

PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 71—73, 75—77, 79,
83 AND 85]
Cigarette Tax

Chapter 72. Cigarette Dealer Licenses

Section 72.1 (relating to cigarette stamping agent licenses) describes the documentation required by an applicant for a stamping agent license or a renewal of license. Section 72.2 (relating to posting of license) explains that all dealers shall conspicuously display their licenses at the locations for which issued; this section also sets forth the fine provisions for violations thereof. Section 72.3 (relating to assignment of license) states that a dealer's license is not assignable and that any attempt to do so will result in the cancellation of the license. Section 72.4 (relating to timing of application for renewal of existing license) describes the deadlines for the renewal process.

The Department of Revenue (Department), under the authority contained in section 6 of The Fiscal Code (FC) (72 P.S. § 6); section 1291 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 8291); and sections 209-A, 214-A, 215-A and 227-A of the act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. §§ 209-A, 214-A, 215-A and 227-A(a)), proposes to delete §§ 71.1 and 71.3; Chapter 73, Subchapters A—C; Chapters 75, 77, 79, 83 and 85.

In addition, the Department is proposing to add §§ 71.4—71.11 and to add Chapters 72 and 76 (relating to cigarette dealer licenses; unfair sales of cigarettes) to read as set forth in Annex A.

Purpose

As a result of the act of July 2, 1993 (P.L. 250, No. 46) (Act 1993-46) known as The Cigarette Sales and Licensing Act (code), which amended the FC by adding Article II-A (relating to cigarette sales and licensing) and repealed various provisions of Article XII (relating to cigarette tax) in the TRC, the Department is proposing to delete the existing text of Article III (relating to cigarette and beverage taxes) and replace it with regulations that are consistent with the act. The Department is also proposing to delete provisions that were not helpful or that simply reiterated statutory provisions such as The Administrative Code of 1929.

Explanation of Regulatory Requirements

Chapter 71. Cigarette Tax

Section 71.4 (relating to definitions) defines terms used in Article III. Section 71.5 (relating to cigarette tax stamps) provides for the method of purchase of, payment for and affixation of cigarette tax stamps. Section 71.6 (relating to refunds or credits for cigarette tax stamps) describes the refund or credit process for affixed and unaffixed tax stamps. Section 71.7 (relating to exemptions from tax) describes when a stamping agent may sell cigarettes to purchasers who qualify for tax exempt status.

Section 71.8 (relating to sample cigarettes) specifies when a sample package of cigarettes may be unstamped and when it must have tax stamps affixed. Section 71.9 (relating to cigarette dealer report requirements) describes the reporting requirements for cigarette stamping agents, wholesalers and retailers. Section 71.10 (relating to cigarette dealer record requirements) describes the types of records that cigarette dealers are required to keep, the retention period of the records and the fine provisions for violation of the record requirements.

Section 71.11 (relating to examination of records, equipment and premises) provides that all dealers shall provide the Department the means, facilities and opportunity to examine books, records, cigarette inventory, premises and equipment to determine compliance with the FC and code. Section 71.11 also sets forth the fine provisions for any person who prevents or hinders the Department in its examinations.

When the Department denies a license application or request for renewal, § 72.5(a) (relating to denials, revocations and suspensions) describes where the notice will be mailed, what the notice will contain, the hearing process and the continued operation of the dealer after receiving the notice. Section 72.5(b) explains the process relating to the revocation or suspension of a license. Section 72.6 (relating to change in status of cigarette dealer's business) describes certain specific circumstances which require Department notification. Section 72.7 (relating to cigarette vending machines) details requirements for dealers who operate cigarette vending machines. Section 72.7 also describes the circumstances under which dealers may relocate vending machines and obtain extra vending machine decals.

Chapter 73. Imposition, Method of Payment and Refunds of Tax

The Department proposes to delete Subchapters A—C, and the heading for Subchapter D. However, the text of the subchapter, §§ 73.51—73.57, is retained.

Chapter 76. Unfair Sales of Cigarettes

Section 76.1 (relating to dealer's cost of doing business) describes the cost of doing business for a stamping agent, wholesaler and retailer. The section also provides for an application to lower a dealer's cost of doing business and what the application shall contain. The Department's review and determination regarding the dealer's application is explained along with an example which shows how the determination is made. Section 76.2 (relating to combination sales and inducements) places certain restrictions on the contemporaneous sale of cigarette and noncigarette items.

Section 76.3 (relating to promotional sales plans) provides that only cigarette manufacturers may sponsor or initiate a promotional sales plan that lowers the price of cigarettes below the cost of the dealer. The section also details promotional sales plans that involve the affixation of coupons to cigarettes and retailer redemption of manufacturer-issued coupons. Finally, the section provides that a dealer may sponsor or initiate a promotional sales plan if the plan does not result in the sale of cigarettes at a price below the cost of that dealer.

To bring Article III into conformity with current statutory provisions, this proposed rulemaking proposes to delete the following: §§ 71.1 and 71.3; Chapter 75; Chapter 77; Chapter 79 and Chapter 83. With the proposal of comprehensive cigarette tax regulations, Chapter 85 (relating to cigarette tax pronouncements—statement of policy) is deemed unnecessary and is proposed to be deleted.

Fiscal Impact

The Department has determined that the proposed rulemaking will have no fiscal impact on the Commonwealth.

Paperwork

The proposed rulemaking will not generate additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. These regulations are scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed rulemaking to Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days of the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 23, 1997, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Finance. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1 "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final-form publication of the regulations, by the Department, the General Assembly and the Governor.

ROBERT A. JUDGE, SR.
Secretary

Fiscal Note: 15-349. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE III. CIGARETTE AND BEVERAGE TAXES

CHAPTER 71. CIGARETTE TAX

(Editor's Note: The Department is proposing to delete §§ 71.1 and 71.3 as they currently appear in 61 Pa. Code, pages 9–12 (serial pages (188583)–(188584) (89251) and (89252).)

§ 71.1. (Reserved).

§ 71.3. (Reserved).

§ 71.4. Definitions.

The following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

Act—The Cigarette Tax Act, Article XII of the TRC (72 P. S. §§ 8201–8297).

Basic cost of cigarettes—The gross price of cigarettes from the manufacturer to a dealer in the quantities stated including freight and handling charges and the full face value of any tax which may be required by law.

Code—The Cigarette Sales and Licensing Act, Article II-A of the FC (72 P. S. §§ 201-A–203-A).

Cost of doing business—The dealer's aggregate costs for its previous 12-month reporting period, as determined by accounting principles regularly employed in the determination of costs for the purpose of Federal income tax reporting, including direct and indirect costs, such as product costs, freight charges, labor costs, costs of equipment, rental and maintenance expenses, cigarette licenses, preopening expenses, management fees, rents, depreciation, selling costs, maintenance expenses, interest expenses, delivery costs, all types of license fees, all types of taxes, insurance, advertising costs and any central and regional administrative expenses.

Cost of the retailer—The basic cost of cigarettes to a retailer, which includes the cost of the wholesaler and stamping agent, plus a markup to cover the retailer's cost of doing business, which cost of doing business, in the absence of satisfactory proof of a lesser cost, is presumed to be 6% of the basic cost of cigarettes to the retailer.

Cost of the stamping agent—The basic cost of cigarettes to a stamping agent.

Cost of the wholesaler—The basic cost of cigarettes to a wholesaler, which includes the cost of the stamping agent, plus a markup to cover the wholesaler's cost of doing business, which cost of doing business, in the absence of satisfactory proof of a lesser cost, is presumed to be 4% of the basic cost of cigarettes to the wholesaler.

Dealer—A Pennsylvania-licensed stamping agent, wholesaler or retailer.

Operating expenses—A dealer's cost of doing business decreased by the dealer's cost of goods sold.

Promotional sales plan—The placement upon the premises of a dealer of literature, premiums, displays, goods, wares, merchandise or other material designed to stimulate, encourage or induce the purchase of cigarettes by the consumer, or a marketing plan that involves a price reduction or gift offered in conjunction with the sale of cigarettes that causes a dealer to be in violation of the code or act.

Stamping agent—A person who is licensed as such by the Department for the purpose of affixing cigarette tax stamps to packages of cigarettes and transmitting the proper tax to the Commonwealth.

§ 71.5. Cigarette tax stamps.

(a) *Method of purchase.* A stamping agent shall purchase cigarette tax stamps by presenting to the Department or one of its authorized agents, Form REV-1043, Cigarette Stamping Agency Purchase Order, listing the

stamping agent's name, license number, address, telephone number and the amount of tax stamps desired for purchase.

(b) *Method of payment.* Stamping agents may pay for cigarette tax stamps in exchange for any combination of the following:

(1) Cash.

(2) Approved credit up to the face amount of the security filed with and approved by the Department as required by section 1215 of the act (72 P. S. § 8215).

(i) Payment for tax stamps purchased on credit is due by the 15th of the month following the month in which the stamping agent purchased the tax stamps.

(ii) If a licensed stamping agent who purchases cigarette tax stamps on credit fails to remit full payment for accumulated cigarette tax stamps purchased on credit by the due date, the credit privileges may be suspended or revoked by the Department.

(3) Cigarette tax credits issued by the Department, which shall be presented to the Department at the time the purchase order for cigarette tax stamps is placed.

(c) *Affixation of tax stamps.*

(1) Tax stamps shall be affixed to each individual pack of cigarettes in an aggregate denomination equal to the amount of tax imposed upon the number of cigarettes contained therein.

(2) Tax stamps shall be affixed to the bottom of each pack of cigarettes so that they are clearly visible to subsequent purchasers. Stamps shall be canceled in ink with the licensed stamping agent's identification number.

(3) Improperly stamped cigarettes shall be treated as unstamped cigarettes and shall be subject to confiscation and forfeiture under the act. The Department will dispose of cigarettes forfeited under the act by either selling the cigarettes to a licensed cigarette stamping agent or a cigarette manufacturer, or by destroying same.

§ 71.6. Refunds or credits for cigarette tax stamps.

