

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

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Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

September 18, 2024

Honorable John Thurston
Arkansas Secretary of State
State Capitol Building
Little Rock, AR 72201
Attn. Arkansas Register

sent via email: register@sos.arkansas.gov

Re: Proposed Amended Rule 12: Credit Life and Credit Disability Insurance

Dear Secretary:

The Arkansas Insurance Department has scheduled a public hearing as to Proposed Amended Rule 12: Credit Life and Credit Disability Insurance. Enclosed are the DOI Notices of Public Hearing, a copy of the proposed rule and a copy of the mark-up.

Please arrange to publish the information in a format acceptable to the Secretary for at least 30 days in advance. Can you send us confirmation that we can use in the transcript as a public hearing exhibit?

An electronic filing will be made within the statutorily required 7 days. Thanks for your help.

Thank you,

Clara D. Mezza

Clara D. Mezza
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Legal Division
Arkansas Insurance Department
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501-683-3497

Enclosures

CC: Sara Farris, Associate Counsel



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

DATE: SEPTEMBER 16, 2024

TO: CREDIT LIFE INSURERS, CREDIT DISABILITY INSURERS, LIFE INSURERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PROPOSED AMENDED RULE 12: CREDIT LIFE AND CREDIT DISABILITY INSURANCE

NOTICE OF PUBLIC HEARING

The Arkansas Insurance Department ("AID") will host a Public Hearing on November 7, 2024 at 10 a.m., in the second floor Diamond Mine Hearing Room, in the Arkansas Department of Commerce Building, One Commerce Way, Little Rock, Arkansas 72202.

The Arkansas Insurance Commissioner is considering adopting proposed amended Rule 12: Credit Life and Credit Disability Insurance, to remove the requirement of notarized affidavits regarding agent/broker compensation.

All interested persons are encouraged to attend the Public Hearing and may appear and present, orally or in writing, any statements, arguments, or opinions on the proposed Rule 128. Any written or oral comments will be accepted from now until 4:30 pm, November 7, 2024. The Legal Division requests that persons desiring to testify at the hearing notify the Legal Division as soon as possible and submit intended statements in writing in advance of the hearing.

The proposed Rule 12 may be viewed on the Legal Division's website at <https://insurance.arkansas.gov/industry-regulation/legal/proposed-rules/>. Please direct your inquiries to the Legal Division at (501) 371-2820 or to insurance.legal@arkansas.gov.

Proposed Amended Rule 12
CREDIT LIFE AND CREDIT DISABILITY INSURANCE

Section

1. Authority and scope.
2. Definitions.
3. Disclosure provisions.
4. Filing and approval of forms and rates.
5. Presumably acceptable relation of credit life insurance benefits to premiums.
6. Presumably acceptable relation of credit disability insurance benefits to premiums.
7. Standards and principles for application of the credit disability rates.
8. Credit life and credit disability forms at higher rates or lower rates.
9. Additional coverages.
10. Refund formula.
11. Claims and review procedure.
12. Financial statement reserves.
13. Statistical requirements and reporting.
14. Agent compensation.
15. Level Term Coverage.
16. Compensating balances or special deposits.
17. Issuance of policies.
18. Penalties.
19. Severability.
20. Effective date.

Exhibit A. Disability per \$100 initial coverage.

Section 1. Authority and scope.

1. This part is hereby promulgated and adopted pursuant to the authority provided in Ark. Code Ann. §§ 23-87-117, -118 . All life insurance and all disability insurance sold in connection with loans or other credit transactions shall be subject to the provisions of these rules, except such insurance sold in connection with a loan or credit transaction of more than ten (10) years duration.

Section 2. Definitions.

1. All terms used herein shall be as defined herein unless otherwise defined in Ark. Code Ann. § 23-87-101 et seq.

Section 3. Disclosure provisions.

1. All credit life insurance and credit disability insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor at the time the indebtedness is incurred, except as hereinafter provided.

2. Each individual policy or group certificate of credit life insurance or credit disability insurance delivered or issued for delivery in this State shall, in addition to the other requirements of law, set forth:

(a) The name and home office address of the insurer and on group certificates an identification of the master policy;

(b) The identity by name or otherwise of the insured debtor. If age is a condition of eligibility or termination, this shall be shown in the certificate;

(c) The rate or amount of payment, if any, to the debtor, separately for credit life insurance and credit disability insurance;

(d) The amount and term of insurance coverage shall be set forth or described;

(e) A description of the coverage including any and all exceptions, limitations and restrictions;

(f) A statement that the benefits shall be paid to the creditor to reduce or extinguish the indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, or in the absence of such designation to surviving spouse, or to his estate.

(g) A statement indicating that upon discharge of the indebtedness by a prepayment, renewal, refinancing, or otherwise, the insurance shall be terminated, and that in all cases of termination prior to scheduled maturity, a refund of any unearned amount paid by or charged to the debtor for insurance shall be made in accordance with the appropriate formula set forth in Section 10 herein. No refund need be made if the amount thereof is two dollars or less. In the case of the termination of credit life insurance by death of the insured debtor, the life insurance premium paid or then due and payable to the insurer is deemed earned, and no refund thereof is required.

3. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of an application for such individual policy or a notice of such proposed group insurance coverage shall be delivered to the debtor at the time such indebtedness is incurred, and such application or notice of proposed insurance shall be signed by the debtor and shall set forth:

(a) The name and home office address of the insurer and on notices of proposed group insurance, an identification of the master policy;

(b) The identity by name or otherwise of the insured debtor. If age is a condition of eligibility or termination, this shall be shown in the application or notice signed by the debtor;

(c) The rate or amount of payment, if any, to the debtor, separately for credit life and credit disability insurance;

(d) The amount of the insurance coverage shall be set forth or described;

(e) A brief description of the coverage including any and all exceptions, limitations and restrictions.

4. The copy of such application or notice of proposed 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 the information above required appears in type of at least equal size and prominence as the other provisions of said statement of account, instrument or agreement.

5. The policy or certificate of insurance shall not contain provisions that would encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive or contrary to law or to the public policy of this State.

3.6. Within thirty (30) days after the insurance becomes effective as provided in Ark. Code Ann. § 23-87-111(b), the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor.

7. A group credit insurance policy which provides for payment of single premiums to the insurer shall provide 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 has been paid by such debtor, subject to the debtor's right to cancel the insurance at any time by express action. 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, thirty-one (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. With respect to debtors covered at the date of termination where notice is required, coverage shall continue as though the policy had not terminated until notice is given.

8. All applications for credit life and credit disability insurance, and where no application is used, all policies and certificates of credit life and credit disability insurance shall be signed by the insured debtor. Nothing in this part shall be construed to conflict with this requirement.

Section 4. Filing and approval of forms and rates.

1. Every insurance company, when submitting a policy form for approval by the commissioner shall submit therewith the schedule of rates applicable to such policy form. The face page of each such form or schedule submitted shall have added to its identifying form, symbol, or figure (by printing, type-writer, or rubber stamp) the following identification: "Credit Life" or "Credit Disability". Such additional identification may but need not appear on issued copies of such forms.

2. As the basic test of the reasonableness of the relation of benefits to the premium charged, as provided in Ark. Code Ann. §23-87-112(b), to be applied separately by policy form number, it is hereby declared that the benefits for credit life or credit disability insurance, individual or group, shall be considered to be reasonable in relation to the premium charged either if the premium charged is the premium or premium rate authorized by Section 5 or 6, or if a loss ratio of fifty percent (50%) will or can reasonably be expected to be developed. The reporting forms required to be filed annually under Section 13.1 will be used to determine if the basic test is being met.

Section 5. Presumably acceptable relation to credit life insurance benefits to premiums.

1. The commissioner may presume that the benefits of a credit life insurance form are reasonable in relation to the premium charged if the premium or premium rate schedule for death benefits as filed with the commissioner and charged for the coverage does not exceed an amount equal or actuarially equivalent to the following maximum rates:

(a) Coverage on a single life provided on the outstanding indebtedness basis:

\$1.00 (one dollar) per month per \$1,000.00 (one thousand dollars) of outstanding balance of insured indebtedness.

