascribed to the applicant.

- (vi) Note that a table or schedule of rates, premiums or other payments which is on file with the Superintendent for use in connection with such policy or contract is excepted from the requirements of §3204(a).
- (b) Section 3220(a)(2) requires a provision to the effect that the rights of any policyholder, insured or beneficiary shall not be affected by any provision not contained in the policy, riders, endorsements or amendments thereto signed by the policyholder and the insurer, or in the copy of the policyholder's application attached to the policy, or in any individual statements, if any, submitted in connection therewith. §3220(a)(2)
- (c) Pursuant to Circular Letter No. 4 (1963) §II.H.7, the entire contract provision for individual life insurance policies cannot include the words "in absence of fraud." We object to such language in group life policies as well.
- (d) The *Guidelines For Examination Of Group Life Forms* in Circular Letter No. 4 (1963) provide that incorporation by reference is governed by §3204(a).
- (e) For credit insurance, the entire contract provision should include reference to the certificate. We object to language stating that the certificate merely summarizes the terms of the group policy or that the terms of the group policy control in the event of a conflict between the policy and certificate.
- (f) Circular Letter No. 4 (1963), (III)(1) of the *Guidelines For Examination Of Group Life Forms* provides that, except for riders by which the insurer exercises a specifically reserved right under the policy or which concern only administrative changes, all riders which may be added to the master policy after the date of issue and which reduce or eliminate coverage in the policy should provide for signed acceptance by the policyholder.

## H.2) **Certificate Issuance and Validity** – §3220(a)(4) and §4216(b)

- (a) Section 3220(a)(4) requires a provision stating that the insurer will issue a certificate to the policyholder for delivery to the person whose life is insured under such policy containing a statement of the insurance protection to which he is entitled including any changes in such protection depending on the age of the person whose life is insured and the statutory conversion rights.
- (b) The certificate must include, in substance, all provisions of the policy that have any relevance to the insureds. (Department Interpretation).

- (c) In addition, we require a statement that nothing in the group policy invalidates or impairs any rights granted to the certificate holder by the certificate. (Department Interpretation).

**H.3) Incontestability – §3220(a)(1)**

- (a) Section 3220(a)(1) requires a provision stating that
  - (i) the policy is incontestable after two years from its date of issue, except for non payment of premiums by the policyholder; and
  - (ii) no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person’s lifetime and in no event unless a written instrument signed by him, a copy of which is or has been furnished to such person or to his beneficiary.
- (b) Note that incontestability cuts off a claim of fraud in the application.
- (c) Must be based on “material misrepresentations” in accordance with §3105.

**H.4) Grace Period:** A grace period of two delinquent payments by the insured, pursuant to §185.7(m)(4) of Regulation 27A.

**H.5) Misstatement of Age**

- (a) Section 3220(a)(3) requires a provision that provides for the equitable adjustment of the premium or if the amount of insurance depends upon the age of the insured, for the equitable adjustment of the amount of insurance and the premium in the event of a misstatement of the age of the person insured.
- (b) If the premiums, benefits or values differ depending upon the sex of the insured, the misstatement of age provision may include an adjustment in the event of misstatement of sex. See Circular Letter No. 4 (1963), (II)(H)(8).
- (c) The forms must address all possible scenarios of age/sex misstatements including such situations as:
  - (i) The age is misstated, and it doesn’t affect eligibility for insurance but does affect the termination age.
  - (ii) The age of one of two joint debtors is misstated and only one joint debtor is ineligible for coverage.
- (d) See Section V.E. above, Joint Coverage.