(a) *Affixed tax stamps.* A refund or credit for cigarette tax stamps purchased by a stamping agent which have been affixed to packages of cigarettes will be made to the agent upon satisfactory proof presented to the Department that the tax-stamped cigarettes have been withdrawn from the market because they are unsaleable, sold to persons exempt from the tax under the act, or lost or destroyed by fire, casualty or Act of God. A refund will not be granted for cigarette tax paid upon stamped cigarettes that have been stolen.

(1) A stamping agent's refund or credit shall be based upon the face value of the stamps, less commissions allowed the stamping agent under the act.

(2) If the cigarettes are returned to the manufacturer, the stamping agent shall give to the Department a sworn statement by the manufacturer certifying receipt of the returned cigarettes.

(b) *Unaffixed tax stamps.* The Department may issue a refund or a credit to present or former stamping agents for previously-purchased, unaffixed tax stamps when the Department deems a refund or credit appropriate such as when a stamping agent is no longer qualified to affix tax stamps, when a stamping agent is in liquidation, when a stamping agent possesses damaged tax stamps that are unfit for use or when a stamping agent possesses stamps that have been superseded by stamps of a newer design or denomination.

(1) The Department will issue a refund or credit for unaffixed tax stamps for the actual amount of cigarette tax paid for the stamps if satisfactory proof is presented to the Department within the time permitted under section 1253 of the act (72 P. S. § 8253). A claim for a refund or credit may not be filed when cigarette tax stamps have not been paid for in full. The Department will determine whether the stamping agent is entitled to either a refund or credit and the method of payment.

(2) Unaffixed stamps shall accompany the claim, which shall be sent to the Department by registered mail or other method approved by the Department.

§ 71.7. Exemptions from tax.

A stamping agent may sell cigarettes to purchasers who qualify for tax exempt status as enumerated in section 1209 of the act (72 P. S. § 8209) if the Department approves the purchaser's request for an exemption certificate. To obtain an exemption certificate, a purchaser shall file an application that shall state the purchaser's basis for exemption. Upon receipt and approval of the application by the Department, the Department will issue an exemption certificate to the purchaser. An exemption certificate shall be valid until surrendered by the purchaser or revoked by the Department for violating a provision listed in the act or the code.

§ 71.8. Sample cigarettes.

(a) Packages of sample cigarettes containing five or fewer cigarettes, which are to be furnished to consumers free of charge as provided in the act, shall be unstamped and prominently identified as "Sample Cigarettes Not for Sale—All Applicable State Taxes Paid."

(b) Packages of sample cigarettes containing six or more cigarettes shall be affixed with Pennsylvania cigarette tax stamps in accordance with the act and code.

§ 71.9. Cigarette dealer report requirements.

(a) *Cigarette stamping agents.*

(1) Every licensed stamping agent shall establish a fiscal or calendar monthly reporting period. The stamping agent shall file with the Department on or before the 20th day following the end of each fiscal or calendar month a cigarette tax report covering the preceding month on a form prescribed by the Department which shall show:

(i) The number of unstamped and foreign-stamped cigarettes which were:

- (A) On hand on the first day of the preceding month.
- (B) Purchased or acquired during the preceding month.
- (C) On hand on the last day of the preceding month.
- (D) Sold, credited or disposed of during the preceding month.

(ii) The number of cigarette tax stamps which were:

- (A) On hand on the first day of the preceding month.
- (B) Purchased during the preceding month.
- (C) On hand on the last day of the preceding month.
- (D) Affixed to packages of cigarettes or otherwise disposed of during the preceding month.

(2) The stamping agent shall also submit other information the Department may require.

(b) *Wholesalers and retailers.* The Department may require reports from a wholesaler or retailer whose volume of business or number of vending machines make

it advisable that the dealer file the reports. The reports shall contain information the Department may require.

(c) *Penalties.* A dealer who violates this section shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

§ 71.10. Cigarette dealer record requirements.

(a) Each dealer shall:

(1) Obtain invoices covering all purchases of cigarettes whether tax stamped or unstamped.

(2) Maintain receiving records of cigarettes which include the following:

- (i) The date.
- (ii) The invoice number.
- (iii) The quantity.
- (iv) The brand.
- (v) The supplier name.

(3) Except for retailers, maintain records on the sale of cigarettes, including:

- (i) The name and address of the purchaser.
- (ii) The amount of cigarettes sold.
- (iii) The charge for cigarettes sold.

(4) Retain invoices covering all purchases of Pennsylvania cigarette tax stamps.

(5) Except for retailers, maintain a record of names and addresses of all other cigarette dealers to whom cigarettes are sold.

(6) Prepare credit memoranda with the date the following transactions were completed:

- (i) For wholesalers, transactions involving cigarettes returned by customers to a wholesaler's stock.
- (ii) For stamping agents, transactions involving unstamped and stamped cigarettes returned to manufacturers.

(b) Dealers shall keep and maintain the records mentioned under subsection (a) for 4 years at the location for which the license is issued.

(c) A dealer who violates subsection (b) shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

§ 71.11. Examination of records, equipment and premises.

(a) Dealers shall provide the Department and its authorized agents the means, facilities and opportunity to examine the dealers' books, records, cigarette inventory, premises and equipment to determine compliance with the act and code.

(b) A person who prevents or hinders the Department or designated agent from examining the items stated in subsection (a) shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

CHAPTER 72. CIGARETTE DEALER LICENSES

- Sec.
- 72.1 Cigarette stamping agent licences.
 - 72.2. Posting of license.
 - 72.3 Assignment of license.
 - 72.4. Timing of application for renewal of existing license.
 - 72.5. Denials, revocation and suspensions.
 - 72.6. Change in status of cigarette dealer's business.
 - 72.7. Cigarette vending machines.

§ 72.1. Cigarette stamping agent licenses.

To satisfy section 204-A(a)(3) of the code (72 P. S. § 204-A(3)), an applicant for a stamping agent license or renewal of a stamping agent license shall provide the Department with the following documentation:

- (1) A detailed description of the applicant's business activities, including a history of the applicant's experience in the wholesale cigarette business. An applicant seeking a renewal of a license need not follow this requirement.
- (2) Current financial statements.

§ 72.2. Posting of license.

(a) Dealers shall conspicuously display their licenses at the locations for which issued. Dealers operating vending machines shall post their licenses at their business headquarters as listed in their license application.

(b) A dealer who violates subsection (a) shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

§ 72.3. Assignment of license.

A dealer's license is not assignable. An attempt to assign a dealer's license shall immediately result in the cancellation of the license.

§ 72.4. Timing of application for renewal of existing license.

(a) A dealer shall apply for a renewal of its license by January 15 of the year in which its license expires.

(b) A dealer who files an application for renewal of its license after January 15 of the year in which its license expires is not permitted to operate under the existing license after the last day of February of that same year. In this instance, the Department will treat the application for renewal as an application for a new license and the dealer shall be prohibited from stamping or selling cigarettes until its application is approved by the Department.

§ 72.5. Denials, revocations and suspensions.

(a) *Denial of license application and requests for renewal.*

(1) Whenever the Department denies a license application or request for renewal, the Department will send a notice by registered or certified mail at the last known address of the applicant or dealer. The notice will set forth the basis of the Department's denial and inform the applicant or dealer that the Department's actions may be protested through a hearing process. To avail itself of the hearing process, the applicant or dealer shall file a complaint with the Department's Cigarette Licensing, Marketing and Control Board within 30 days after the mailing date set forth in the notice under section 207-A of the code (72 P. S. § 207-A).

(2) A dealer may continue to operate under its license for a 30-day period following the mailing date set forth in the denial notice. If the dealer files an appeal with the Cigarette Licensing, Marketing and Control Board, the

dealer may continue to operate under its license during the period of administrative appeal before the Board.

(b) *Revocation or suspension of license.* Whenever the Department determines that a dealer has committed a violation of the act or code that would result in the suspension or revocation of that dealer's license, the Department will file a complaint with the Cigarette Licensing, Marketing and Control Board under the procedures in section 207-A of the code. Within 30 days after the termination of a hearing, the Board shall recommend its decision to the Secretary. If the Secretary's decision results in the suspension or revocation of the dealer's license, the dealer shall immediately surrender its license to the Department, notwithstanding the dealer's right of further administrative or judicial appeal.

§ 72.6. Change in status of cigarette dealer's business.

A cigarette dealer shall immediately inform the Department, in writing, prior to or immediately after:

(1) Taking actions that would change any information on the dealer's license application or as last reported to the Department, including a change of name or, if the dealer is a corporation or partnership, a change in the dealer's officers, directors or partners.

(2) Filing a certificate of dissolution with the Pennsylvania Department of State or filing a similar document in another jurisdiction.

(3) Filing a voluntary petition in bankruptcy or receivership or receiving notice of an involuntary bankruptcy petition.

(4) Merging or consolidating with another business.

(5) Terminating business activities.

(6) If the dealer is a corporation, the acquisition by any person or entity of 10% or more of the number of shares of voting stock of the corporation.

§ 72.7. Cigarette vending machines.

(a) *Decal and location.* In addition to the requirements stated under the code, a dealer who operates a cigarette vending machine shall satisfy the following requirements:

(1) Each cigarette vending machine shall have a current decal issued by the Department which shall be affixed by its adhesive to and conspicuously displayed on each machine.

(2) Each dealer, at the time of the dealer's application for a license or request for renewal, shall provide the Department with a list identifying the location of each vending machine in this Commonwealth from which cigarettes will be sold, specifying the establishment, address and county.

(b) *Notification of business relocation.* A dealer that relocates vending machines shall notify the Department in writing within 10 days after the relocation. The notification to the Department shall include the dealer's name, its license number, the location of the vending machine, specifying the establishment, address and county, as well as other information that the Department may require.

(c) *Extra cigarette vending machine decals.* A dealer may subsequently request extra decals for new vending machines which will be placed in additional locations without identifying the actual locations. These requests for decals are limited to no more than ten or 10% of the listed locations previously on file with the Department, whichever is greater. Once the new vending machines are

placed in operation, the dealer shall, within 10 business days, notify the Department of the locations of the additional vending machines, specifying the establishment, address and county. The Department will revoke additional decals if the dealer fails to notify the Department of the locations of the additional vending machines.

