

**NEW YORK STATE
INSURANCE DEPARTMENT**

**SECOND AMENDMENT TO REGULATION NO. 27A
(11 NYCRR 185)
CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE**

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, do hereby promulgate the following Second Amendment to Part 185 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 27A) pursuant to the authority granted by Sections 201, 301, 3201, 4205, 4216 and 4235 of the Insurance Law, Chapter 505 of the Laws of 2000, and Chapter 13 of the Laws of 2002; to take effect upon publication in the State Register, to read as follows:

(MATTER UNDERLINED IS NEW; MATTER IN BRACKETS IS DELETED)

Section 185.0(b) is amended to read as follows:

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

Section 185.9(a), (b), (c), and (e) are amended to read as follows:

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

- (1) the policyholder or any of its employees, officers or directors;
- (2) a trustee, trustees or agent or any of their employees, officers or directors, in the event that a group credit insurance policy is issued to a trustee, trustees or agent designated by two or more creditors or vendors; or
- (3) the creditor or vendor member of a trust or agency or any of its employees, officers or directors.

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

(b) The agent or broker of record and/or any agent or broker sharing commissions for solicitation of the master policy of credit insurance, as authorized by

subdivision (a) of this section, shall be licensed in accordance with Insurance Law Section 2103 or Section 2104.

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

(e) Each insurer shall file with the superintendent its schedule of rates of commissions, and other fees or allowances to agents and brokers pertaining to the solicitation or sale of credit insurance and of fees or allowances, exclusive of amounts payable to persons who are in the regular employ of the insurer other than as agent or broker, to any individuals, firms or corporations pertaining to the service or administration of the credit insurance. Such schedules must separate compensation for solicitation or sale from compensation for services or administration of the credit insurance. An insurer may revise such schedules from time to time, and shall file such revised schedules with the superintendent. No insurer shall pay an amount of compensation other than as filed with superintendent.

The opening paragraph of Section 185.15(a) is amended to read as follows:

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

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Second Amendment to Part 185 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 27A), promulgated by me on February 13, 2003, pursuant to the authority granted by Sections 201, 301, 3201, 4205, 4216 and 4235 of the Insurance Law, Chapter 505 of the Laws of 2000, and Chapter 13 of the Laws of 2002.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on December 11, 2002. No other publication or prior notice is required by statute.

Gregory V. Serio
Superintendent of Insurance

February 13, 2003