**H.6) Beneficiary and Facility of Payment**

- (a) Section 4216(b)(3)(F) and Regulation 27A §185.5(c)(8) call for:
- (i) The benefits under a credit insurance policy shall be payable to the policyholder;
  - (ii) The amount of any benefit received by the policyholder thereunder not in excess of the actual indebtedness shall be applied by the policyholder to the discharge of any obligation of the person insured, or his personal representative, to the policyholder, creditor or his assignee; and
  - (iii) The amount of any benefit received by the policyholder thereunder in excess of the actual indebtedness shall be payable to a beneficiary named by the debtor or, if none, then either to the estate of the debtor or under the provision of a facility of payment clause.
- (b) For the payment of any amount in excess of the actual indebtedness, Section 3220(a)(5) of the Insurance Law would apply.
- (i) There must be a provision stating that the benefits payable under the policy in excess of the actual indebtedness shall be payable to the beneficiary or beneficiaries designated by the insured;
  - (ii) Where the policy contains conditions pertaining to family status, the beneficiary may be the family member specified in the policy.
  - (iii) In the absence of designated or specified beneficiary as to all or part of the insurance payable in excess of the actual indebtedness at the death of the insured, then such amount of insurance shall be payable to the estate of the insured, or
  - (iv) Insurer may deduct from the death benefit in excess of the actual indebtedness an amount not to exceed \$500 to be paid to any person or persons appearing to the insurer to be equitably entitled to such payment by reason of having incurred expenses on behalf of the insured or for his or her burial.
  - (v) Payment in accordance with beneficiary and facility of payment provision completely discharges the insurer's liability with respect to the amount of insurance so paid. But see Article 81 of the Mental Hygiene Law.
- (c) Additional Requirements
- (i) Should clearly describe how contingent owner and joint owner provisions operate if being made available. (Department Interpretation).
  - (ii) Should clearly describe how primary and secondary beneficiary designations operate if being made available. Should clearly

describe how multiple beneficiary designations are handled.  
(Department Interpretation).

- (iii) Any change in the owner or beneficiary designation should take effect on the date the notice of change is signed subject to receipt of this notice by the insurer. The change should not take effect only when recorded by the insurer since there could be substantial delays. (Department Interpretation).

#### H.7) **Eligibility of New Insureds**

Pursuant to §3220(a)(9) of the Insurance Law, all new members of the group or classes eligible for such insurance must be added to such groups or classes for which they are eligible.

#### V.I) **Standard Provisions, Credit Accident and Health (Disability) Insurance, §3221:**

Group credit disability policies (and certificates) must contain in substance the following provision **or** provisions which in the opinion of the superintendent are more favorable to certificate holders or not less favorable to certificate holders and more favorable to policyholders.

##### I.1) **Incontestability** - §3221(a)(1)

- (a) Statements are deemed to be representations not warranties.
- (b) No statement shall be used to contest the policy or reduce benefits unless contained in a writing signed by the insured.

##### I.2) **Changes to Policy** - §3221(a)(2)

No agent shall have the authority to change the policy or waive any of its provisions and no change shall be valid unless approved by an officer of the insurer and evidenced by an endorsement on the policy or by an amendment signed by the policyholder and the insurer.

##### I.3) **Eligibility** - §3221(a)(3)

All new debtors who meet the eligibility requirements must be added to the class to which they are eligible.

##### I.4) **Premiums** - §3221(a)(4)

Premiums shall be paid by the creditor on or before the due date. But see Regulation 27A, §185.7(m)(4).

##### I.5) **Renewal** - §3221(a)(5)

The forms must state the conditions under which the insurer will refuse to renew the policy.

##### I.6) **Termination Age** - §3221(a)(7)

The policy must state any limitations on age.

I.7) **Notice of Claim** - §3221(a)(8)

Written notice of claim should be given to the insurer within twenty days, barring a showing that was not reasonably possible to give such notice and notice was given as soon as reasonably possible.

I.8) **Proof of Disability** - §3221(a)(9)

Proof of loss should be given within ninety days of the date of loss, and subsequent proofs may be reasonably required. Failure to provide proof within this time will not invalidate a claim if it wasn't reasonably possible to produce such evidence within such time, and the proof was supplied as soon as reasonably possible.

I.9) **Insurer will provide claims forms** - §3221(a)(10)

If forms are not provided within fifteen days after receipt of notice of claim, the claimant may submit the proof without such forms.

I.10) **Right to Examination** - §3221(a)(11)

The insurer has the right to examine the claimant as often as reasonably necessary

I.11) **Legal Actions** – §3221(a)(14)

No action in at law or in equity shall be brought before sixty days after proof of loss has been given, or after two years.

V.J) **Standard Provisions, Credit Unemployment Insurance**

Regulation 27C & §3436 (second)

Group credit unemployment policies (and certificates) must contain in substance the following provision **or** provisions which in the opinion of the superintendent are more favorable to certificate holders or not less favorable to certificate holders and more favorable to policyholders.