(*Editor's Note:* The Department is proposing to delete Chapter 73, Subchapters A—C and Chapter 75 as they currently appear in 61 Pa. Code at pages 12—24 (serial pages (89252) and (83027)—(83040) and pages 75—1—75-12 (serial pages (105805)—(105808), (131529), (131530), (105811), (105812) and (131531)—(131534).)

CHAPTER 73. IMPOSITION, METHOD OF PAYMENT AND REFUNDS OF TAX

Subchapter A. **[IMPOSITION AND RATE OF TAX] (Reserved)**

§§ 73.1—73.8. (Reserved).

Subchapter B. **[METHOD OF PAYMENT OF TAX] (Reserved)**

§§ 73.21—73.31. (Reserved).

Subchapter C. **[REFUNDS AND ALLOWANCES] (Reserved)**

§§ 73.41—73.44. (Reserved).

Subchapter D. **[EMERGENCY AND LIMITED MALT BEVERAGE TAX CREDIT] (Reserved)**

CHAPTER 75. (Reserved)

CHAPTER 76. UNFAIR SALES OF CIGARETTES

Sec.

76.1. Dealer's cost of doing business.

76.2. Combination sales and inducements.

76.3. Promotional sales plans.

§ 76.1. Dealer's cost of doing business.

(a) *Stamping agent.*

(1) The cost of doing business for a stamping agent is presumed to be the basic cost of cigarettes to the stamping agent for sales to wholesalers.

(2) Except as provided in subsection (e), a stamping agent may not sell cigarettes to a wholesaler at less than the cost of the stamping agent.

(b) *Wholesaler.*

(1) The cost of doing business for a wholesaler is presumed to be 4% of the basic cost of cigarettes to the wholesaler for sales to retailers.

(2) Except as provided in subsection (e), a wholesaler may not sell cigarettes to a retailer at less than the cost of the wholesaler.

(c) *Retailer.*

(1) The cost of doing business for a retailer is presumed to be 6% of the basic cost of cigarettes to the retailer for sales to the ultimate consumer.

(2) Except as provided in subsection (e), a retailer may not sell cigarettes to the ultimate consumer at less than the cost of the retailer.

(d) *Application to lower dealer's cost of doing business.*

(1) A dealer who wishes to lower its cost of doing business shall submit an application to the Department.

(2) An application for permission to sell at less than a dealer's presumed cost of doing business shall contain:

(i) A copy of the dealer's most recently filed Federal and State Income Tax return forms, including all associated schedules and attachments.

(ii) A nonrefundable fee of \$200 to cover the Department's costs of administering the application, including the review and audit of the petitioning dealer's financial statements. If the Department determines that a field audit is necessary to approve or disapprove a request, an hourly rate, as established by the Department, will be charged to the dealer requesting approval for time spent in preparing the field audit. This amount will be in addition to the \$200 nonrefundable fee.

(iii) Other information requested by the Department or as may be necessary to review the application.

(e) *Review and determination.*

(1) The Department will review and evaluate the information provided by the cigarette dealer and will determine whether the dealer's cost of doing business is lower than the presumed cost of doing business in effect at that time.

(2) The Department's approval of a dealer's application to sell at less than the presumptive cost of doing business is valid for 12 months from the effective date of the approval or until the approval of a subsequent dealer's application, whichever occurs first.

(3) If a dealer with permission to sell at less than the presumptive cost of doing business fails to submit a new application that is approved by the Department by the expiration of the 12-month period, the permission previously given to the dealer will be automatically revoked on the last day of the 12-month period.

(4) The Department's approval of a petitioning stamping agent, wholesaler or retailer's lower cost of doing business will apply to all similarly-licensed dealers throughout this Commonwealth. For example, if the Department approves a particular retailer's request to lower the presumptive 6% cost of doing business to 5%, all Pennsylvania retailers would also be permitted to use 5% as their cost of doing business.

(5) In determining whether an applicant/dealer's cost of doing business is lower than the presumed cost of doing business for that particular type of dealer, the Department will divide the applicant's operating expenses for the applicable 12-month period by the applicant's total cost of doing business for that same period.

Example. Wholesaler is in the business of selling cigarettes, candy and various food items to retailers throughout the United States. In its application to sell cigarettes to retailers at a price lower than the 4% presumptive cost of doing business markup, Wholesaler provides the following financial information for the year ending 12/31/XX:

Total cost of goods sold	\$575 million
Total cost of doing business	\$650 million

The Wholesaler's operating expenses equal \$75 million, which is its total cost of doing business less its total cost of goods sold. This amount is then divided by Wholesaler's total cost of doing business (\$75 million/\$650 million), which equals approximately 11.53%. This percentage represents the applicant's actual percentage cost of doing business. Because this percentage is greater than the 4% presumptive cost of doing business markup, the Wholesaler is unable to show that it can sell its

cigarettes at a lower cost of doing business and the Department would deny its application.

(6) In determining a dealer's actual cost of doing business, the Department will determine the amount of the constructive cost of property or services upon which the dealer's actual cost of doing business is calculated when the Department determines that the dealer's financial records are not indicative of the true value of property or services received by the dealer.

(i) The constructive cost of the dealer's receipt of property or services shall be the cost which would be charged in an arms-length transaction.

(ii) When the purchase of property or services occurs between a parent and a subsidiary, affiliate or controlled corporation, there shall be a rebuttable presumption that because of the common interest the transaction was not at arms-length.

§ 76.2. Combination sales and inducements.

Except for the provisions mentioned under § 76.3 (relating to promotional sales plans), a dealer may not:

(1) Sell cigarettes in combination with other non-cigarette merchandise if the total sales price for the cigarettes and all other non-cigarette items included in the sale is less than the sum of the cost to the dealer of the cigarettes and non-cigarette items. The dealer's invoice shall contain a description of the cigarette and non-cigarette merchandise, including its selling price or its wholesale value.

(2) Give cigarettes free of charge, except in the case of specially-packaged manufacturers' samples that are designated on the package as not to be sold in accordance with § 71.6 (relating to sample cigarettes).

(3) Make a rebate, advertising allowance or other concession in connection with the sale of cigarettes whereby the cigarettes are in effect sold below their cost to the dealer.

(4) Make secret extensions to certain purchasers of special services or privileges in connection with the sale of cigarettes that are not extended to all purchasers upon like terms and conditions.

§ 76.3. Promotional sales plans.

(a) Only cigarette manufacturers may sponsor or initiate a promotional sales plan that lowers the price of cigarettes below the cost of the dealer.

(b) Every dealer on whose premises a manufacturer's promotional sales plan is being conducted shall obtain a written statement from the manufacturer which describes the promotional sales plan and indicates the plan's duration.

(c) When a manufacturer's promotional sales plan involves the affixation of coupons to a retailer's inventory of cigarettes, the retailer shall receive payment from the manufacturer representing the value of the coupons prior to the retailer's customers' purchase of the coupon-affixed cigarettes. The retailer shall also retain documentation showing the manufacturer's payment of the coupons' value. For example, if the cost of the retailer for a package of cigarettes is \$2 and a 50¢ coupon is affixed to the package, the retailer may accept the coupon, sell the package of cigarettes for \$1.50 and be in compliance with the act and code only if the retailer possesses evidence that the manufacturer prepaid the value of the 50¢ coupon to the retailer prior to the retailer's sale of the package of cigarettes.

(d) Retailers may redeem manufacturer-issued coupons issued to the general public that reduce the retail purchase price of cigarettes below the cost of the retailer as long as the manufacturer reimburses the retailer for the redeemed coupon and the retailer maintains documentation showing the sale of the cigarettes to its customers and the manufacturer's subsequent reimbursement. For example, if the cost of the retailer is \$18 per carton of cigarettes and the retailer sells the carton for \$18, the retailer may accept a \$1 coupon that reduces the cost of the retailer to \$17 and not be in violation of the code or act. However, the retailer may not sell the carton at \$17 unless the retail customer tenders a valid \$1 manufacturer coupon.

(e) A dealer participating in a manufacturer's promotional sales plan which is not evidenced by a coupon and which occurs subsequent to the dealer's purchase of cigarettes from that manufacturer is in violation of the code.

(f) A dealer may sponsor or initiate a promotional sales plan if the plan does not result in the sale of cigarettes at a price below the cost of that dealer.

CHAPTER 77. (Reserved)

CHAPTER 79. (Reserved)

CHAPTER 83. (Reserved)

CHAPTER 85. (Reserved)

(Editor's Note: The Department is proposing to delete Chapters 77, 79, 83 and 85 as they currently appear in 61 Pa. Code at pages 77-1—77-4, 79-1, 79-2, 47—68, 85-1 and 85-2 (serial pages (105817)—(105826), (119453), (119454), (83073)—(83078), (35942)—(35945), (87097), (87098), (35948)—(35951), (83081), (83082) and (188585)—(188588).)

[Pa.B. Doc. No. 97-1209. Filed for public inspection August 1, 1997, 9:00 a.m.]

INSURANCE DEPARTMENT

[31 PA. CODE CHS. 71 AND 73]

Credit Life Insurance, Credit Accident and Health Insurance and Credit Unemployment Insurance

The Insurance Department (Department), Office of Rate and Policy Regulation, proposes to delete Chapter 71 (relating to general provisions) and amend Chapter 73 (relating to credit life insurance and credit accident and health insurance) to read as set forth in Annex A. The proposed rulemaking provides a system of rate, contract and operating standards for the transaction of credit life, accident and health and unemployment insurance in this Commonwealth.

The proposed amendments to Chapter 73 are proposed under the authority established by sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). The proposed additions to Chapter 72 are made under section 12 of the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance (act) (40 P. S. § 1007.12). Additional authority is found under sections 641(b) and (b.1) of The Insurance Department Act of 1921 (40 P. S. § 281(b) and (b.1)).

Purpose

The object of this proposed rulemaking is to interpret and implement the provisions of the act and section 641 of The Insurance Department Act of 1921, as the latter relates to credit insurance, both of which authorize the Department to promulgate regulations.