(b) Coverage on a single life provided by an individual or group policy on other than an outstanding indebtedness basis:

1. \$.65 (sixty-five cents) per year of coverage per \$100.00 (one hundred dollars) of initial insured indebtedness for credit transactions when the insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and

2. \$1.20 (One dollar and twenty cents) per year of coverage per \$100.00 (one hundred dollars) of level term life insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term.

(c) Coverage on joint lives provided on the outstanding indebtedness basis:

\$1.70 (One dollar and seventy cents) per month per \$1,000.00 (one thousand dollars) of outstanding balance of insured indebtedness.

(d) Coverage on joint lives provided by an individual or group policy on other than an outstanding indebtedness basis:

1. \$1.10 (one dollar and ten cents) per year of coverage per \$100.00 (one hundred dollars) of initial insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and

2. \$2.04 (two dollars and four cents) per year of coverage per \$100.00 (one hundred dollars) of level term insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term.

(e) No certificate fee, policy issue charge or any charge other than the premium herein provided shall be made.

2. The foregoing rate test in Section 4 for the presumed reasonableness of benefits in relation to premiums is based upon the following requirements:

(a) That the credit life insurance contract may require submission of evidence of insurability or that the debtor be in gainful employment at the time the insurance becomes effective, or both, and contains no conditions of coverage more restrictive than absence of misrepresentation if health statement or evidence of insurability is required, and no exclusions other than for suicide (incontestable after two years), and flight in nonscheduled aircraft.

(b) That coverage is provided or offered to all debtors regardless of age; or to all debtors not older than the applicable limit, which shall not be less than attained age of sixty-five (65) years if such limit applies to the age when the insurance attached, or not less than attained age of sixty-six (66) years if such limit applies to the age on the scheduled maturity date of the debt.

3. If the premiums are determined according to age of the insured debtor or by age brackets, appropriate adjustments in the rate and premium may be made according to age; provided such adjustment is on a basis actuarially consistent with the foregoing rates when applied regardless of actual age at issue.

4(a) The phrase "joint lives" means only spouses, business partners, co-makers, guarantors and endorsers and such persons must be jointly and severally liable for repayment of a single indebtedness and must be joint signers of the instrument of indebtedness. Joint life coverage shall not be written covering more than two (2) lives. Jointly indebted persons shall not be covered separately at single life rates.

(b) Joint life rates may not be charged for single life coverage.

5. If a form of contract of insurance includes other lawful benefit or benefits for which standards of reasonableness of benefits in relation to premium are not elsewhere in these rules determined or described, any premium charged therefore in excess of the foregoing rates shall be shown to the satisfaction of the commissioner to be based upon credible statistics and reasonable in relation to the additional benefit provided, such showing to be in accordance with the basic loss ratio in Section 4.2 hereof.

Section 6. Presumably acceptable relation of credit disability insurance benefits to premiums.

A credit disability benefit, whether provided by a separate disability policy or as a disability benefit in combination with a group or individual credit life policy, is presumed to be reasonable in relation to the premium charged if the premium or premium rate schedule for the benefit as filed with the commissioner and charged or to be charged for the coverage does not exceed an amount equal or actuarially equivalent to the maximum rates for the amount and lengths of time of coverage indicated in Exhibit "A" attached hereto..

Section 7. Standards and principles for application of the credit disability rates.

1. The standards and principles for the application of the rates set forth in Section 6 are as follows:

(a) The initial amount of insured indebtedness to which the rate is applied shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness.

(b) The indebtedness is repayable in substantially equal monthly installments during the period of coverage.

(c) The rates for premiums payable on other than a single premium basis shall be the actuarial equivalent of the rates set forth in Section 6 hereof. Such premium rates will be deemed the actuarial equivalent of the foregoing single premium rates if such rates produce a total premium for any duration and amount of insurance equal to the corresponding single premium for the same duration and amount of insurance.

(d) The credit disability insurance contract does not cover disabilities resulting from pre-existing illness, disease or physical condition and may require submission of evidence of insurability and that the debtor be in gainful employment at the time the insurance becomes effective and contains no exclusions other than disability resulting from normal pregnancy, intentionally self-inflicted injuries, foreign travel or residence, flight

in non-scheduled aircraft, war or military service. The eligibility for disability coverage may be restricted on account of age in the same manner as permitted for credit life insurance in Section 5.2(b) hereof.

Section 8. Credit life and credit disability forms at higher rates or lower rates.

1. Notwithstanding the determination by the commissioner that the rates specified in Sections 5 and 6 are the presumably acceptable maximum rates that are reasonable in relation to the benefits of a policy providing the coverage to which the rates are applicable, an insurer may receive approval of a higher premium rate or schedule of rates to be used in connection with a creditor or class of creditors if said insurer demonstrates, to the satisfaction of the commissioner, that the mortality or morbidity experience which may reasonably be anticipated will be significantly higher than the average anticipated experience on the basis of which the applicable rate standards specified in Sections 5 and 6 were based, and that the proposed rate can reasonably be anticipated to produce a loss ratio not less than that set out in Section 4.2.

2. Insurers may file rates lower than those specified in Sections 5 and 6, and having filed acceptable rates under these rules, may thereafter charge lesser rates without refile, provided, however, that other laws and these rules are complied with.

Section 9. Additional coverages.

1. If a company proposes to write any type of coverage with rates other than those set forth in Sections 4, 5, 6 and 7, it may request the commissioner to set a hearing to determine if a public need exists for such coverage and to determine, through credible statistics, whether the proposed rate may be presumed to be reasonable for such coverage in relation to the benefits offered, until the time that experience in accordance with Section 4 indicates a different rate.

Section 10. Refund formula.

1. With respect to policies issued and certificates delivered after the effective operative date of this part:

(a) The refund of an unearned amount paid by or charged to the debtor for insurance in the case of reducing term credit life insurance or credit disability insurance on which such charges to the debtor are payable by other than a single sum and of level term credit life insurance shall be not less than the pro rata gross unearned amount charged;

(b) The refund of an unearned amount paid by or charged to the debtor for insurance in the case of reducing term credit life insurance or of reducing credit disability insurance on which the insurance charges to the debtor are paid in a single sum shall be not less than the amount computed by the "Sum of the Digits" formula, commonly known as the "Rule of 78".

2. Each debtor is entitled to receive from the person or persons legally responsible for paying it, a refund of unearned identifiable insurance charges on termination of insurance in cash or by credit against the next installment on his account in accordance with the insurer's approved refund formula. Insurers shall be responsible for the establishment of procedures by which refunds or credits are to be made and shall furnish to the creditors schedules of refunds or credits, conforming with the requirement hereof, to be made in the event of termination of insurance. Insurers shall also furnish instructions to creditors with respect to their duties and functions in the making of such refunds or credits.

3. The requirement for filing refund formulas will be considered met if they are set forth in the individual policy or group policy filed with the commissioner and not disapproved. If the appropriate refund formula is the "Sum of the Digits" formula, commonly known as the "Rule of 78", it shall be sufficient to so refer to it.

4. A premium refund or credit need not be made if the amount thereof is two dollars (\$2.00) or less.

Section 11. Claims and review procedure.

1. The insurance company shall be responsible for the settlement, adjustment and payment of all claims and shall establish and maintain adequate claim files, which may be reviewed and examined by the commissioner. All claims shall be promptly reported to the insurance company, or its designated claim representative, and all claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

2. All claims shall be paid either by draft drawn upon the insurance company or by check of the insurance company to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to the one specified.

3. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle adjust claims. The creditor shall not be designated as claim representative for the insurer in settling or adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer. However, nothing herein shall be construed to relieve the insurance company from the responsibility for the proper settlement, adjustment and payment of all claims in accordance with the terms of the insurance contract.

4. It shall be the responsibility of the insurer to review each lender's account at least annually verifying the accuracy of premium payments, or other identifiable insurance charges, premium refunds, and claims incurred and to be prepared to exhibit the results of such review upon request of the commissioner.

Section 12. Financial statement reserves.