J.1) Generally, benefits may be payable only if the insured is eligible for unemployment benefits in New York. See New York Insurance Law §3436(d).

J.2) Any dividend on any participating policy or any rate reduction on any non-participating for the first or any subsequent year of insurance may be applied to reduce the policyholder's part of the cost of such insurance, except that the excess, if any, of the insured's aggregate contribution under the policy over the net cost of the insurance shall be applied as a cash payment to the insured or as a reduction in the insured's premium. See §3436(g)(1).

J.3) Forms of Credit Unemployment Insurance - Credit unemployment insurance policies that provide benefits differing in kind or character from the following shall be deemed not to conform to §3201(a) and (c)(8) of the Insurance Law. See §187.3 of Regulation 27C.

- (a) Benefits payable after the 30th day of unemployment and retroactive to the first day of such unemployment.
  - (b) Benefits payable after the 30th day of unemployment.
  - (c) Under any other plan approved by the Superintendent, benefits payable after such waiting periods and upon such conditions as he shall approve.
  - (d) Benefits under any plan must be payable only if the debtor qualifies for unemployment benefits in this State pursuant to Article 18 of the New York Labor Law, or would qualify thereunder but for Labor Law §511(3), (4), (6), (10) or (11), or by reason of exhaustion of benefits or length of employment. In the event that the involuntary unemployment is a result of a strike, lockout or illegal walkout, the waiting period to qualify for credit unemployment benefits shall begin at the end of the period that the insured must wait before receiving state unemployment benefits.
  - (e) Although Regulation 27A permits certain lump sum payments in the event of disability, Regulation 27C does not permit similar payments for unemployment.
- J.4) An individual policy or a certificate of group insurance shall be delivered to the debtor at the time the credit unemployment insurance becomes effective or within 30 days thereafter. See §187.4(a).
- J.5) Each such individual policy or certificate of group insurance for credit unemployment insurance shall, pursuant to §187.4(c), in addition to other requirements of law, set forth:
- (a) the name and home office address of the insurer;
  - (b) the identity of the debtor by name or otherwise;
  - (c) 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;
  - (d) the amount of premium for an individual policy or the identifiable charge to the debtor, if any, under a group policy, separate from any other charges;
  - (e) the circumstances and formula under which refunds of premiums or identifiable charges are payable pursuant to the provisions of §187.7 of this Regulation;
  - (f) a description of the insurance coverage including any exceptions, limitations or restrictions;
  - (g) a description of the eligibility requirements for the insurance, as referred to in subdivision b of §187.4(b); and
  - (h) a statement prominently displayed setting forth the following or its equivalent: Your eligibility for this coverage may be dependent on

your being eligible to receive State unemployment benefits. A change in your employment may affect your eligibility for benefits. If you have any questions you should contact the insurance company.

- J.6) In addition the form shall state that the benefits shall be paid to the creditor to reduce or extinguish indebtedness to the creditor and, where the amount of insurance exceeds any such indebtedness, that any such excess shall be payable to the debtor or credited to the debtor's account. Any such certificate shall appropriately describe the refund provision required pursuant to §187.7 of Regulation 27C.
- J.7) A 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 by the insurer or creditor, coverage with respect to any insured debtor shall be continued for the entire period for which a single premium or advance premium has been paid, except as otherwise provided in §187.5(c) of this Part, unless such coverage is immediately assumed by the same or another insurer. See §187.4(i).
- J.8) A group credit unemployment 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. See §187.4(i).
- J.9) A group credit unemployment insurance policy issued to a trustee, trustees or agent designated by two or more creditors shall set forth:
- (a) the duties and obligations pertaining to the service and administration of said group policy of the trustee, trustees or agent;
  - (b) 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;
  - (c) the method of computation and manner of charging and collecting premiums for each class or classes of creditors;
  - (d) 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;
  - (e) the class or classes of debtors to be insured under said group policy; and
  - (f) the method of computation and manner of charging and collecting premiums or identifiable charges for each class or classes of debtors; provided, however, that paragraph (a) above need not be set forth in the group policy if such paragraph is set forth in the trust or agency agreement and any amendments thereto. No such policy shall be issued

until after the trust or agency agreement has been filed with the Superintendent and found unobjectionable by him or her.