Credit life insurance and credit accident and health insurance are presently regulated under Chapters 71 and 73. As the nature and type of credit transactions and resulting credit insurance coverages have evolved, Chapters 71 and 73 have become outdated and incomplete. Numerous notices and directives have been developed by the Department in an effort to keep credit insurance regulations current and to provide direction to the credit insurance industry. The proposed rulemaking will incorporate and codify these notices and directives. In addition, section 641 of The Insurance Department Act of 1921 was amended in 1994 to provide for the regulation of credit unemployment insurance under the act. The proposed rulemaking would expand credit insurance regulations to now cover credit involuntary unemployment insurance and credit voluntary unemployment insurance.

The credit insurance industry has expressed a desire that the credit insurance premium rates provide for adequate expense and profit margins and that the prima facie premiums be periodically reviewed and updated, if necessary, based on claim experience. To ensure that prima facie rates continue to be based on current claim experience, the proposed rulemaking makes the Department responsible for periodically reviewing loss experience and insurer expenses, and making appropriate adjustments in prima facie rates and loss ratio standards.

In developing the proposed rulemaking, Department staff worked with an industry advisory group comprised of Pennsylvania credit insurers that write all types of credit insurance.

Explanation of Regulatory Requirements

The following is a description of the significant features of and changes contained in the proposed rulemaking.

§§ 73.104, 73.107 and 73.110 (relating to life insurance and life insurance with TPD benefit; A and H insurance benefits; and involuntary unemployment insurance benefits).

These sections provide for plans of credit life insurance, credit life insurance with TPD benefit, credit accident and health (A and H) insurance and credit involuntary unemployment insurance for which premium rates cannot exceed the prima facie premium rates which are set forth in the *Pennsylvania Bulletin*. Established features of these plans cover single or joint coverage, benefit amounts, coverage periods and definitions of insured occurrences. Insurers will be afforded the opportunity to offer alternative insurance plans provided the benefits of any plan comply with the credit insurance law and the premium rates do not exceed premium rates that are actuarially consistent with the prima facie premium rates.

One of the significant plan features establishes that the coverage period may now be shorter than the term of the indebtedness remaining when the coverage is elected.

§§ 73.105, 73.108 and 73.111 (relating to life insurance and life insurance with TPD benefit requirements; A and H insurance requirements; and involuntary and voluntary unemployment insurance requirements).

These sections establish benefit and contract requirements applicable to plans of credit life insurance, credit

life insurance with TPD benefit, credit A and H insurance, and credit voluntary and involuntary unemployment insurance. These benefit and contract requirements concern compliance with applicable laws, joint debtor coverage, voiding or termination of coverage, reduction of excess coverage, single premium coverage, coordination of coverages, treatment of renewed or refinanced indebtedness, truncated coverage and coverage disclosures.

§§ 73.106, 73.109 and 73.113 (relating to life insurance rate standards; A and H insurance rate standards; and voluntary unemployment insurance rate standards).

These sections establish prima facie premium rate standards for credit life insurance, credit life insurance with TPD benefit, credit A and H insurance and credit involuntary unemployment insurance; they further set forth formulas and principles used to calculate prima facie rates. The premium rates charged for standard credit insurance benefit plans are not permitted to exceed the prima facie premium rates unless higher rates are approved by the Department or unless the premium rates charged for other than standard plans do not exceed premium rates that are actuarially consistent with the prima facie rates.

Significantly, standards are now provided for the Department to review, at least once every 3 years, the credit insurance loss experience, and if indicated, propose revised prima facie rates and, if applicable, revised loss ratio standards.

In addition, standards are now provided for the Department to review, at least once every 9 years, the expenses and profit of insurers writing credit insurance in this Commonwealth, and if indicated, revise the prima facie premium rates and the loss ratio standards.

§ 73.113 (Voluntary unemployment rate standards).

Standards are provided for the development and filing of voluntary unemployment rates and for the future adoption of prima facie rates. The Department will review insurer expenses and propose appropriate amendments to the voluntary unemployment loss ratio standard, when appropriate.

§ 73.119 (relating to combination coverage rate).

This section provides for a premium discount of 5%, when credit insurance coverages are sold as packages and not independently of each other.

§ 73.120 (relating to composite term premium rate).

This significant new section provides for the use of composite term premium rates upon a demonstration that the expected collected total premium will not exceed the total premium collected if term specific rates are used. Further, composite term premium rates cannot exceed any term specific rates by more than 5% within the composite term period.

§ 73.121 (relating to maximum rates).

This section allows an insurer to use a rate lower than that filed with the Department.

§ 73.122 (relating to deviated rates).

Under this significant new section, insurers are not required to file for the approval of premium rates that are lower than the prima facie premium rates. Insurers are permitted to file for approval for use of premium rates that are higher than the prima facie rates if an insurer shows that its expected loss ratio at the higher rate will not be less than the loss ratio standards set forth in this rulemaking. Approved deviated rates may be applied to

an insurer's accounts in the following ways: (1) uniformly to all of the insurer's accounts; (2) on an equitable basis to one or more accounts for which the actual prima facie loss ratio was higher than the applicable loss ratio standards; or (3) on an equitable basis in accordance with an account rating procedure filed by the insurer with the Department.

§ 73.123 (relating to loss ratio standards).

This section establishes loss ratios for each of the credit insurance coverages. The loss ratio standards used in calculating prima facie premium rates for credit life insurance and credit life insurance with total and permanent disability benefit have been reduced from 60% to 55%. The accident and health loss ratio standards were determined to be appropriate and remain the same.

§ 73.124 (relating to duration of deviation).

This section provides that an approved deviated rate may not remain in effect for more than 3 years and that insurers may file for a new rate during the 3-year period.

§ 73.133 (relating to claims and examination procedures).

This section requires that insurers be responsible for claims and maintenance of adequate claim files. Under the rulemaking, insurers will be required to make annual examinations of creditors' credit insurance business and to maintain records of individual debtors' credit insurance coverage.

§ 73.134 (relating to compensation of producers and creditors).

This section regulates the compensation that may be paid to creditors and producers involved with credit insurance transactions and defines compensation.

Of significant note, when an insurer charges less than the prima facie premium rates, the maximum allowable compensation must be based on the prima facie premium rates; not on the rate actually charged. Accordingly, since compensation will not be affected by the premium rates charged by the insurer, creditors and producers may be more likely to select, for their debtors, insurers offering lower credit insurance rates.

§ 73.138 (relating to financial statement reserves).

This section establishes reserve requirements for insurers doing credit life insurance or credit A and H insurance business in this Commonwealth.

Significantly, with respect to credit life insurance, the proposed rulemaking will establish the 1980 Commissioners Extended Term Mortality Table as the minimum mortality reserve standards, in lieu of the currently utilized 1958 Commissioners Extended Term Mortality Table. This change in the standard mortality table reduces the reserve requirement. The reserve standards for life insurance policies, with the exception of credit insurance, have already been based on 1980 Tables for several years.

§ 73.140 (relating to credit insurance on closed end variable interest loans).

This section establishes special requirements for credit insurance designed for open end loans. These requirements concern benefit amount, premium rate calculation, assumption of coverage and premium refunds.

A significant change is found in subsection (g)(2) which provides for alternative A and H and involuntary unemployment plans, and specifies the information that must be filed with the Department for alternative plan pre-

mium rate approval. Currently, the Department considers for approval only A and H and involuntary unemployment plans with a monthly benefit amount equal to the minimum loan payment.

Fiscal Impact

State Government

The Department anticipates that there will be a substantial reduction in Department staff time which is presently devoted to the regulation of credit insurance due to the amendments of the rate adjustment procedure in the proposed rulemaking. Insurers will no longer be required to file annually for rate adjustments for each of their creditor accounts. Last year alone, for example, rate adjustment filings numbered 8,000. Under the proposed rulemaking, the only rate filings that the Department will review are those that insurers choose to file for upward deviations. As part of the proposed change in the rate adjustment procedures, Department personnel will no longer need to review experience reports for each creditor account. The proposed rulemaking will result in an estimated annual savings of \$50,000.

General Public

As a result of the proposed rulemaking, the Department anticipates that a greater number of insurers will be inclined to enter the marketplace in this Commonwealth due to the elimination of compliance with the previously imposed burdensome rate adjustment system. A greater number of insurers should result in increased competition and resulting lower credit insurance rates and improved benefits.

Creditors' compensation will not be affected by the premium rates charged by the insurer. Therefore, creditors may be more likely to select, for their debtors, insurers offering lower credit insurance rates.

Political Subdivisions

Implementation of this proposed rulemaking will not impose additional costs on political subdivisions. However, because insurers and creditors may need to employ fewer individuals to administer their credit insurance programs, there could be a slight increase in unemployment and a slight decrease in the income tax base for certain subdivisions. If a greater number of insurers and creditors offer credit insurance coverage, those effects could be offset.

Private Sector

The proposed rulemaking is anticipated to have a positive fiscal impact on insurers. Once implemented, it will be less costly under the proposed rulemaking for insurers to perform the administrative functions necessary to provide credit insurance coverage in this Commonwealth. There will be a substantial reduction in the number of deviation filings that insurers will need to prepare. It is estimated that the total cost savings will be \$300,000.

The proposed rulemaking should have the effect of opening a new market for insurers who have not previously participated in the credit insurance market in this Commonwealth due primarily to the administrative difficulties connected with the Department's current credit insurance regulations.

The proposed rulemaking will have a fiscal impact on creditors in that they will have to implement in their premium calculation systems a substantially fewer number of rate changes. It is estimated that the total cost savings will be \$100,000.

Affected Parties

This proposed rulemaking will apply to life insurance companies and casualty insurance companies marketing credit life, accident and health, and unemployment insurance in this Commonwealth.

Paperwork

The adoption of this rulemaking will reduce the amount of paperwork that insurers will have to maintain and file with the Department. Insurers will no longer need to submit to the Department annual rate adjustment filings for their accounts, or to notify the Department when changes of insurers occur. Insurers will be able to use an NAIC experience report, thereby reducing the need to prepare special reports for Pennsylvania. Additionally, the reduction in insurers' filings with the Department will result in the Department experiencing a substantial reduction in the paperwork that it will have to process and maintain.