1. In order to assure that sufficient funds will be available to make the refunds required by the policy and this part and to guarantee promised benefits to policyholders:

(a) The aggregate reserves for each credit life insurance policy shall not be less than one hundred and thirty percent (130%) of reserves as computed on an appropriate mortality table in a manner determined in accordance with the Arkansas Insurance Code, and

(b) the reserve for each credit disability insurance policy shall not be less than the amount of unearned premium calculated from gross premiums in force upon either a pro rata or sum of the digits basis, as applicable.

Section 13. Statistical requirements and reporting.

1. Carriers writing credit life insurance and credit disability insurance in Arkansas shall be required to keep statistical data subject to call in such form and manner as to enable the commissioner to determine if rates are reasonable in relation to the benefits afforded by the various policy contracts together with appropriate expenses. The reporting forms adopted by the National Association of Insurance Commissioners which are hereby incorporated herein by reference, shall be used to report such data and shall be annually filed with the Insurance Department.

Section 14. Agent compensation.

1. As to credit life or credit disability insurance written by or through a creditor, or any affiliate, associate, subsidiary, director, officer, employee or other representative of or for such creditor, or by or through any agent or broker, all compensation for writing or handling such insurance shall not exceed forty percent (40%) of the maximum premiums permitted herein.

2. "Compensation" shall include, but shall not be limited to, the receipt directly or indirectly or reciprocally of:

(a) Commissions, contingent commissions, service fees, policy fees, expense allowances or reimbursements, dividends or other distribution of earnings based solely upon the profits derived from issuing or reinsuring any policy of credit life or credit disability insurance; and

(b) Gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, scripts, or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volumes of sales obtained; and

(c) Experience refunds, retrospective rate credits, and dividends, for the sole purpose of determining presumptively reasonable compensation allowances under this Section; and

(d) Any amounts or things of value received from or paid by any person other than an insurer in consideration of the sale or retention of credit insurance.

3. "Compensation" shall not include:

(a) Reinsurance premiums paid to, or underwriting profits generated by an insurer or reinsurer not owned by, controlled by or under common control with a credit insurer, an agent, broker, creditor, group of creditors, or any affiliate, associate, subsidiary, director, officer, employee or other representative of or for such credit insurer, creditor or group of creditors; and,

(b) Reinsurance premiums paid to, or underwriting profits generated by, an insurer or reinsurer owned by, controlled by or under common control with a credit insurer, an agent, broker, creditor, group of creditors, or any affiliate, associate, subsidiary, director, officer, employee or other representative of or for such credit insurer, creditor or group of creditors, on accounts in existence with such insurer or reinsurer on January 27, 1986, which have been registered with the commissioner in accordance with Section 14.4 of this Rule; and

(c) Payments made to successors in interest of the accounts described in Section 14.3(b).

4. Any insurer intending to utilize Section 14.3 (b) of this Rule must register with the commissioner within thirty (30) days after the effective date of this part, the identity of the account or accounts involved, the name of the insurer or reinsurer and the name and address of the agent, broker, creditor reinsurer and the name and address of the agent, broker, creditor or group of creditors through which the account is written.

5. Any insurer who, for credit insurance written in any of its credit insurance accounts in this state, charges or proposes to charge the presumptive rates of premium set forth in Sections 5 and 6, and who, for production of such insurance, pays or proposes to pay, directly or indirectly compensation in excess of the presumptive allowance set out in Section 14.1 shall:

(a) Reduce the premium rates charged in any such account by four percent (4%) or fraction thereof of the applicable presumptive premium rate set out in Sections 5 and 6 for each one percent (1%) or fraction thereof, by which it pays or proposes to pay compensation in excess of the presumptive allowance set forth in

Section 14.1. Such compensation in excess of the presumptive compensation rate shall be applied thereafter to all subsequently written net premiums calculated upon the basis of the reduced rates of premium as specified above; and,

(b) File with the commissioner a transcribed copy of any agreement, whether written or oral, direct, indirect or reciprocal, by which for the sale of credit insurance in this state it pays, proposes to pay or contingently may pay compensation in excess of the allowable presumptive compensation set out in Section 14.1.

6. In the event that premium rates for any account of credit insurance are required to be reduced in accordance with Section 14.5 by reason of base or front-end compensation in excess of the presumptive compensation allowance, the effective date of such reduction shall be the same as the effective date of the agreement providing for such payment. For any reduction of premium rates required by Section 14.5 by reason of contingent compensations based upon favorable experience, which, alone or together with base or front-end compensations, exceed the presumptive compensation allowance set out in Section 14.1, the effective date of such reduction of premium rates shall be the termination date of the period for which such contingent compensations are paid, and such rate reduction shall remain in effect in the account for a period of twelve (12) months thereafter, regardless of any change or replacement of the insurer during such twelve (12) month period.

7. In the event that premiums are paid and charged debtors at rates in excess of the reduced rates required by Section 14.5, whether by inadvertence or otherwise, the insurer shall be responsible for the refund of such overpayment to the person or persons who paid such premium in addition to any other remedies provided by law.Section 15. Level Term Coverage

1. All applications, and where no application is used, all policies or certificates of insurance written on the level term coverage shall contain a separate statement acknowledging the fact that the coverage is on the level term coverage.

2. The statement referred to in Section 15.1 shall provide for a separate signature by the insured other than the signature required in Section 3.8.

Section 16. Compensating balances or special deposits.

1. On or after adoption of this part the use of compensating balances or special deposit accounts in connection either directly or indirectly with a credit life insurance program and/or a credit disability insurance program is prohibited as being an illegal inducement in violation of Ark. Code Ann. § 23-66-308.

2. This prohibition applies regardless of whether premiums are due the insurer on the single premium basis or on the monthly premium outstanding balance basis. Nothing herein shall prevent the insurer from making deposits in a financial institution which are not related to a credit insurance program.

3. Compensating balances and/or special deposit accounts include the following, but are not limited to the exclusion of other types of balances and accounts.

(1) The deposit of premiums or money to the account of the insurer with a creditor for which the insurer provides the credit insurance program, when such account is either non-interest bearing or at a rate of interest less than usual or is controlled by the creditor.

(2) Remitting premiums to the insurer after the expiration of the grace period on a regular basis so that the arrearage period is constant.

(3) The retention of premiums by an agent to whom the creditor remits premiums for a period of time normally expected to be needed for the agent or broker to remit the premium to the insurer, if such delay is a continuing feature of the premium paying process.

(4) Any other practice which unduly delays receipt of premiums by the insurer on a regular basis, or which is followed by an insurer when such practice involves use of the financial resources of the insurer for the benefit of the creditor.

Section 17. Issuance of policies.

All policies of credit life insurance and credit disability insurance shall be delivered or issued for delivery in this State only by an insurer authorized to transact insurance business therein, and shall be issued only through holders of licenses issued by the commissioner. At least one person so licensed shall be available in each location where credit insurance is offered, whether such insurance is offered on an individual or group basis. (Attention is called to Ark. CodeStat. Ann. §66-2814(7)(a)23-64-202 (c)(6) which exempts applicants for licenses to sell credit insurance from the examination requirements of Ark. Code Ann. §66-2814(1)23-64-202(b).)

Section 18. Penalties.

In addition to any penalty provided by law, the commissioner, in his discretion, may also revoke or suspend the license or Certificate of Authority of any person guilty of any violation of this part, in accordance with § 23-87-106.

Section 19. Severability.

In the event any one or more of the provisions of this part are held by a court of competent jurisdiction to be invalid, such decision shall not affect any of the remaining provisions hereof.

Section 20. Effective date.

This part shall become effective November 1, 1986. All credit life and credit disability insurance rates and forms, delivered or issued for delivery on and after the effective date hereof, except as hereinafter provided, shall conform to the provisions of this part as of that date. With regard to existing group credit life and disability insurance policies, the rates and forms shall be amended to conform to the requirement of this part or be terminated not later than the anniversary of the date of issue of the contract next following the effective date of this part. Existing group credit life and disability insurance contracts that are renewed, reissued or replaced other than on their normal anniversary date of issue and all group credit life and disability insurance contracts newly issued to replace or supplement a creditor's existing insurance program on or after November 1, 1986 shall conform to the requirements of this part on or after the effective date hereof. No replacement or amendment of group policies to postpone the effect of this part will be recognized for the purpose of this Section. All policy forms and rate schedules prepared to conform with this part should be filed for approval prior to October 1, 1986 in order to assure approval prior to the said effective date.