- J.10) If the indebtedness is discharged due to prepayment, the insurance shall be terminated. 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, no eligibility requirements may be re-imposed with respect to the loan amounts and duration in force immediately prior to such renewal or refinancing. The maximum benefit payable in the absence of the insured satisfying the eligibility requirements for new indebtedness may be limited to the maximum benefit remaining immediately prior to such renewal or refinancing. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in §187.7 of this Part. See §187.5(d).
- J.11) The term of an individual policy of credit unemployment insurance shall not extend more than 35 years from the date the indebtedness is incurred. See §187.5(e).
- J.12) An individual policy by its terms shall not be cancelable by the insurer, except for nonpayment of premium, prior to the earliest of
- (a) the scheduled maturity date of the indebtedness;
  - (b) the date on which the indebtedness is discharged due to prepayment, refinancing, or renewal; or
  - (c) 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 insurance is renewed or otherwise continued in force.
- J.13) 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. See Regulation 27C, §187.6(f)(4).
- J.14) The unemployment insurance shall exclude from benefits, indebtedness incurred by the debtor while he was unemployed. A premium may not be charged on any new indebtedness incurred by the debtor while he is unemployed, unless included in the claim benefit. Any premium paid by the insured that is subsequently refunded will not be considered to have been charged to the debtor. See §187.12(a)(6)(ii).

#### V.K) **Optional Provisions**

### K.1) **Assignment**

- (a) Unless the policy expressly prohibits or restricts the right of assignment, an insured is permitted to make an assignment of all or any part of his/her incidents of ownership in such insurance, including any right to designate beneficiaries and any right to convert to an individual policy. See §3220(c).
  - (i) Life insurance policies are freely assignable unless otherwise restricted under the contract.
  - (ii) Insurer's procedures on assignments (i.e. must be in writing, filed with company etc) should be fully described.
- (b) No group life policy that permits assignment of a covered person's rights shall restrict the covered persons from making assignment other than by gift. See §7809 of the Insurance Law.

### V.L) **Permissible Exclusions and Restrictions** (life and disability coverage)

Regulation 27A, §185.5(e), (f) & (g) identify permissible exclusions and restrictions of liability.

### L.1) **Preexisting Condition**

- (a) A life or accident and health insurance policy may exclude or deny liability in the event of death or disability during the first six months of coverage resulting from a preexisting condition which occurred during the six month period immediately preceding the effective date of the insured's certificate.
- (b) **Revolving Credit:**
  - (i) For an accident & health insurance policy subject to §185.13, where each credit transaction is considered to have its own effective date of insurance, the policy may instead contain one of the following two provisions.
    - (I) The policy may limit liability for disability for each credit transaction during the six months preceding the date of a loss, where there was a pre-existing condition during the six months prior to the credit transaction.
    - (II) The policy may limit liability for disability for each credit transaction during the nine months preceding the date of a loss, where there was a pre-existing condition which occurred during the nine months prior to the date of loss and before the credit transaction.
  - (ii) 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 the preexisting condition for this loss over the sum of the minimum payments required when each of these payments was made.

- (iii) The forms should clearly indicate how the monthly benefit amount and maximum benefit payable for a single disability are affected by the pre-existing condition exclusion.
- (c) For revolving credit, disability insurance will exclude from benefits indebtedness incurred during the disability. An identifiable charge shall not be charged on any such 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 §185.8. See §185.13(a)(6). The forms must explicitly and clearly describe these terms.

**L.2) Suicide and Intentionally Self-inflicted Injuries Exclusion**

- (a) An insurer may exclude payment of the death benefit if the insured commits suicide within the first two years (Department Interpretation).
- (b) The insurer must refund the premiums paid during the two-year period. See Circular Letter No. 4 (1963), (III)(E)(4).
- (c) The phrase "while sane or insane" is prohibited. See Circular Letter No. 4 (1963), (II)(I)(1).
- (d) The suicide exclusion cannot begin again upon any replacement, but may continue from its original date.
- (e) It must be clearly stated that the suicide provision will begin again only for applied for increases and will be applicable only to the increased amount. (Department Interpretation).