Effectiveness/Sunset Date

The proposed rulemaking will become effective 90 days after final adoption and publication in the *Pennsylvania Bulletin* as final rulemaking. No sunset date assigned.

Contact Person

Questions or comments concerning the proposed rulemaking should be addressed to Sally Engle, Director, Life Bureau, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, (717)783-2100, within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 23, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

GREGORY S. MARTINO,
Acting Insurance Commissioner

Fiscal Note: 11-148. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART III. CREDIT INSURANCE

CHAPTER 71. [GENERAL PROVISIONS] (Reserved)

(Editor's Note: As part of this proposal, the Department is proposing to delete §§ 71.1—71.4 which appears at 31 Pa. Code pages 71-1 and 71-2, serial pages (109875) to (109876).)

§§ 71.1—71.4. [Reserved].

**CHAPTER 73. CREDIT LIFE INSURANCE [AND],
CREDIT ACCIDENT AND HEALTH INSURANCE AND
CREDIT UNEMPLOYMENT INSURANCE**

(Editor's Note: As part of this proposal, the Department is proposing to delete §§ 73.1—73.5, 73.11—73.13, 73.21—73.29, 73.31—73.43, 73.51 and Appendices A—D which appear at 31 Pa. Code pages 195—214.9, serial pages (36522) to (36523), (45414) to (45419), (39715) to (39718), (96323) to (96326), (98339) to (98340), (96327) to (96330), (45422) to (45423), (39727) to (39738), (31968) to (31973), (19972) to (19973), (31974) to (31975), (39739) to (39750) and (109879).)

- Sec.
- 73.1—73.5. [Reserved].
- 73.11—73.13. [Reserved].
- 73.21—73.29. [Reserved].
- 73.31—73.43. [Reserved].
- 73.51. [Reserved].
- 73.101. Purpose.
- 73.102. Applicability.
- 73.103. Definitions.
- 73.104. Life insurance and life insurance with TPD benefit.
- 73.105. Life insurance and life insurance with TPD benefit requirements.
- 73.106. Life insurance rate standards.
- 73.107. A and H insurance benefits.
- 73.108. A and H insurance requirements.
- 73.109. A and H insurance rate standards.
- 73.110. Involuntary unemployment insurance benefits.
- 73.111. Involuntary and voluntary unemployment insurance requirements.
- 73.112. Involuntary unemployment insurance rate standards.
- 73.113. Voluntary unemployment insurance rate standards.
- 73.114. Insurability requirements.
- 73.115. Benefit exclusions.
- 73.116. Age requirements
- 73.117. Employment eligibility requirements.
- 73.118. Initial eligibility requirements.
- 73.119. Combination coverage rate.
- 73.120. Composite term premium rate.
- 73.121. Maximum rates.
- 73.122. Deviated rates.
- 73.123. Loss ratio standards.
- 73.124. Duration of deviation.
- 73.125. Portability of rates.
- 73.126. Voluntary unemployment experience reports.
- 73.127. Refunds.
- 73.128. Terminations.
- 73.129. Dividends.
- 73.130. Election of coverage and disclosure requirements.
- 73.131. Choice of insurer.
- 73.132. Collection of premiums.
- 73.133. Claims and examination procedures
- 73.134. Compensation of producers and creditors.
- 73.135. Licensed producers.
- 73.136. Filing of forms and rates.
- 73.137. Compensating balances or special deposits.
- 73.138. Financial statement reserves.
- 73.139. Credit insurance on open end loans.
- 73.140. Credit insurance on closed end variable interest loans.
- 73.141. Credit insurance on lease transactions.
- 73.142. Credit insurance on fixed residual loans.
- 73.143. Credit insurance on balloon loans.

§ 73.101. Purpose.

The purpose of this chapter is to interpret and implement the act and section 641 of The Insurance Department Act of 1921 (40 P. S. § 281). This chapter is intended to protect the interests of debtors and the public in this Commonwealth by providing a system of rate, contract form and operating standards for the transaction of credit life, credit accident and health and credit unemployment insurance. This chapter is not intended to prohibit or discourage reasonable competition.

§ 73.102. Applicability.

This chapter applies to the following:

- (1) An individual or group credit insurance policy.
- (2) Certificates issued under a group credit insurance policy and applications or other forms used in connection with the policy or certificate.
- (3) A premium rate charged for credit insurance.
- (4) Practices followed in providing credit insurance.

§ 73.103. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

A and H—Accident and health insurance.

Account—The coverage for a single line of insurance offered to a single type of business by one creditor. The term includes coverage written on a group or individual policy.

Act—The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance (40 P. S. §§ 1007.1—1007.15).

Agent—A person defined in section 601 of The Insurance Department Act of 1921 (40 P. S. § 231).

Amount financed—The amount on which interest charges are calculated.

Amount of level lease insurance—In connection with a lease transaction, the amount of death benefit equal to the residual payment, plus any applicable taxes on the residual payment.

Balloon amount—The excess of the final payment on a balloon loan over the amount of one periodic installment payment.

Balloon loan—A loan which provides for periodic installment payments of a stated amount during the term of the indebtedness and for a final payment at the end of the term of the indebtedness which is substantially more than the amount of one periodic installment payment and less than the initial net unpaid indebtedness.

Broker—A person defined in section 621 of The Insurance Department Act of 1921 (40 P. S. § 251).

Closed end loan—Indebtedness which is not an open end loan or a lease.

Commissioner—The Insurance Commissioner of the Commonwealth.

Composite term period—The installment periods for which composite term premium rates will be charged.

Composite term premium rate—Premium rates which do not vary based on the number of monthly installments and which meet the requirements of § 73.121 (relating to maximum rates).

Contributory insurance—Insurance for which the debtor is charged an identifiable charge.

Credit accident and health insurance—Insurance as defined in section 2(b)(2) of the act (40 P. S. § 1007.2(b)(2)).

Credit instrument—A loan or sales instrument or agreement.

Credit insurance—Insurance subject to the act and section 641 of The Insurance Department Act of 1921 (40 P. S. § 281).

Credit involuntary unemployment insurance—Credit unemployment insurance paid in the event of the debtor's unemployment due to no choice of the debtor.

Credit life insurance—Insurance as defined in section 2(b)(1) of the act.

Credit life insurance with TPD—Insurance on the life of a debtor paid under or in connection with a specific loan or other credit transaction in the event of the debtor's death or total and permanent disability.

Credit unemployment insurance—Insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is unemployed as defined in the group certificate or individual policy.

Credit voluntary unemployment insurance—Credit unemployment insurance paid in the event of the debtor's unemployment due to a choice made by the debtor.

Creditor—As defined in section 2(b)(3) of the act.

Debtor—As defined in section 2(b)(4) of the act.

Decreasing term lease insurance amount—The amount required to liquidate the lease obligation excluding the amount of any monthly lease payments paid at the beginning of a lease and excluding the residual value.

Department—The Insurance Department of the Commonwealth.

Electronic rate book—An electronic data system programmed and used solely for the calculation and computation of installment loans and calculation and computation of insurance amount, premium rates and refunds.

Fixed residual value financing—The manner of financing a motor vehicle purchase whereby a buyer, who is listed as the owner on the title of a motor vehicle, agrees to select and perform one of the following options, at the conclusion of a predetermined schedule of installment payments made in substantially equal periods and in substantially equal amounts:

(i) Satisfying the balance of the contractual amount owing.

(ii) Refinancing any balance owing on the terms previously agreed upon at the original execution of the installment sales contract.

(iii) Surrendering the motor vehicle as agreed upon at the original execution of the installment sale contract.

Full benefit period coverage—Insurance coverage which provides protection for a benefit period equal to the shorter of the duration of disability or unemployment minus any elimination period and the full term of coverage remaining when the disability or unemployment benefits first become payable.

Full term insurance coverage—Insurance coverage for a benefit period equal to the term of the indebtedness remaining at the time coverage is elected.

Grace period—The period during which a premium may be paid after the premium due date.

Identifiable charge—The amount a creditor charges a debtor specifically for credit insurance. A differential in finance, interest, service or similar charges made to debtors who are in like circumstances, except for their insured or noninsured status, is considered an identifiable charge.

Indebtedness—The total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

(i) *Actual gross unpaid indebtedness*. The scheduled gross unpaid indebtedness plus any past-due installment payments and minus any prepaid installment payments.

(ii) *Actual net unpaid indebtedness*. The amount necessary to liquidate the actual unpaid indebtedness in a single sum excluding unearned interest, but including any prepayment penalty.

(iii) *Initial insured indebtedness*.

(A) If coverage is provided on a gross indebtedness basis, the sum of the installment payments under the contract of indebtedness as of the date the indebtedness is incurred.

(B) If coverage is provided on a net indebtedness basis, the amount of the indebtedness excluding the unearned interest under the contract of indebtedness as of the date the indebtedness is incurred.

(iv) *Scheduled gross unpaid indebtedness*. The sum of the scheduled remaining installment payments under the contract of indebtedness, including unearned interest.

(v) *Scheduled net unpaid indebtedness*. The amount necessary to liquidate the scheduled unpaid indebtedness in a single sum excluding unearned interest but including any prepayment penalty.

Initial amount of decreasing lease insurance—The excess of the amount of death benefit payable in the event of death of the lessee during the first month of the lease, over the amount of level lease insurance, as defined in this section. The term does not include the amount of the monthly lease payment paid at the beginning of the lease.

Joint coverage—Credit insurance coverage on any two or more persons who are jointly liable for repayment of an indebtedness or fulfillment of a lease obligation.

Limited benefit period coverage—Insurance coverage which provides protection for a benefit period equal to the shorter of the duration of disability or unemployment minus any elimination period and a period less than the full term of coverage remaining when the disability or unemployment benefits first become payable.

Limited term insurance coverage—Insurance coverage for a benefit period less than the term of the indebtedness remaining at the time coverage is elected. Insurance coverage terminates at the insured debtor's attained age as set forth in the group certificate or individual policy or when the truncated coverage terminates.