EXHIBIT A
DISABILITY PER \$100 INITIAL COVERAGE

No. of Months in which Indebtedness is payable	Nonretroactive Benefits			Retroactive Benefits	
	14 Day Nonretroactive	30 Day Retroactive	7 Day Retroactive	14 Day Retroactive	30 Day Retroactive
1	\$.13	\$.58	\$.40	\$
2	.42	.13	1.01	.81	.56
3	.68	.35	1.34	1.12	.91
4	.90	.53	1.60	1.36	1.17
5	1.08	.70	1.82	1.55	1.38
6	1.24	.85	2.01	1.71	1.54
7	1.37	.98	2.18	1.86	1.69
8	1.50	1.09	2.32	1.98	1.82
9	1.61	1.20	2.46	2.10	1.94
10	1.71	1.30	2.58	2.20	2.04
11	1.81	1.39	2.69	2.30	2.14
12	1.89	1.48	2.79	2.39	2.23
13	1.97	1.56	2.89	2.47	2.32
14	2.05	1.63	2.98	2.55	2.40
15	2.12	1.70	3.06	2.62	2.47
16	2.19	1.77	3.14	2.69	2.55
17	2.26	1.83	3.22	2.76	2.61
18	2.32	1.89	3.29	2.82	2.68
19	2.38	1.95	3.36	2.88	2.74
20	2.44	2.01	3.43	2.94	2.80
21	2.49	2.07	3.50	3.00	2.85
22	2.55	2.12	3.56	3.05	2.91
23	2.60	2.17	3.62	3.11	2.96
24	2.65	2.22	3.68	3.16	3.02
25	2.70	2.27	3.74	3.21	3.06
26	2.75	2.32	3.79	3.26	3.12
27	2.80	2.37	3.85	3.31	3.16
28	2.84	2.41	3.90	3.35	3.21
29	2.89	2.46	3.95	3.40	3.26
30	2.93	2.50	4.01	3.44	3.30
31	2.97	2.54	4.06	3.49	3.35
32	3.02	2.59	4.11	3.53	3.39
33	3.06	2.63	4.16	3.57	3.43
34	3.10	2.67	4.21	3.61	3.47
35	3.14	2.71	4.25	3.65	3.51
36	3.18	2.75	4.30	3.69	3.55
37	3.22	2.79	4.35	3.73	3.59
38	3.26	2.83	4.39	3.77	3.63
39	3.30	2.86	4.44	3.81	3.67
40	3.34	2.90	4.48	3.85	3.71
41	3.37	2.94	4.52	3.89	3.75

EXHIBIT A (Continued)
ARKANSAS INSURANCE
DEPARTMENT

No. of Months in which Indebtedness Payable	Nonretroactive Benefits			Retroactive Benefits	
	14 Day Nonretroactive	30 Day Nonretroactive	7 Day Retroactive	14 Day Retroactive	30 Day Retroactive
42	3.41	2.98	4.57	3.92	3.78
43	3.45	3.01	4.61	3.96	3.82
44	3.48	3.05	4.65	3.99	3.85
45	3.52	3.08	4.69	4.03	3.89
46	3.55	3.12	4.73	4.06	3.93
47	3.59	3.15	4.77	4.10	3.96
48	3.62	3.18	4.81	4.13	4.00
49	3.65	3.22	4.85	4.17	4.03
50	3.69	3.25	4.89	4.20	4.06
51	3.72	3.28	4.93	4.23	4.10
52	3.75	3.32	4.97	4.27	4.13
53	3.79	3.35	5.00	4.30	4.16
54	3.82	3.38	5.04	4.33	4.19
55	3.85	3.42	5.08	4.36	4.22
56	3.88	3.44	5.11	4.39	4.25
57	3.91	3.47	5.15	4.42	4.29
58	3.94	3.50	5.18	4.45	4.32
59	3.97	3.54	5.22	4.49	4.35
60	4.00	3.57	5.26		

EXHIBIT A (Continued)
Disability Rates
Per \$100 Initial Coverage

No. of Months in which Indebtedness is payable	60 Day Nonretroactive	60 Retroactive
1	\$ ____	\$ ____
2	____	____
3	.13	.44
4	.24	.73
5	.32	.92
6	.39	1.04
7	.46	1.15
8	.54	1.26
9	.62	1.37
10	.70	1.48
11	.78	1.58
12	.86	1.68
13	.92	1.76
14	.98	1.83
15	1.04	1.89
16	1.09	1.95
17	1.14	2.01
18	1.19	2.07
19	1.24	2.12
20	1.29	2.17
21	1.33	2.22
22	1.37	2.27
23	1.41	2.31
24	1.45	2.35
25	1.49	2.39
26	1.53	2.43
27	1.57	2.47
28	1.60	2.51
29	1.63	2.55
30	1.66	2.58
31	1.70	2.62
32	1.73	2.66
33	1.76	2.70
34	1.79	2.73
35	1.82	2.76
36	1.85	2.79
37	1.88	2.82
38	1.91	2.85
39	1.94	2.88

EXHIBIT A (Continued)

No. of Months in which Indebtedness is payable	ARKANSAS INSURANCE DEPARTMENT	
	60 Day Nonretroactive	60 Day Retroactive
40	1.97	2.91
41	2.00	2.94
42	2.03	2.97
43	2.06	3.00
44	2.09	3.03
45	2.12	3.06
46	2.15	3.09
47	2.17	3.12
48	2.19	3.14
49	2.21	3.17
50	2.23	3.20
51	2.25	3.23
52	2.28	3.25
53	2.31	3.27
54	2.34	3.29
55	2.37	3.31
56	2.40	3.33
57	2.43	3.35
58	2.45	3.38
59	2.47	3.41
60	2.49	3.44

Proposed Amended Rule and Regulation 12

CREDIT LIFE AND CREDIT DISABILITY INSURANCE

Section

1. Authority and scope.
2. Definitions.
3. Disclosure provisions.
4. Filing and approval of forms and rates.
5. Presumably acceptable relation of credit life insurance benefits to premiums.
6. Presumably acceptable relation of credit disability insurance benefits to premiums.
7. Standards and principles for application of the credit disability rates.
8. Credit life and credit disability forms at higher rates or lower rates.
9. Additional coverages.
10. Refund formula.
11. Claims and review procedure.
12. Financial statement reserves.
13. Statistical requirements and reporting.
14. Agents compensation.
15. Level Term Coverage.
16. Compensating balances or special deposits.
17. Issuance of policies.
18. Penalties.
19. Severability.
20. Effective date.

Exhibit A. Disability per \$100 initial coverage.

~~Exhibit B. Insurance Company notarized credit insurance affidavit.~~

~~Exhibit C. Credit insurance agent notarized affidavit.~~

Section 1. Authority and scope.

~~1.1 These rules and regulations are~~ This part is hereby promulgated and adopted pursuant to the authority provided in Ark. ~~Stat.Code~~ Ann. ~~§§ 23-87-117, -118 23-87-11866-3816 and §66-3815.~~ All life insurance and all disability insurance sold in connection with loans or other credit transactions shall be subjected to the provisions of these rules ~~and regulations~~, except such insurance sold in connection with a loan or credit transaction of more than ten (10) years duration.

Section 2. Definitions.

~~2.11.~~ All terms used herein shall be as defined herein unless otherwise defined in Ark. ~~StatCode- Ann.~~
~~§§66-3801 through 66-3819, 23-87-101 et seq.~~

Section 3. Disclosure provisions.

~~3.11.~~ All credit life insurance and credit disability insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor at the time the indebtedness is incurred, except as hereinafter provided.