**L.3) War and Service in Armed Forces Exclusion:** A life insurance form may not include any war or travel exclusion or restriction, unless it shall have printed or stamped across its face in red and in capital letters not smaller than 12 point type the following:

"Read your policy (certificate) carefully.  
Certain (war, travel) risks are not assumed.  
(state which or both)

In case of any doubt write your company (society) for further explanation."

**L.4) Other Exclusions**

An insurer may submit other exclusions that have been shown to the superintendent not to be contrary to the standards prescribed by §3201. A complete explanation and rationale why such exclusion should be approved must be included in the initial submission letter.

Exclusions from paying death and disability benefits due to terrorism are not permitted. Section 185.5(f)(3) of Reg. 27A provides for the only permissible death and disability benefit exclusions.

**L.5) Age**

A credit insurance policy may exclude from classes eligible for insurance classes of debtors determined by age. No age for uninsurability may be less than 65 at the date of indebtedness or age 66 at maturity date. No age for termination or reduction of insurance shall be less than 66. A younger age for accident & health (disability) insurance may be approved by the superintendent. A complete explanation and rationale why such termination age should be approved must be included in the initial submission letter.

**V.M) Permissible Exclusions and Restrictions (unemployment coverage)**

- M.1) A policy of unemployment insurance may contain a provision, pursuant to §187.4(e), excluding or denying a claim for unemployment resulting from:
- (a) voluntary forfeiture of salary, wages or employment income, without good cause;
  - (b) resignation;
  - (c) retirement;
  - (d) loss of income due to disability caused by accident, sickness, disease or pregnancy;
  - (e) loss of income due to termination as the result of willful misconduct, criminal misconduct or unlawful behavior as determined in judicial or administrative proceedings;
  - (f) strikes, lockouts and illegal walkouts;
  - (g) unemployment as the result of military discharge;
  - (h) normal or routine scheduled layoff or plant closing where the employee is expected to be rehired; and
  - (i) other reasons as approved by the Superintendent of Insurance.
- Exclusions from paying unemployment benefits due to terrorism are not

permitted. Section 187.4(e) of Reg. 27C provides for the only permissible unemployment benefit exclusions.

- M.2) A credit unemployment insurance policy may exclude from the classes eligible for insurance:
- (a) Classes of debtors determined by age, provided that no age for ineligibility shall be less than:
    - (i) age 65 at date of indebtedness; or
    - (ii) age 66 at maturity date.
  - (b) Classes of debtor determined by employment status, provided that if an actively at work requirement in excess of three months is used, then periods of unemployment totaling less than 30 days shall not render the debtor ineligible for credit unemployment insurance. In no event shall an actively at work requirement in excess of 12 months be used. A definition of actively at work not more restrictive than requiring the debtor be working 30 hours a week for wages may be used.
- M.3) A credit unemployment insurance policy may impose conditions under which an insured debtor becomes re-eligible for credit unemployment benefits after a period of receiving benefits. If re-eligibility conditions are required for full benefits for a subsequent period of unemployment such conditions may not be more stringent than the initial eligibility conditions and in no event shall require that the insured be actively at work for more than six months. If an insured debtor has not satisfied the re-eligibility requirement at the time of a subsequent unemployment, such unemployment shall be considered a continuation of the prior unemployment. The maximum benefit period of the continuation will be equal to the unused portion of the maximum benefit period for the prior unemployment. See Regulation 27C, §187.4(g).
- M.4) Pursuant to §187.4(f)(1), classes of debtors may be excluded by age, provided that no age for ineligibility shall be less than:
- (a) age 65 at date of indebtedness; or
  - (b) age 66 at maturity date.
- M.5) A credit unemployment insurance policy may call for the termination of coverage upon the attainment of a specified age. Such age may not be less than age 66. See Regulation 27C, §187.4(h).
- M.6) Credit unemployment insurance, subject to §187.12, may include an actively at work requirement. This provision may apply separately to each new indebtedness incurred by the debtor, and may not be reapplied to the total indebtedness balance each time a new indebtedness is incurred. See §187.12(a)(6)(i).

M.7) Contributory coverage may not provide for a delayed effective date of coverage (e.g. no benefits payable or benefits limited to the return of premiums if unemployment occurs in the first six months). Non-contributory coverage will be decided on a case by case basis. In such a case, the policy form may not be submitted by any certified process unless the Department has given permission.