Lockout—The discharge of employees by their employer due to a labor dispute, including discharge as a result of an employer's dislike of employees' activities as a union, or the temporary closing of the place of employment by an employer without formally discharging the employees in an effort to discourage union activities, gain acceptance of the employer's view or effect a labor compromise which is more favorable to the employer in comparison to the demands made by the employees.

Loss ratio—The incurred claims during the experience period divided by the actual earned premium during the experience period.

Open end loan—A credit plan which may be drawn upon by a debtor without renegotiating with the creditor.

Prima facie premium rates—The premium rates established by the Department and published in the *Pennsylvania Bulletin*. Prima facie premium rates shall be

published in the *Pennsylvania Bulletin* by ____ (Editor's Note: The blank refers to a date 30 days after the adoption of this proposal.) and thereafter as established by and referenced in §§ 73.106, 73.109 and 73.112 (relating to life insurance rate standards; accident and health insurance rate standards; and involuntary unemployment insurance rate standards).

Prominent type—Font or formatting techniques which differentiate selected text from other text. The term includes, for example, capital letters, contrasting color and underscoring.

Producer—An agent or broker.

Residual payment—The amount that shall be paid by the lessee at the end of the lease term if the lessee elects to purchase the property that is the subject of the lease.

Simple interest loan—A loan where interest accrues and is earned on a daily basis.

Single coverage—Credit insurance coverage on one person who is liable for repayment of an indebtedness or fulfillment of a lease obligation.

TPD—Total and permanent disability.

Term of insurance coverage—The period during which a group certificate or individual policy is effective.

Truncated coverage—Credit insurance coverage as defined in this section that meets the requirements specified in §§ 73.106(11), 73.109(10) and 73.112(10), and provides a term of insurance coverage for a period that is shorter than the full term of the indebtedness remaining at the time the insurance coverage is elected. The term does not include credit insurance coverage which terminates on attainment of a specific age.

Variable interest loan—A loan which has an interest rate that may change during the term of the loan which causes a change in either the amount of the installment payment or the term of the loan.

§ 73.104. Life insurance and life insurance with TPD benefit.

(a) *Life benefit plan.* The prima facie premium rate standards referenced in § 73.106 (relating to life insurance rate standards) apply to a plan of credit life insurance benefits, if the plan provides the features in paragraphs (1)–(4). This plan shall be described in a group policy and group certificate or in an individual policy.

(1) Single life coverage or joint life coverage for all eligible debtors.

(2) A benefit payable upon death or upon TPD, if TPD coverage applies, subject to any maximum dollar amount of coverage specified in the group policy and group certificate or individual policy, equal to any of the following:

(i) The actual gross or net unpaid indebtedness at the time of death or commencement of TPD, in the case of a closed end loan for a group policy of credit life insurance or credit life insurance with a TPD benefit.

(ii) The greater of the scheduled gross or net unpaid indebtedness, or the actual gross or net unpaid indebtedness, at the time of death or commencement of TPD, in the case of a closed end loan for an individual policy of credit life insurance or credit life insurance with a TPD benefit.

(iii) The actual net unpaid indebtedness at the time of death or commencement of TPD, in the case of an open end loan.

(3) A coverage period equal to the lesser of the following:

(i) The term of the indebtedness remaining at the time coverage is elected.

(ii) The term of the indebtedness remaining at the time coverage is elected to the time the insured debtor attains an age at which the group policy and group certificate or individual policy provides for coverage to terminate.

(iii) The term of the indebtedness remaining at the time coverage is elected until truncated coverage terminates.

(4) If TPD coverage is provided, a definition of TPD requiring that the debtor be totally and permanently and continuously unable to engage in any occupation, employment or activity for compensation or profit, for which the debtor is suited by education, training or experience, according to the certification of a medical doctor. The medical doctor's certification may be waived by the insurer if the debtor has suffered the permanent loss of sight of both eyes, or the severance of both hands, both feet or of one hand and one foot.

(b) *Alternate benefit plans.* Insurers may offer credit life insurance benefit plans and credit life insurance with TPD benefit plans that differ from the plan described in subsection (a). An alternate plan shall be described in a group policy and group certificate, or in an individual policy, and shall conform to the standards of section 7(b) of the act (40 P.S. § 1007.7(b)) and the applicable standards of section 6 of the Group Life Insurance Law (40 P.S. § 532.6). The premium rate standards of § 73.106 apply to alternate benefit plans.

§ 73.105. Life insurance and life insurance with TPD benefit requirements.

A plan of credit life insurance or credit life insurance with TPD benefit and a group policy and group certificate or an individual policy describing the plan, shall comply with the following:

(1) *Joint coverage.*

(i) If joint life coverage with or without TPD benefit is provided, a group certificate or individual policy providing joint life coverage with or without TPD coverage shall be issued. Insurers may not issue two single life coverage group certificates or two single life individual policies.

(ii) The benefit payable in the case of simultaneous death or TPD of both insureds may not exceed the benefit that would be payable if coverage were provided on only one debtor.

(iii) The group policy and group certificate or individual policy shall make provision for whom any excess benefit will be paid in the event of the simultaneous death of the joint insureds.

(2) *Continuation of coverage.* If joint life coverage with or without TPD benefit is provided, and coverage on one of the insured debtors is terminated or voided, or a death claim is denied, for any reason other than for the termination of the indebtedness, any remaining eligible debtor's coverage shall continue and an equitable adjustment of premium shall be made. The remaining eligible debtor's coverage shall continue under a single life coverage group certificate or individual policy.

(3) *Voiding coverage for ineligible age.* If a debtor exceeds the eligibility age for coverage and has correctly stated age information in an application signed by the debtor, and if a group certificate or individual policy is issued, the insurer has the right during the debtor's

lifetime to void coverage on the debtor, but only within 60 days from the date of issue of the group certificate or individual policy.

(4) *Terminating coverage for ineligible age.* When premiums are payable monthly based on the actual monthly outstanding balance, if a debtor who exceeds the age at which coverage is to terminate under a group certificate or individual policy has correctly stated age information in an application signed by the debtor, and premiums continue to be erroneously charged to the debtor, the insurer has the right to terminate coverage as of the next billing date.

(5) *Reducing excess coverage.* If an identifiable charge is erroneously made to a debtor for an amount of coverage that exceeds the maximum dollar amount of coverage specified in the group policy and group certificate or individual policy, the insurer has the right to reduce the amount of coverage to the appropriate amount specified in the group policy and group certificate or individual policy during the debtor's lifetime but only within 60 days from the date the identifiable charge is made to the debtor. If coverage is reduced, a refund shall be made of the difference between the actual amount charged and the appropriate amount that should have been charged.

(6) *Contestability.* A contestability provision may not be more restrictive than to provide that coverage on a debtor shall be incontestable after the group certificate or individual policy has been in force during the lifetime of the debtor for 2 years from the date of issue. Coverage shall be contested based only upon information contained in an insurance application signed by the debtor, a copy of which is furnished, not later than when coverage is contested, to the debtor, a secondary beneficiary, or other claimant.

(7) *Equitable premium or benefit adjustment.* A provision specifying an adjustment of premiums or of benefits, or of both, to be made if information relating to the age of a debtor has been fraudulently misstated shall be considered to be equitable if it places the debtor and the insurer in the position they would have been in had the age information been correctly stated. Adjustment may not be made unless the age information is contained in an application signed by the debtor, a copy of which is furnished, not later than the time the adjustment is made, to the debtor, a secondary beneficiary or other claimant.

(8) *Premium payment basis.*

(i) Premiums shall be payable by the debtor either on a monthly outstanding balance basis or on a single premium basis at issue. Single premium coverage may be written on closed end loans only if at least one of the following conditions applies:

(A) The term of the coverage is 75 months or less. However coverage written on lease transactions may exceed 75 months.

(B) The coverage is provided on a net unpaid indebtedness basis.

(ii) A group certificate or individual policy providing credit life insurance or credit life insurance with TPD benefit on a net unpaid indebtedness basis shall contain a disclosure of the annual percentage rate used in the calculation of the insured indebtedness.

(9) *Renewal or refinancing.* With respect to the renewal or refinancing of an existing insured indebtedness, the effective date of coverage on the renewed or refinanced indebtedness shall be the date on which the insurer

originally insured the debtor with respect to the indebtedness that is renewed or refinanced.

(10) *Truncated life coverage.*

(i) Truncated credit life insurance and truncated credit life insurance with TPD benefit may be provided only in connection with loans or credit transactions that are for a term greater than 60 months.

(ii) The truncated coverage period shall be at least 60 months.

(iii) If truncated coverage is elected by a debtor, at the time of election of the insurance coverage the debtor shall be informed in writing of the term of the insurance coverage and that the coverage will terminate prior to the scheduled maturity date of the indebtedness.

(iv) A group certificate or individual policy providing truncated credit insurance coverage shall disclose both the term of the truncated insurance coverage and that the term of insurance coverage will terminate prior to the scheduled maturity date of the indebtedness. The termination disclosure shall appear in prominent print on the first page of the group certificate or individual policy.

(11) *Preexisting exclusion disclosure.* A group certificate or individual policy providing for a preexisting condition exclusion shall disclose the exclusion and its effects upon benefit payments. The preexisting condition exclusion disclosure shall appear in prominent type on the first page of the group certificate or individual policy.

§ 73.106. Life insurance rate standards.

(a) *Prima facie rates.* Premium rates for credit life insurance and credit life insurance with TPD benefit, as described in § 73.104(a) (relating to life insurance and life insurance with TPD benefit), may not exceed the prima facie premium rates referenced in this section and published in the *Pennsylvania Bulletin*, unless higher premium rates are approved under § 73.122 (relating to deviated rates). Premium rates for benefits that differ from those benefits described in § 73.104(a) may not exceed premium rates that are actuarially consistent with the prima facie premium rates referenced in this section and published in the *Pennsylvania Bulletin*.

(b) *Symbols.* The symbols used in this section have the following meanings:

(1) E_t = amount at risk in month t per \$1 of initial insured indebtedness.

(2) i = 4.5%, consisting of an interest discount of 4% and a mortality discount of .5%.

(3) LSP_n = single premium prima facie premium rate per \$100 of a level amount of insured indebtedness.