~~3.22.~~ Each individual policy or group certificate of credit life insurance or credit disability insurance delivered or issued for delivery in this State shall, in addition to the other requirements of law, set forth:

- (a) The name and home office address of the insurer and on group certificates, an identification of the master policy;
- (b) The identity by name or otherwise of the insured debtor. If age is a condition of eligibility or termination, this shall be shown in the certificate;
- (c) The rate or amount of payment, if any, to the debtor, separately for credit life insurance and credit disability insurance;
- (d) The amount and term of insurance coverage shall be set forth or described;
- (e) A description of the coverage including any and all exceptions, limitations and restrictions;
- (f) A statement that the benefits shall be paid to the creditor to reduce or extinguish the indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, or in the absence of such designation to surviving spouse, or to his estate.
- (g) A statement indicating that upon discharge of the indebtedness by a prepayment, renewal, refinancing, or otherwise, the insurance shall be terminated, and that in all cases of termination prior to scheduled maturity, a refund of any unearned amount paid by or charged to the debtor for insurance shall be made in accordance with the appropriate formula set forth in Section 10 herein. No refund need be made if the amount thereof is two dollars or less. ~~{In the case of the termination of credit life insurance by death of the insured debtor, the life insurance premium paid or then due and payable to the insurer is deemed earned, and no refund thereof is required.}~~

~~3.33.~~ If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of an application for such individual policy or a notice of such proposed group insurance coverage shall be delivered to the debtor at the time such indebtedness is incurred, and such application or notice of proposed insurance shall be signed by the debtor and shall set forth:

- (a) The name and home office address of the insurer and on notices of proposed group insurance, an identification of the master policy;
- (b) The identity by name or otherwise of the insured debtor. If age is a condition of eligibility or termination, this shall be shown in the application or notice signed by the debtor;

(c) The rate or amount of payment, if any, to the debtor, separately for credit life and credit disability insurance;

(d) The amount of the insurance coverage shall be set forth or described;

(e) A brief description of the coverage including any and all exceptions, limitations and restrictions.

~~3.4.4.~~ The copy of such application or notice of proposed 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 the information above required appears in type of at least equal size and prominence as the other provisions of said statement of account, instrument or agreement.

~~3.5.~~ The policy or certificate of insurance shall not contain provisions ~~which that~~ would encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive or contrary to law or to the public policy of this State.

~~3.6.~~ Within thirty (30) days after the insurance becomes effective as provided in Ark. ~~Stat.Code~~ Ann. §~~66-3809(2)~~ 23-87-111(b), the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor.

~~3.7.~~ A group credit insurance policy which provides for payment of single premiums to the insurer shall provide 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 has been paid by such debtor, subject to the debtor's right to cancel the insurance at any time by express action. 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, thirty-one (31) ~~days- 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. With respect to debtors covered at the date of termination where notice is required, coverage shall continue as though the policy had not terminated until notice is given.

~~3.8.~~ All applications for ~~Credit Life- credit life~~ and ~~Credit Disability Insurance credit disability insurance~~, and where no application is used, all policies and certificates of credit life and credit disability insurance shall be signed by the insured debtor. Nothing in this ~~regulation- part~~ shall be construed to conflict with this requirement.

Section 4. Filing and approval of forms and rates.

~~4.1.~~ Every insurance company, when submitting a policy form for approval by the ~~Commissioner-commissioner~~ shall submit therewith the schedule of rates applicable to such policy form. The face page of each such form or schedule submitted shall have added to its identifying form, symbol, or figure (by printing, type-writer, or rubber stamp) the following identification: "Credit Life" or "Credit Disability". Such additional identification may but need not appear on issued copies of such forms.

~~4.2.~~ As the basic test of the reasonableness of the relation of benefits to the premium charged, as provided in Ark. ~~CodeStat.~~ Ann. §~~66-3810-(223-87-112(b))~~, to be applied separately by policy form number, it is hereby declared that the benefits for credit life or credit disability insurance, individual or group, shall be considered to be reasonable in relation to the premium charged either if the premium charged is the premium or

premium rate authorized by Section 5 or 6, or if a loss ratio of fifty percent (50%) will or can reasonably be expected to be developed. The reporting forms required to be filed annually under Section 13.1 will be used to determine if the basic test is being met.

Section 5. Presumably acceptable relation to credit life insurance benefits to premiums.

5.1. The ~~Commissioner~~ commissioner may presume that the benefits of a credit life insurance form are reasonable in relation to the premium charged if the premium or premium rate schedule for death benefits as filed with the ~~Commissioner~~ commissioner and charged for the coverage does not exceed an amount equal or actuarially equivalent to the following maximum rates:

(a) Coverage on a single life provided on the outstanding indebtedness basis:

1. ~~\$1.00~~ One dollar per month per \$1,000.00 (one thousand dollars) of outstanding balance of insured indebtedness.

(b) Coverage on a single life provided by an individual or group policy on other than an outstanding indebtedness basis:

1. ~~\$.65~~ (Sixty-five cents) per year of coverage per \$100.00 (one hundred dollars) of initial insured indebtedness for credit transactions when the insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and,

2. \$1.20 (One dollar and twenty cents) per year of coverage per \$100.00 (one hundred dollars) of level term life insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term.

(c) Coverage on joint lives provided on the outstanding indebtedness basis:

1. ~~\$1.70~~ (One dollar and seventy cents) per month per \$1,000.00 (one thousand dollars) of outstanding balance of insured indebtedness.

(d) Coverage on joint lives provided by an individual or group policy on other than an outstanding indebtedness basis:

1. ~~\$1.10~~ (One dollar and ten cents) per year of coverage per \$100.00 (one hundred dollars) of initial insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and,

2. \$2.04 (Two dollars and four cents) per year of coverage per \$100.00 (one hundred dollars) of level term insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term.

(e) No certificate fee, policy issue charge or any charge other than the premium herein provided shall be made.

5.2. The foregoing rate test in Section 4 for the presumed reasonableness of benefits in relation to premiums is based upon the following requirements:

(a) That the credit life insurance contract may require submission of evidence of insurability or that the debtor be in gainful employment at the time the insurance becomes effective, or both, and contains no conditions of coverage more restrictive than absence of misrepresentation if health state-ment or evidence of

insurability is required, and no exclusions other than for suicide (incontestable after two years), and flight in nonscheduled aircraft.

(b) That coverage is provided or offered to all debtors regardless of age; or to all debtors not older than the applicable limit, which shall not be less than attained age of sixty-five (65) years if such limit applies to the age when the insurance attached, or not less than attained age of sixty-sixty (66) years if such limit applies to the age on the scheduled maturity date of the debt.

5-3. If the premiums are determined according to age of the insured debtor or by age brackets, appropriate adjustments in the rate and premium may be made according to age; provided such adjustment is on a basis actuarially consistent with the foregoing rates when applied regardless of actual age at issue.

5-4(a) The phrase "joint lives" ~~as used in the preceding Section~~ means only spouses, business partners, co-makers, guarantors and endorsers and such persons must be jointly and severally liable for repayment of a single indebtedness and must be joint signers of the instrument of indebtedness. Joint life coverage shall not be written covering more than two (2) lives. Jointly indebted persons shall not be covered separately at single life rates.

(b) Joint life rates may not be charged for single life coverage.

5-5. If a form of contract of insurance includes other lawful benefit or benefits for which standards of reasonableness of benefits in relation to premium are not elsewhere in these rules determined or described, any premium charged therefore in excess of the foregoing rates shall be shown to the satisfaction of the Commissioner-commissioner to be based upon credible statistics and reasonable in relation to the additional benefit provided, such showing to be in accordance with the basic loss ratio in Section 4.2 hereof.

Section 6. Presumably acceptable relation of credit disability insurance benefits to premiums.

6-11. A credit disability benefit, whether provided by a separate disability policy or as a disability benefit in combination with a group or individual credit life policy, is presumed to be reasonable in relation to the premium charged if the premium or premium rate schedule for the benefit as filed with the Commissioner-commissioner and charged or to be charged for the coverage does not exceed an amount equal or actuarially equivalent to the maximum rates for the amount and lengths of time of coverage indicated in Exhibit "A" attached hereto..

Section 7. Standards and principles for application of the credit disability rates.

7-1. The standards and principles for the application of the rates set forth in Section 6 are as follows:

(a) The initial amount of insured indebtedness to which the rate is applied shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness.

(b) The indebtedness is repayable in substantially equal monthly installments during the period of coverage.