**V.N) Amount of Insurance**

**N.1) Life insurance, §185.6(a)**

- (a) In general, the amount of coverage shall not exceed but may be less than the lesser of the statutory limit or the greater of the actual amount of unpaid net indebtedness and the scheduled amount of the unpaid net indebtedness; §4216(b)(3)(J)(i) limits such coverage to \$55,000. Currently, §4216(b)(3)(J)(iii) limits coverage for debt secured by real estate to \$220,000. For indebtedness arising from a credit card account where there is no specific charge for insurance, the lesser of \$100,000 or the amount of the unpaid indebtedness. See §4216(b)(3)(J)(iv).
- (b) For indebtedness that is repayable in installments, the amount of insurance shall be written as decreasing term and shall not exceed the greater of the net unpaid indebtedness and the scheduled unpaid net indebtedness at the time of death. Where the initial indebtedness exceeds the maximum amount of insurance, the amount of insurance must be one of the options provided by Regulation 27A, §185.6(a)(3)(i) – (iii).
- (c) Subject to the policy’s maximums, the amount of insurance must be written to include at least two months of delinquent payments. See §185.6(a)(4).
- (d) Notwithstanding anything in New York Insurance Law §4216(b)(3) to the contrary, the life insurance of persons who are tenants or shareholders of a mutual or other housing corporation under a policy 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 in an amount not greater than the lesser of \$55,000 or an amount equal to 36 times the monthly installments due under such lease.
- (e) Farm Loans:
  - (i) With respect to loans made by production credit associations organized pursuant to the federal Farm Credit Act of 1933, 12 U.S.C. SS 1131c - 1138c, 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 and shall not be limited as to amount except that the insurance 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.

- (ii) With respect to loans made by Federal Land Banks established pursuant to an Act of Congress of the United States entitled the "Federal Farm Loan Act", approved July 17, 1916, as amended, the amount of insurance on any person insured under the policy shall not at any time exceed the amount of the unpaid indebtedness at the inception of the period for which premiums are paid, but shall not otherwise be limited as to amount.

**N.2) Accident & Health (Disability), §185.6(b)**

- (a) In general, the amount is limited to the lesser of any statutory limit and the amount due from the debtor. New York Insurance Law §4235(c)(1)(E)(i) sets the limit at \$30,000.
- (b) For transactions secured by real estate, the amount of insurance shall be no more than the lesser of the statutory limit and the amount of indebtedness so secured. New York Insurance Law §4235(c)(1)(E)(iii) requires a maximum of \$75,000.
- (c) For revolving credit, Regulation 27A, §185.13(a)(7) allows for total benefits for any period of disability to 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, which 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.

**N.3) Unemployment Insurance, New York Insurance Law §3436 (second)**

- (a) In general, the amount is limited to the lesser of \$55,000 and the total of payments scheduled to be paid by the person to whom credit has been extended. New York Insurance Law §3436(c)(1).
- (b) For transactions secured by a real estate mortgage, the amount of insurance shall be no more than the lesser of \$110,000 and the total of

payments scheduled to be paid by the person to whom credit has been extended. New York Insurance Law §3436(c)(3).

(c) In no case shall the benefit exceed the amount of payments due during the period of unemployment of the covered person, excluding such amounts that may have become due by acceleration or default. See §3436(c)(4) and Regulation 27C, §187.5(a)(1)(iv).

N.4) For open-end loans or charge plans, for any type of credit insurance, if the insured has incurred no indebtedness, the amount of coverage will be zero. Subject to any maximum, the amount of life insurance will include any charges made by the insured prior to death but not recorded until afterwards. 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. Regulation 27A, §185.13(a)(3). Subject to any maximums, the amount of a periodic credit unemployment insurance benefit may not exceed the greater of the amount of the minimum payment which the debtor is required to make on the debtor's loan or charge plan as of the monthly billing or statement date on or immediately preceding the date his unemployment or labor dispute work stoppage commenced, or a specified percentage, not to exceed six percent, of the debtor's unpaid indebtedness balance as of the date the debtor's unemployment or labor dispute work stoppage commenced. Regulation 27C, §187.12(a)(4).