(4) n = coverage period in months.

(5) Op = monthly outstanding balance prima facie premium rate per \$1,000 of outstanding balance.

(6) SP_n = single premium prima facie premium rate per \$100 of initial insured gross indebtedness, as defined in § 73.103 (relating to definitions), repayable in n equal monthly installments.

(7) NSP_n = single premium prima facie premium rate per \$100 of initial insured net indebtedness, as defined in § 73.103, repayable in n equal monthly installments.

(c) *Debtor insurance charge.* The amount charged a debtor by a creditor for credit life insurance or credit life with TPD benefit may not exceed the premium amount charged by the insurer, as computed at the time the charge to the debtor is determined.

(d) *Monthly outstanding balance rates.* If premiums are payable on a monthly outstanding balance basis, the monthly prima facie premium rate for credit life insurance on a single life shall be \$.705 per \$1,000 of outstanding balance, and shall be \$.844 per \$1,000 of outstanding balance for credit life insurance with TPD benefit on a single life.

(e) *Gross single premium rates for full term coverage period.*

(1) If premiums for decreasing insurance on the gross unpaid indebtedness for a full term coverage period are payable on a single premium basis, the single premium prima facie premium rates for credit life insurance on a single life and for credit life insurance with TPD benefit on a single life shall be calculated, except as provided in subsection (i), in accordance with the following formula:

$$SP_n = \frac{n + 1}{20 \left(1 + \frac{.032n}{24} \right)} Op$$

(2) Gross single premium rates for full term coverage period calculated in accordance with the formula in paragraph (1) are published in the *Pennsylvania Bulletin*, for single life coverage and for single life coverage with TPD benefit.

(f) *Gross single premium rates for limited term coverage period.* If premiums for decreasing insurance on the gross unpaid indebtedness for a limited term coverage period are payable on a single premium basis, the single premium rates for credit life insurance on a single life and for credit life insurance with TPD benefit on a single life may not exceed premium rates that are actuarially consistent with the single premium prima facie premium rates published in the *Pennsylvania Bulletin*, except as provided in subsection (i).

(g) *Net single premium rates.* If premiums for decreasing insurance on the net unpaid indebtedness for a full term or limited period coverage period are payable on a single premium basis, the single premium prima facie premium rates for credit life insurance on a single life and for credit life insurance with TPD benefit on a single life shall be calculated, except as provided in subsection (i), in accordance with the following formula:

$$NSP_n = \frac{1}{10 \left(1 + \frac{.032n}{24} \right)} Op \sum_{t=1}^n E_t$$

(h) *Level single premium rates.* If premiums are payable on a single premium basis for level term insurance, the single premium prima facie premium rates for credit life insurance on a single life shall be calculated, except as provided in subsection (i), in accordance with the following formula:

$$LSP_n = \frac{1}{10 \left(1 + \frac{.048n}{24} \right)} Op$$

(i) *Alternative single premium formula.* Prima facie premium rates may be calculated for credit life insurance

and credit life insurance with TPD benefit in accordance with the following formula:

$$SP_n = Op(1/10) \sum_{t=1}^{t=n} \left(\frac{1.0}{1 + \frac{i}{12}} \right)^{t-1} (E_t)$$

(j) *Joint rates.* Prima facie premium rates for credit life insurance on a joint life with or without TPD benefit shall equal 175% of the prima facie premium rates for a single life benefit plan which is identical to the joint life benefit plan.

(k) *Actuarially consistent rates.* For credit life insurance or credit life insurance with TPD benefit offered on any other basis, prima facie premium rates shall be actuarially consistent with the rate standards of subsections (d)—(i).

(l) *Adjustment of prima facie rates and loss ratio standards.* By _____ (Editor's Note: Blank refers to a date 3 years from adoption of this proposal) and at least every 3 years thereafter, the Department review the appropriateness of the prima facie premium rates referenced in this section based upon Commonwealth experience data for the preceding 3 calendar years. The nonclaim element of the prima facie premium rates will not be adjusted unless an adjustment is necessary under subsection (m). An adjustment to the prima facie premium rates will not be made if the change in prima facie premium rates so determined would be less than 5%. If an adjustment to the prima facie premium rates is indicated, the Department will publish the new prima facie premium rates in the *Pennsylvania Bulletin*. If an adjustment to the loss ratio standards is indicated, the Department will propose appropriate amendments to § 73.123 (relating to loss ratio standards) to reflect the change.

(m) *Review of nonclaim elements.* By _____ (Editor's Note: The blank refers to a date 9 years after the effective date of adoption of this proposal), and at least every 9 years thereafter, the Department will review the changes in the average term and amount of coverage, the changes in the fixed and variable expenses and the reasonable profit margin for insurance companies writing credit life insurance in this Commonwealth. If this review indicates that a change in the nonclaim elements of the premium rates is necessary, the Department will propose amendments to the loss ratio standards in § 73.123 and thereafter publish new prima facie premium rates in the *Pennsylvania Bulletin*.

§ 73.107. Accident and health insurance benefits.

(a) *A and H benefit plans.* The prima facie premium rate standards referenced in § 73.109 (relating to A and H insurance rate standards) apply to a plan of credit A and H insurance benefits, if the plan provides the features listed in paragraphs (1)—(7). This plan shall be described in a group policy and group certificate or in an individual policy.

(1) Single A and H coverage or joint A and H coverage for all eligible debtors.

(2) A monthly benefit payable upon the debtor's disability, subject to any maximum dollar amount of coverage specified in the group policy and group certificate or individual policy, equal to any of the following:

(i) The monthly installment payment required under the contract of indebtedness, for closed end loans.

(ii) The benefit amount provided in § 73.139(f) (relating to credit insurance on open end loans), for open end loans.

(iii) The benefit amount provided in § 73.140(d) (relating to credit insurance on closed end variable interest loans), for closed end variable interest loans.

(iv) The benefit amount as provided in § 73.141(f) (relating to credit insurance on lease transactions), for lease transactions.

(3) A coverage period equal to the lesser of the following:

(i) The term of the indebtedness remaining at the time coverage is elected.

(ii) The term of the indebtedness remaining at the time coverage is elected to the time the insured debtor attains an age at which the group policy and group certificate or individual policy provides for coverage to terminate.

(iii) The term of the indebtedness remaining at the time coverage is elected until truncated coverage terminates.

(4) An elimination period as provided by the policy or certificate of either 14 days or 30 days following the commencement of disability, with benefits becoming payable on either a retroactive or nonretroactive basis.

(5) A requirement for proof of disability in the form of one or both of the following:

(i) During the first 12 months of disability, proof that the insured debtor is unable to perform all of the important or significant occupational duties at the time the disability commences. After 12 months of disability, proof that the debtor is unable to perform the duties required of any gainful occupation for which the debtor is reasonably suited by education, training or experience.

(ii) A medical determination of the insured debtor's total disability.

(6) A preexisting condition exclusion for disability that commences within 6 months after the effective date of coverage and is the result of an illness, disease or physical condition for which the debtor received medical advice, consultation or treatment within 6 months prior to the effective date of coverage. The effective date of coverage for each portion of the insurance attributable to a different advance under an open end loan is the date on which the advance occurs, or the date on which coverage is elected, if later.

(7) The payment of an A and H benefit shall cease at the scheduled expiration date of the group certificate or individual policy, or when the indebtedness is prepaid.

(b) *Alternate benefit plans.* Insurers may offer credit A and H insurance benefit plans that differ from the plan described in subsection (a). An alternate plan shall be described in a group policy and group certificate, or in an individual policy, and shall conform to the standards of section 7(b) of the act (40 P.S. § 1007.7(b)) and the applicable standards of section 618 of The Insurance Company Law of 1929 (40 P.S. § 753). The premium rate standards of § 73.109 apply to alternate benefit plans.

§ 73.108. A and H insurance requirements.

A plan of credit A and H insurance and a group policy and group certificate or an individual policy describing the plan, shall comply with the following:

(1) *Joint coverage basis.* If joint A and H coverage is provided, it shall be provided either on the basis of each

debtor being insured for 100% of the monthly disability payment, or on the basis of each debtor being insured for a specified portion of the amount of the monthly disability payment, with the total of these portions equal to 100% of the monthly disability payment.

(2) *Joint contract.*

(i) If joint A and H coverage is provided, a group certificate or individual policy providing joint A and H coverage shall be issued. Insurers may not issue two single A and H coverage group certificates or two single individual policies.

(ii) The benefit payable in the case of simultaneous disability of both insureds may not exceed the benefit that would be payable if coverage were provided on only one debtor.

(3) *Continuation of coverage.* If joint A and H coverage is provided, and coverage on one of the insured debtors is terminated or voided for any reason other than for termination of the indebtedness, any remaining eligible debtor's coverage shall continue and an equitable adjustment of premium shall be made. The remaining eligible debtor's coverage shall continue under a single A and H coverage group certificate or individual policy.

(4) *Voiding coverage for ineligible employment.* If a gainful employment requirement is applicable, and a debtor who is not gainfully employed correctly stated employment status information in an application signed by the debtor, and if a group certificate or individual policy is issued, the insurer has the right to void coverage on the debtor, but only within 60 days from the date of issue of the group certificate or individual policy. This action shall be without prejudice to any claim for a disability that commenced before the termination date.

(5) *Voiding coverage for ineligible age.* If a debtor exceeds the eligibility age for coverage and has correctly stated age information in an application signed by the debtor, and if a group certificate or individual policy is issued, the insurer has the right to void coverage on the debtor, but only within 60 days from the date of issue of the group certificate or individual policy. This action shall be without prejudice to any claim for a disability that commenced before the termination date.

(6) *Terminating coverage for ineligible age.* When premiums are payable monthly based on the actual monthly outstanding balance, if a debtor who exceeds the age at which coverage is to terminate under a group certificate or individual policy has correctly stated age information in an application signed by the debtor, and premiums continue to be erroneously charged to the debtor, the insurer has the right to terminate coverage as of the next billing date. This action shall be without prejudice to any claim for a disability that commenced before the termination date.