(c) The rates for premiums payable on other than a single premium basis shall be the actuarial equivalent of the rates set forth in Section 6 hereof. Such premium rates will be deemed the actuarial equivalent of the foregoing single premiumpremium rates if such rates produce a total premium for any duration and amount of insurance equal to the corresponding single premium for the same duration and amount of insurance.

(d) The credit disability insurance contract does not cover disabilities resulting from pre-existing illness, disease or physical condition and may require submission of evidence of insurability and that the debtor be in gainful employment at the time the insurance becomes effective and contains no exclusions other than disability resulting from normal pregnancy, intentionally self-inflicted injuries, foreign travel or residence, flight in non-scheduled aircraft, war or military service. The eligibility for disability coverage may be restricted on account of age in the same manner as permitted for credit life insurance in Section 5.2(b) hereof.

Section 8. Credit life and credit disability forms at higher rates or lower rates.

~~8.1.~~ Notwithstanding the determination by the ~~Commissioner~~commissioner that the rates specified in Sections 5 and 6 are the presumably acceptable maximum rates ~~which~~that are reasonable in relation to the benefits of a policy providing the coverage to which the rates are applicable, an insurer may receive approval of a higher premium rate or schedule of rates to be used in connection with a creditor or class of creditors if said insurer demonstrates, to the satisfaction of the ~~Commissioner~~commissioner, that the mortality or morbidity experience which may reasonably be anticipated will be significantly higher than the average anticipated experience on the basis of which the applicable rate standards specified in Sections 5 and 6 were based, and that the proposed rate can reasonably be anticipated to produce a loss ratio not less than that set out in Section 4.2.

~~8.2.~~ Insurers may file rates lower than those specified in Sections 5 and 6, and having filed acceptable rates under these rules, may thereafter charge lesser rates without refiling, provided, however, that other laws and these rules are complied with.

Section 9. Additional coverages.

~~9.1.~~ If a company proposes to write any type of coverage with rates other than those set forth in Sections 4, 5, 6 and 7, it may request the ~~Commissioner~~commissioner to set a hearing to determine if a public need exists for such coverage and to determine, through credible statistics, whether the proposed rate may be presumed to be reasonable for such coverage in relation to the benefits offered, until the time that experience in accordance with Section 4 indicates a different rate.

Section 10. Refund formula.

~~10.1.~~ With respect to policies issued and certificates delivered after the effective operative date of this ~~regulation~~part:

(a) The refund of an unearned amount paid by or charged to the debtor for insurance in the case of reducing term credit life insurance or credit disability insurance on which such charges to the debtor are payable by other than a single sum and of level term credit life insurance shall be not less than the pro rata gross unearned amount charged;

(b) ~~the~~The refund of an unearned amount paid by or charged to the debtor for insurance in the case of reducing term credit life insurance or of reducing credit disability insurance on which the insurance charges to the debtor are paid in a single sum shall be not less than the amount computed by the "Sum of the Digits" formula, commonly known as the "Rule of 78".

~~10.2.~~ Each debtor is entitled to receive from the person or persons legally responsible for paying it, a refund of unearned identifiable insurance charges on termination of insurance in cash or by credit against the next installment on his account in accordance with the insurer's approved refund formula. Insurers shall be

responsible for the establishment of procedures by which refunds or credits are to be made and shall furnish to the creditors schedules of refunds or credits, conforming with the requirement hereof, to be made in the event of termination of insurance. Insurers shall also furnish instructions to creditors with respect to their duties and functions in the making of such refunds or credits.

~~10.3.~~ The requirement for filing refund formulas will be considered met if they are set forth in the individual policy or group policy filed with the ~~Commissioner~~ commissioner and not disapproved. If the appropriate refund formula is the "Sum of the Digits" formula, commonly known as the "Rule of 78", it shall be sufficient to so refer to it.

~~10.4.~~ A premium refund or credit need not be made if the amount thereof is two dollars (~~\$2.00~~) or less.

Section 11. Claims and review procedure.

~~11.1.~~ The insurance company shall be responsible for the settlement, adjustment and payment of all claims and shall establish and maintain adequate claim files, which may be reviewed and examined by the ~~Commissioner~~ commissioner. All claims shall be promptly reported to the insurance company, or its designated claim representative, and all claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

~~11.2.~~ All claims shall be paid either by draft drawn upon the insurance company or by check of the insurance company to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to the one specified.

~~11.3.~~ No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle adjust claims. The creditor shall not be designated as claim representative for the insurer in settling or adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer. However, nothing herein shall be construed to relieve the insurance company from the responsibility for the proper settlement, adjustment and payment of all claims in accordance with the terms of the insurance contract.

~~11.4.~~ It shall be the responsibility of the insurer to review each lender's account at least annually verifying the accuracy of premium payments, or other identifiable insurance charges, premium refunds, and claims incurred and to be prepared to exhibit the results of such review upon request of the ~~Commissioner~~ commissioner.

Section 12. Financial statement reserves.

~~12.1.~~ In order to assure that sufficient funds will be available to make the refunds required by the policy and ~~these rules and regulations this part~~ and to guarantee promised benefits to policyholders;

(a) ~~the~~The aggregate reserves for each credit life insurance policy shall not be less than one hundred and thirty percent (130%) of reserves as computed on an appropriate mortality table in a manner determined in accordance with the Arkansas Insurance Code, and

(b) the reserve for each credit disability insurance policy shall not be less than the amount of unearned premium calculated from gross premiums in force upon either a pro rata or sum of the digits basis, as applicable.

Section 13. Statistical requirements and reporting.

~~13.1.~~ Carriers writing ~~Credit Life Insurance~~ credit life insurance and ~~Credit Disability Insurance~~ credit disability insurance in Arkansas shall be required to keep statistical data subject to call in such form and manner as to enable the ~~Commissioner~~ commissioner to determine if rates are reasonable in relation to the benefits afforded by the various policy contracts together with appropriate expenses. The reporting forms adopted by the National Association of Insurance Commissioners which are hereby incorporated herein by reference, shall be used to report such data and shall be annually filed with the Insurance Department.

Section 14. Agent compensation.

~~14.1.~~ As to credit life or credit disability insurance written by or through a creditor, or any affiliate, associate, subsidiary, director, officer, employee or other representative of or for such creditor, or by or through any agent or broker, all compensation for writing or handling such insurance shall not exceed forty percent (40%) of the maximum premiums permitted herein.

~~14.2.~~ "Compensation" shall include, but shall not be limited to, the receipt directly or indirectly or reciprocally of:

(a) Commissions, contingent commissions, service fees, policy fees, expense allowances or reimbursements, dividends or other distribution of earnings based solely upon the profits derived from issuing or reinsuring any policy of credit life or credit disability insurance; and

(b) Gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, scripts, or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volumes of sales obtained; and

(c) Experience refunds, retrospective rate credits, and dividends, for the sole purpose of determining presumptively reasonable compensation allowances under this Section; and

(d) Any amounts or things of value received from or paid by any person other than an insurer in consideration of the sale or retention of credit insurance.

~~14.3.~~ "Compensation" shall not include:

(a) Reinsurance premiums paid to, or underwriting profits generated by an insurer or reinsurer not owned by, controlled by or under common control with a credit insurer, an agent, broker, creditor, group of creditors, or any affiliate, associate, subsidiary, director, officer, employee or other representative of or for such credit insurer, creditor or group of creditors; and,

(b) Reinsurance premiums paid to, or underwriting profits generated by, an insurer or reinsurer owned by, controlled by or under common control with a credit insurer, an agent, broker, creditor, group of creditors, or any affiliate, associate, subsidiary, director, officer, employee or other representative of or for such credit insurer, creditor or group of creditors, on accounts in existence with such insurer or reinsurer on January 27, 1986, which have been registered with the ~~Commissioner~~ commissioner in accordance with Section 14.4 of this Rule; and

(c) Payments made to successors in interest of the accounts described in Section 14.3(b).

~~4.~~ Any insurer intending to utilize Section 14.3 (b) of this Rule must register with the ~~Commissioner~~ commissioner within thirty (30) days after the effective date of this ~~Rulepart~~, the identity of the account or accounts involved, the name of the insurer or reinsurer and the name and address of the agent,

broker, creditor reinsurer and the name and address of the agent, broker, creditor or group of creditors through which the account is written.