**V.O) Term of Insurance, Regulation 27A, §185.6(c) (life and disability coverage)**

- O.1) In general, the term of any credit life or accident & health insurance shall, subject to acceptance by the insurer if necessary, commence on the day the debtor becomes obligated to the creditor, or if applied for after the commencement of the obligation, on the effective date of the policy/certificate.
- O.2) Notwithstanding anything in New York Insurance Law §4216(b)(3) to the contrary,
- (a) the insurance of borrowers, who incur indebtedness arising from the granting of policy loans pursuant to policy provisions therefor, provided under a policy issued to the insurance company granting the policy loan, may be continued for the duration of the indebtedness,
  - (b) under a plan approved by the superintendent the life insurance of debtors with respect to an agreement which does not provide for

repayment in installments may be continued for the duration of the indebtedness but not more than seven years from the date the indebtedness is incurred, and

(c) the insurance of persons who are tenants or shareholders of a mutual or other housing corporation under a policy 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.

- O.3) In general, the term of an individual policy shall not extend longer than fifteen days after the scheduled maturity date of the indebtedness. See Regulation 27A, §185.6(c). The term of insurance under a group plan shall not be continued for longer than the duration of the indebtedness. In no event shall insurance on an installment loan continue for more than thirty-five years from the date of indebtedness, and for all other types of indebtedness, for eighteen months with an additional six months in the case of default, extension or recasting of the indebtedness. See New York Insurance Law §4216(b)(3)(D). But see Regulation 27A, §185.6(d)(2) & (3).
- O.4) If the indebtedness is discharged due to prepayment, the insurance will be terminated and a refund shall be paid or credited as provided for in Regulation 27A, §185.8.
- O.5) Truncated Coverage: For single premium coverage on loans in excess of 63 months, coverage for less than the full term may be written provided the insurance is written for 60 months or more. §185.6(f).
- O.6) An individual policy of accident & health (disability) coverage may not be cancelable (Regulation 27A, §185.6(g)) by the insurer except for non-payment of premium, prior to the earliest of:
- (a) The scheduled maturity date of the indebtedness;
  - (b) The date the debt is discharged due to prepayment, refinancing or renewal; or
  - (c) The expiration of the longer of four years after the debt was insured or the period for which the premium has been paid.
- O.7) Pursuant to §185.13(a)(4), a debtor's insurance on an open-end loan or charge plan 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:
- (a) on the date requested by the debtor or the date he fails to pay any required premium or charge on insurance;

- (b) 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;
- (c) on the date the open-end loan or charge plan is terminated;
- (d) on the date the debtor is in default, as defined by the creditor's rules;
- (e) subject to the notice requirement of §185.5(h), on the date the group policy is terminated; or
- (f) 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.

**O.8) Credit Insurance on Transactions secured by Real Estate, Regulation 27A, §185.14(b)(1) - applies to both credit disability and credit life insurance.**

- (a) 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;
- (b) For both credit disability and credit life insurance, 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 to elect either (i) or (ii):
  - (i) The right to, within two months after such discontinuance or transfer and notice to the insured, continue coverage by the timely payment of premiums directly to the insurer. The Superintendent may approve reasonable adjustments in the premium due to differences in the administrative costs;
  - (ii) The right to an individual conversion policy. The conversion policy must provide reasonably similar coverage as to amount and term as the coverage that ended. The premium must be based on the class of risk the insured belonged to under the group policy, and be based upon the then attained age.

(c) 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 with the appropriate single life rate then being charged.

**O.9) Credit Accident and Health Insurance on Transactions secured by Real Estate, Regulation 27A, §185.14(e)(2) – (5)**

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

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

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

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

**V.P) Term of Insurance, Regulation 27C, (unemployment coverage)**

P.1) Except upon good cause shown and with the approval of the Superintendent of Insurance, an insurer shall not issue insurance in case of loans, except those subject to §187.12, repayable in less than 18 monthly installments wherever a debtor shall be required to pay a premium or identifiable charge in connection with insurance providing indemnities of less than \$30 per month.

P.2) The term shall, subject to acceptance by the insurer if required, and unless otherwise permitted pursuant to §187.4(d), commence on the date when the debtor becomes obligated to the creditor. However, 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 of Insurance, shall commence on the effective date of the group certificate.

P.3) The term of an individual policy of credit unemployment insurance shall not extend more than 35 years from the date the indebtedness is incurred. See §187.5(e).

P.4) Pursuant to §187.12(a)(4), a debtor's insurance on an open-end loan or charge plan 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:

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

(b) 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;

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

- (d) on the date the debtor is in default, as defined by the creditor's rules;
- (e) subject to the notice requirement of §187.4(i), on the date the group policy is terminated; or
- (f) 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.

## VI) **Advertising and Disclosure**

Regulation 34-A – Rules Governing Advertisements of Life Insurance and Annuity Contracts (11 NYCRR 219); Circular Letter No. 2 (1994).

VI.A) The Regulation applies to any life insurance advertisement, as defined in the regulation, which is intended for presentation, distribution or dissemination in New York, directly or indirectly, by or on behalf of any insurer, agent or broker, as those definitions are defined in New York Law.

VI.B) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are so advertised.

VI.C) Content of Regulation

VI.D) Advertisement defined;

VI.E) Form, content and disclosure requirements of advertisements described;

VI.F) Enforcement procedures established.

VI.G) The Circular Letter describes questionable marketing and sales practices and requests insurers to review company advertising files and practices to assure compliance with the Regulation.

## VII) **Applications**

For general guidance on insurance applications, please see the Individual Life Insurance Applications outline available on our Web site.

### VII.A) **Required Provisions**

An applicant must specifically elect in writing to become insured and pay the premium. The debtor may also have the right to discontinue at any time with notice to the creditor. Regulation 27A, §§185.5(b), 185.13(a)(1); see also Regulation 27C, §187.12(a)(2). The termination age must be stated on the application.

### VII.B) **Credit Unemployment**

- B.1) The application must be signed and dated separately from the request for credit. Such application must clearly and conspicuously disclose to the debtor that 1) the insurance is not required by the creditor and 2) the cost of the unemployment insurance. See §3436(f).
- B.2) If a separate charge is made to the debtor and the insurer excludes eligibility for insurance because of age, employment status or other conditions for eligibility, the debtor's application for insurance, the notice of proposed group insurance, credit unemployment insurance disclosure statement or equivalent form shall include a question related to each such condition which would identify the debtor's eligibility or ineligibility. If a separate charge is not made to the debtor and the insurer excludes eligibility for insurance because of age, employment status or other conditions for eligibility, the debtor's application for insurance, the notice of proposed group insurance, credit unemployment insurance disclosure statement or equivalent form shall include a question or declaration related to each condition which would identify the debtor's eligibility or ineligibility. Prior to the delivery of the policy or certificate, such application, notice, credit unemployment insurance disclosure statement or equivalent form shall be completed and signed by the debtor. See Regulation 27C, §187.4(b).
- B.3) If said individual policy or certificate of group insurance is not delivered to the debtor at the time the credit unemployment insurance first becomes effective, a copy of the application for such individual policy, a copy of the application for such certificate of group insurance or a notice of proposed group insurance, signed by the debtor and setting forth:
- (a) the name and home office address of the insurer;
  - (b) the name of the debtor;
  - (c) the amount of premium for an individual policy or the identifiable charge to the debtor, if any, under a group policy, separate from any other charges;
  - (d) 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;
  - (e) a brief description of the coverage provided;
  - (f) a brief description of any limitations, reductions or exceptions, such as an actively at work requirement; and
  - (g) a description of the eligibility requirements for the insurance, as referred to in §187.4(b) of this Regulation 27C (this requirement may be provided in the credit insurance disclosure statement or equivalent form) shall be delivered to the debtor at the time such indebtedness is incurred.

- (h) Such application for an individual policy or notice of proposed group insurance shall include a statement 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 §187.7. 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 bold face type at least equal in size to the type used for the other provisions thereof.
- (i) The application for credit unemployment insurance must clearly and conspicuously disclose to the debtor:
  - (i) that the credit unemployment insurance is not required by the creditor, and
  - (ii) the cost of the credit unemployment insurance.
- (j) The 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 §187.5(b) of this Part, unless the insurer has theretofore demonstrated to the satisfaction of the Superintendent of Insurance that in deferring the effective date of the insurance the contract conforms to the standards of §3201(b)(1) & (c) of the Insurance Law.

4/30/2013