~~14.5.~~ Any insurer who, for credit insurance written in any of its credit insurance accounts in this ~~State~~^{state}, charges or proposes to charge the presumptive rates of premium set forth in Sections 5 and 6, and who, for production of such insurance, pays or proposes to pay, directly or indirectly compensation in excess of the presumptive allowance set out in Section 14.1 shall:

(a) Reduce the premium rates charged in any such account by four percent (4%) or fraction thereof of the applicable presumptive premium rate set out in Sections 5 and 6 for each one percent (1%) or fraction thereof, by which it pays or proposes to pay compensation in excess of the presumptive allowance set forth in Section 14.1. Such compensation in excess of the presumptive compensation rate shall be applied thereafter to all subsequently written net premiums calculated upon the basis of the reduced rates of premium as specified above; and,

(b) File with the ~~Commissioner~~^{commissioner} a transcribed copy of any agreement, whether written or oral, direct, indirect or reciprocal, by which for the sale of credit insurance in this state it pays, proposes to pay or contingently may pay compensation in excess of the allowable presumptive compensation set out in Section 14.1.

~~14.6.~~ In the event that premium rates for any account of credit insurance are required to be reduced in accordance with Section 14.5 by reason of base of front-end compensation in excess of the presumptive compensation allowance, the effective date of such reduction shall be the same as the effective date of the agreement providing for such payment. For any reduction of premium rates required by Section 14.5 by reason of contingent compensations based upon favorable experience, which, alone or together with base or front-end compensations, exceed the presumptive compensation allowance set out in Section 14.1, the effective date of such reduction of premium rates shall be the termination date of the period for which such contingent compensations are paid, and such rate reduction shall remain in effect in the account for a period of twelve (12) months thereafter, regardless of any change or replacement of the insurer during such twelve (12) month period.

~~14.7.~~ In the event that premiums are paid and charged debtors at rates in excess of the reduced rates required by Section 14.5, whether by inadvertence or otherwise, the insurer shall be responsible for the refund of such overpayment to the person or persons who paid such premium in addition to any other remedies provided by law.

~~8. Any insurer writing credit life or credit disability insurance in this State shall on or before January 1, 1988, and on the same date of each year thereafter, file with the Commissioner a notarized affidavit in the form set forth in EXhibit B of this Rule and Regulation certified to by one of the insurer's officers stating whether or not said insurer or its agents have paid compensation in excess of the presumptive compensation as herein described and set forth.~~

~~9. Any agent, broker or other person writing credit life or credit disability insurance in this State shall on or before January 1, 1988, and on the same date of each year thereafter, file with the Commissioner a notarized affidavit in the form set forth in Exhibit C of this Rule and Regulation stating whether or not said agent, broker or other person has paid or received compensation in excess of the presumptive compensation RS herein described and set forth.~~

-Section 15. Level Term Coverage

~~15.1.~~ All applications, and where no application is used, all policies or certificates of insurance written on the level term coverage shall contain a separate statement acknowledging the fact that the coverage is on the level term coverage.

~~15.2.~~ The statement referred to in Section 15.1 shall provide for a separate signature by the insured other than the signature required in Section 3.8.

Section 16. Compensating balances or special deposits.

~~16.1.~~ On or after adoption of this ~~regulation-part~~ the use of compensating balances or special deposit accounts in connection either directly or indirectly with a credit life insurance program and/or a credit disability insurance program is prohibited as being an illegal inducement in violation of Ark. ~~Stat.Code~~ Ann. ~~§66-3001 et seq. § 23-66-201 et seq. § 23-66-308.~~

~~16.2.~~ This prohibition applies regardless of whether premiums are due the insurer on the single premium basis or on the monthly premium outstanding balance basis. Nothing herein shall prevent the insurer from making deposits in a financial institution which are not related to a credit insurance program.

~~16.3.~~ Compensating balances and/or special deposit accounts include the following, but are not limited to the exclusion of other types of balances and accounts.

(1) The deposit of premiums or money to the account of the insurer with a creditor for which the insurer provides the credit insurance program, when such account is either non-interest bearing or at a rate of interest less than usual or is controlled by the creditor.

(2) Remitting premiums to the insurer after the expiration of the grace period on a regular basis so that the arrearage period is constant.

(3) The retention of premiums by an agent to whom the creditor remits premiums for a period of time normally expected to be needed for the agent or broker to remit the premium to the insurer, if such delay is a continuing feature of the premium paying process.

(4) Any other practice which unduly delays receipt of premiums by the insurer on a regular basis, or which is followed by an insurer when such practice involves use of the financial resources of the insurer for the benefit of the creditor.

Section 17. Issuance of policies.

~~17.1.~~ All policies of credit life insurance and credit disability insurance shall be delivered or issued for delivery in this State only by an insurer authorized to transact insurance business therein, and shall be issued only through holders of licenses issued by the ~~Commissioner~~commissioner. At least one person so licensed shall be available in each location where credit insurance is offered, whether such insurance is offered on an individual or group basis. (Attention is called to Ark. ~~Code~~Stat. Ann. §66-2814(7)(a)~~23-64-202 (c)(6)~~ which exempts applicants for licenses to sell credit insurance from the examination requirements of Ark. Code Ann. §66-2814(1)23-64-202(b).)

Section 18. Penalties.

~~18.1.~~ In addition to any penalty provided by law, the ~~Commissioner~~commissioner, in his discretion, may also revoke or suspend the license or Certificate of Authority of any person guilty of any violation of ~~these Rules this part, and Regulations. (Ark. Stat. Ann. §66-3819.)~~ in accordance with § 23-87-106.

Section 19. Severability.

~~19.1.~~ In the event any one or more of the provisions of ~~these Rules and Regulations- this part~~ are held by a court of competent jurisdiction to be invalid, such decision shall not affect any of the remaining provisions hereof.

Section 20. Effective date.

~~20.1. These This Rules, Rates and Regulations- part~~ shall become effective November 1, 1986. All credit life and credit disability insurance rates and forms, delivered or issued for delivery on and after the effective date hereof, except as hereinafter provided, shall conform to the provisions of ~~these Regulations- this part~~ as of that date. With regard to existing group credit life and disability insurance policies, the rates and forms shall be amended to conform to the requirement of ~~these Regulations, this part~~ or be terminated not later than the anniversary of the date of issue of the contract next following the effective date of ~~these Regulations this part~~. Existing group credit life and disability insurance contracts that are renewed, reissued or replaced other than on their normal anniversary date of issue and all group credit life and disability insurance contracts newly issued to replace or supplement a creditor's existing insurance program on or after November 1, 1986 shall conform to the requirements of ~~these Regulations- this part~~ on or after the effective date hereof. No replacement or amendment of group policies to postpone the effect of ~~these Regulations- this part~~ will be recognized for the purpose of this Section. All policy forms and rate schedules prepared to conform with ~~these Regulations- this part~~ should be filed for approval prior to October 1, 1986 in order to assure approval prior to the said effective date.

EXHIBIT A
DISABILITY PER \$100 INITIAL COVERAGE

No. of Months in which Indebtedness is payable	Nonretroactive Benefits			Retroactive Benefits	
	14 Day Nonretroactive	30 Day Retroactive	7 Day Retroactive	14 Day Retroactive	30 Day Retroactive
1	\$.13	\$.58	\$.40	\$
2	.42	.13	1.01	.81	.56
3	.68	.35	1.34	1.12	.91
4	.90	.53	1.60	1.36	1.17
5	1.08	.70	1.82	1.55	1.38
6	1.24	.85	2.01	1.71	1.54
7	1.37	.98	2.18	1.86	1.69
8	1.50	1.09	2.32	1.98	1.82
9	1.61	1.20	2.46	2.10	1.94
10	1.71	1.30	2.58	2.20	2.04
11	1.81	1.39	2.69	2.30	2.14
12	1.89	1.48	2.79	2.39	2.23
13	1.97	1.56	2.89	2.47	2.32
14	2.05	1.63	2.98	2.55	2.40
15	2.12	1.70	3.06	2.62	2.47
16	2.19	1.77	3.14	2.69	2.55
17	2.26	1.83	3.22	2.76	2.61
18	2.32	1.89	3.29	2.82	2.68
19	2.38	1.95	3.36	2.88	2.74
20	2.44	2.01	3.43	2.94	2.80
21	2.49	2.07	3.50	3.00	2.85
22	2.55	2.12	3.56	3.05	2.91
23	2.60	2.17	3.62	3.11	2.96
24	2.65	2.22	3.68	3.16	3.02
25	2.70	2.27	3.74	3.21	3.06
26	2.75	2.32	3.79	3.26	3.12
27	2.80	2.37	3.85	3.31	3.16
28	2.84	2.41	3.90	3.35	3.21
29	2.89	2.46	3.95	3.40	3.26
30	2.93	2.50	4.01	3.44	3.30
31	2.97	2.54	4.06	3.49	3.35
32	3.02	2.59	4.11	3.53	3.39
33	3.06	2.63	4.16	3.57	3.43
34	3.10	2.67	4.21	3.61	3.47
35	3.14	2.71	4.25	3.65	3.51
36	3.18	2.75	4.30	3.69	3.55
37	3.22	2.79	4.35	3.73	3.59
38	3.26	2.83	4.39	3.77	3.63
39	3.30	2.86	4.44	3.81	3.67
40	3.34	2.90	4.48	3.85	3.71
41	3.37	2.94	4.52	3.89	3.75

EXHIBIT A (Continued)
ARKANSAS INSURANCE
DEPARTMENT

No. of Months in which Indebtedness Payable	Nonretroactive Benefits			Retroactive Benefits	
	14 Day Nonretroactive	30 Day Nonretroactive	7 Day Retroactive	14 Day Retroactive	30 Day Retroactive
42	3.41	2.98	4.57	3.92	3.78
43	3.45	3.01	4.61	3.96	3.82
44	3.48	3.05	4.65	3.99	3.85
45	3.52	3.08	4.69	4.03	3.89
46	3.55	3.12	4.73	4.06	3.93
47	3.59	3.15	4.77	4.10	3.96
48	3.62	3.18	4.81	4.13	4.00
49	3.65	3.22	4.85	4.17	4.03
50	3.69	3.25	4.89	4.20	4.06
51	3.72	3.28	4.93	4.23	4.10
52	3.75	3.32	4.97	4.27	4.13
53	3.79	3.35	5.00	4.30	4.16
54	3.82	3.38	5.04	4.33	4.19
55	3.85	3.42	5.08	4.36	4.22
56	3.88	3.44	5.11	4.39	4.25
57	3.91	3.47	5.15	4.42	4.29
58	3.94	3.50	5.18	4.45	4.32
59	3.97	3.54	5.22	4.49	4.35
60	4.00	3.57	5.26		

EXHIBIT A (Continued)

Disability Rates
Per \$100 Initial Coverage

No. of Months in which Indebtedness is payable	60 Day Nonretroactive	60 Retroactive
	\$ ____	\$ ____
1		
2		
3	.13	.44
4	.24	.73
5	.32	.92
6	.39	1.04
7	.46	1.15
8	.54	1.26
9	.62	1.37
10	.70	1.48
11	.78	1.58
12	.86	1.68
13	.92	1.76
14	.98	1.83
15	1.04	1.89
16	1.09	1.95
17	1.14	2.01
18	1.19	2.07
19	1.24	2.12
20	1.29	2.17
21	1.33	2.22
22	1.37	2.27
23	1.41	2.31
24	1.45	2.35
25	1.49	2.39
26	1.53	2.43
27	1.57	2.47
28	1.60	2.51
29	1.63	2.55
30	1.66	2.58
31	1.70	2.62
32	1.73	2.66
33	1.76	2.70
34	1.79	2.73
35	1.82	2.76
36	1.85	2.79
37	1.88	2.82
38	1.91	2.85
39	1.94	2.88

EXHIBIT A (Continued)

No. of Months in which Indebtedness is payable	ARKANSAS INSURANCE DEPARTMENT	
	60 Day Nonretroactive	60 Day Retroactive
40	1.97	2.91
41	2.00	2.94
42	2.03	2.97
43	2.06	3.00
44	2.09	3.03
45	2.12	3.06
46	2.15	3.09
47	2.17	3.12
48	2.19	3.14
49	2.21	3.17
50	2.23	3.20
51	2.25	3.23
52	2.28	3.25
53	2.31	3.27
54	2.34	3.29
55	2.37	3.31
56	2.40	3.33
57	2.43	3.35
58	2.45	3.38
59	2.47	3.41
60	2.49	3.44

Exhibit B
INSURANCE COMPANY—
NOTARIZED CREDIT INSURANCE AFFIDAVIT

(To be filed with the State Insurance Commissioner, State of Arkansas, on or before January 1, 1988, and on the same date of each year thereafter.)

AFFIANT, _____, President/Vice President hereby declares upon oath on behalf of _____ that for the year ending _____ this insurance company, or anyone representing this company has not paid, or agreed to pay, any compensation in excess of reasonable compensation as defined in 23 CAR pt. 83 of the Code of Arkansas Rules to recipients as defined therein.

The presumed reasonable compensation of forty percent (40%) of the net written life insurance premiums and of the net written disability insurance premiums allowed to be paid to defined recipients is further defined as follows:

"Compensation" shall include, but not be limited to, the receipt directly or indirectly or reciprocally of commissions, service fees, policy fees, expense allowances or reimbursements, dividends or other distribution of earnings based solely upon the profits derived from issuing or reinsuring any policy of credit life or credit disability insurance procured, issued, or delivered by such creditor, agent or limited insurance representative, gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, scripts, or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volume of sales obtained. Experience refunds, retrospective rate credits, and dividends are treated as compensation for the sole purpose of determining presumptively reasonable compensation allowances under this section. Compensation shall also include any amounts or things of value received from or paid by any person other than an insurer in consideration of the sale or retention of credit insurance.

President/Vice President

ACKNOWLEDGEMENT

STATE OF _____)

SS
County of _____)

Subscribed and sworn before me this _____ day of _____, 19____.

(Notary Public)

My Commission Expires: _____

~~(To be filed with the State Insurance Commissioner, State of Arkansas on or before January 1, 1988, and on the same date of each year thereafter.)~~

~~———— The presumed reasonable compensation of forty per cent (40%) of the net written life insurance premiums and of the net written disability insurance premium allowed to be paid to defined recipients is further defined as follows:~~

~~Credit Insurance Agent~~

State of _____)
_____) SS
County of _____)

~~(Notary Public)~~

17

EXECUTIVE SUMMARY

ARKANSAS INSURANCE DEPARTMENT

PROPOSED AMENDED RULE 12

Credit Life and Credit Disability Insurance

=====

To: Arkansas Legislative Council & Arkansas Bureau of Legislative Research

From: Sara Farris, Associate Counsel, Arkansas Insurance Department

CC: Alan McClain, Arkansas Insurance Commissioner; Allison Hatfield, General Counsel, Arkansas Department of Commerce; Russ Galbraith, Deputy Insurance Commissioner; Booth Rand, General Counsel;

=====

LEGISLATIVE AUTHORITY FOR RULE

Arkansas Insurance Department Rule 12 ("Rule 12") was originally promulgated pursuant to the authority set forth in Act 148 of 1959 ("Act 148"), as subsequently amended, and codified at Ark. Code Ann. § 23-87-101 et seq.

BACKGROUND AND PURPOSE OF RULE

Rule 12 was promulgated for the purpose of implementation of Act 148. The Commissioner has determined that subsections 14.8 and 14.9 of Rule 12, requiring notarized affidavits regarding agent/broker compensation are no longer necessary. Therefore, these subsections and the requisite Exhibits B and C, respectively, are deleted from Rule 12.

EXPLANATION OF THE PROPOSED RULE

Affidavits required by subsections 14.8 and 14.9 of Rule 12 are no longer required pursuant to Commissioner's discretion. Therefore, Rule 12 is amended to delete these subsections and requisite Exhibits B and C.