(7) *Reducing excess coverage.* If an identifiable charge is erroneously made to a debtor for an amount of coverage that exceeds the maximum dollar amount of coverage specified in the group policy and group certificate or individual policy, the insurer has the right to reduce the amount of coverage to the appropriate amount specified in the group policy and group certificate or individual policy, but only within 60 days from the date the identifiable charge is made to the debtor. If coverage is reduced, a refund shall be made of the difference between the actual amount charged and the appropriate amount that should have been charged.

(8) *Contestability.* A contestability provision may not be more restrictive than to provide that coverage on a debtor

shall be incontestable after the group certificate or individual policy has been in force during the lifetime of the debtor for 2 years from the date of issue. Coverage shall be contested only based upon information contained in an insurance application signed by the debtor, a copy of which is furnished, not later than when coverage is contested, to the debtor, a secondary beneficiary, or other claimant.

(9) *Equitable premium or benefit adjustment.* A provision specifying an adjustment of premiums or of benefits, or of both, to be made if information relating to the age of a debtor has been fraudulently misstated shall be considered to be equitable if it places the debtor and the insurer in the position they would have been in had the age information been correctly stated. An adjustment may not be made unless the age information is contained in an application signed by the debtor, a copy of which is furnished, not later than the time the adjustment is made, to the debtor, a secondary beneficiary or other claimant.

(10) *Renewal or refinancing.* With respect to the renewal or refinancing of an existing insured indebtedness, the effective date of coverage on the renewed or refinanced indebtedness shall be the date on which the insurer originally insured the debtor with respect to the indebtedness that is renewed or refinanced.

(11) *Truncated A and H coverage.*

(i) Truncated credit A and H insurance may be provided only in connection with loans or credit transactions that are for a term greater than 60 months.

(ii) The truncated coverage period shall be at least 60 months.

(iii) If truncated coverage is elected by a debtor, at the time of the election of the insurance coverage the debtor shall be informed in writing of the term of the insurance coverage and that the coverage will terminate prior to the scheduled maturity date of the indebtedness.

(iv) A group certificate or individual policy providing truncated credit insurance coverage shall disclose both the term of the truncated insurance coverage and that the term of insurance coverage will terminate prior to the scheduled maturity date of the indebtedness. The termination disclosure shall appear in prominent type on the first page of the group certificate or individual policy.

(12) *Preexisting exclusion disclosure.* A group certificate or individual policy providing for a preexisting condition exclusion shall disclose the exclusion and its effects upon benefit payments. The preexisting condition exclusion disclosure shall appear in prominent type on the first page of the group certificate or individual policy.

§ 73.109. A and H insurance rate standards.

(a) *Prima facie A and H rates.* Premium rates for credit A and H insurance benefits, as described in § 73.107(a) (relating to A and H insurance benefits), may not exceed the prima facie premium rates referenced in this section and published in the *Pennsylvania Bulletin*, unless higher premium rates are approved under § 73.122 (relating to deviated rates). Premium rates for benefits that differ from those benefits described in § 73.107(a) may not exceed premium rates that are actuarially consistent with the prima facie premiums rates referenced in this section and published in the *Pennsylvania Bulletin*.

(b) *Symbols.* The symbols used in this section shall have the following meanings:

(1) n = coverage period in months.

(2) OP_n = monthly outstanding balance prima facie premium rate per \$1,000 of outstanding balance.

(3) SP_n = single premium prima facie premium rate per \$100 of initial insured gross indebtedness, as defined in § 73.103 (relating to definitions), repayable in n equal monthly installments.

(c) *Debtor insurance charge.* The amount charged a debtor by a creditor for credit A and H insurance may not exceed the premium amount charged by the insurer, as computed at the time the charge to the debtor is determined.

(d) *Single premium rates for full benefit and full term periods.* If premiums are payable on a single premium basis for insurance with a full benefit period and a full term coverage period, the single premium prima facie premium rates for credit A and H insurance on a single life shall be as published in the *Pennsylvania Bulletin*.

(e) *Single premium rates for limited benefit and limited term periods.* If premiums are payable on a single premium basis for insurance with a limited term coverage period and a benefit period equal to the limited term coverage period, the prima facie premium rates shall be as published in the *Pennsylvania Bulletin*, for an installment period equal to the number of monthly installment payments in the limited term coverage period. The premium shall be determined by multiplying the prima facie premium rate by the monthly installment payment, by the number of months in the limited term coverage period, divided by 100.

(f) *Single premium rates for limited benefit and full or limited term periods.* If premiums are payable on a single premium basis for insurance with a limited benefit period for a full term or limited term coverage period, the single premium rates for credit A and H insurance on a single life may not exceed premium rates that are actuarially consistent with the single premium prima facie premium rates published in the *Pennsylvania Bulletin*.

(g) *Monthly outstanding balance rates for full benefit and full term periods.* If premiums are payable on a monthly outstanding balance basis for insurance with a full balance benefit period for a full term coverage period, the monthly prima facie premium rates for credit A and H insurance on a single life shall be as published in the *Pennsylvania Bulletin*. The monthly prima facie premium rates shall be calculated in accordance with the following formula:

$$OP_n = \frac{20 \left(1 + \frac{.032n}{24} \right)}{n + 1} SP_n$$

(h) *Monthly outstanding balance rates for limited benefit period and limited term periods.* If premiums are payable on a monthly outstanding balance basis for insurance with a limited term coverage period and a benefit period equal to the limited term coverage period, the monthly prima facie premium rates shall be as published in the *Pennsylvania Bulletin* for an installment period equal to the number of monthly installment payments in the limited term coverage period. The monthly premium shall be determined by multiplying the prima facie premium rate by the monthly loan payment, by the remaining number of months in the limited term coverage period, divided by 1,000.

(i) *Monthly outstanding balance rates for limited benefit and full or limited term periods.* If premiums are

payable on a monthly outstanding balance basis for insurance with a limited benefit period for a full term or limited term coverage period, the monthly premium rates for credit A and H insurance on a single life may not exceed premium rates that are actuarially consistent with the monthly prima facie premium rates published in the *Pennsylvania Bulletin*.

(j) *Joint rates.*

(1) When each debtor is insured for 100% of the monthly A and H payment, the prima facie premium rates for joint credit A and H insurance shall equal 180% of the prima facie premium rates for single A and H coverage.

(2) When each debtor is insured for a specific portion of the monthly disability payment, the prima facie premium rates for joint credit A and H insurance shall equal 100% of the prima facie premium rates for single A and H coverage.

(k) *Actuarially consistent rates.* For credit A and H insurance offered on any other basis, prima facie premium rates shall be actuarially consistent with the rate standards of subsections (d)—(i).

(l) *Adjustment of prima facie rates and loss ratio standards.* By ____ (*Editor's Note:* The blank refers to a date 3 years after the effective date of adoption of this proposal.) and at least every 3 years thereafter, the Department will review the appropriateness of the prima facie premium rates referenced in this section based upon Commonwealth experience data for the preceding 3-calendar years. The nonclaim element of the prima facie premium rates may not be adjusted unless an adjustment is necessary under subsection (m). An adjustment to the prima facie premium rates will not be made if the change in prima facie premium rates so determined would be less than 5%. If an adjustment to the prima facie premium rates is indicated, the Department will publish the new prima facie premium rates in the *Pennsylvania Bulletin*. If an adjustment to the loss ratio standards is indicated, the Department will propose appropriate amendments to § 73.123 (relating to loss ratio standards) to reflect this change.

(m) *Review of nonclaim elements.* By ____ (*Editor's Note:* The blank refers to a date 9 years after the effective date of adoption of this proposal), and at least every 9 years thereafter, the Department will review the changes in the average term and amount of coverage, the changes in fixed and variable expenses and the reasonable profit margin for insurance companies writing credit A and H insurance in this Commonwealth. If this review indicates that a change in the nonclaim elements of the premium rates is necessary, the Department will propose amendments to the loss ratio standards in § 73.123 and thereafter publish new prima facie premium rates in the *Pennsylvania Bulletin*.

§ 73.110. Involuntary unemployment insurance benefits.

(a) *Involuntary unemployment benefits plans.* The prima facie premium rate standards referenced in § 73.112 (relating to involuntary unemployment insurance rate standards) apply to a plan of credit involuntary unemployment insurance benefits, if the plan provides the features of paragraphs (1)—(6). This plan shall be described in a group policy and group certificate or in an individual policy.

(1) Single involuntary unemployment coverage or joint involuntary unemployment coverage for all eligible debtors.

(2) A monthly benefit payable upon involuntary unemployment, subject to any maximum dollar amount of coverage specified in the group policy and group certificate or individual policy, equal to any of the following:

(i) The monthly installment payments required under the contract of indebtedness, for closed end loans.

(ii) The benefit amount as provided in § 73.139(f) (relating to credit insurance on open end loans), for open end loans.

(iii) The benefit amount as provided in § 73.140(d) (relating to credit insurance on closed end variable interest loans), for closed end variable interest loans.

(iv) The benefit amount as provided in § 73.141(f) (relating to credit insurance on lease transactions), for lease transactions.

(3) A coverage period equal to the lesser of the following:

(i) The term of the indebtedness remaining at the time coverage is elected.

(ii) The term of the indebtedness remaining at the time coverage is elected to the time the insured debtor attains an age at which the group policy or group certificate or individual policy provides for coverage to terminate.

(iii) The term of the indebtedness remaining at the time coverage is elected until truncated coverage terminates.

(4) An elimination period as provided by the policy or certificate of 30 days following the commencement of involuntary unemployment, with benefits becoming payable on either a retroactive or nonretroactive basis.

(5) A definition of involuntary unemployment requiring that the debtor be unemployed as a result of nonvoluntary termination from a single job at which the debtor worked for a salary or wages for 30 or more hours a week for at least the 12 months prior to the effective date of insurance coverage. Unemployment due to a lockout as defined in § 73.103 (relating to definitions) will be considered to be involuntary unemployment.

(6) A requirement that the payment of an involuntary unemployment benefit shall cease at the scheduled expiration date of the group certificate or individual policy, or at such time as the indebtedness is prepaid.

(b) *Alternate benefit plans.* Insurers may offer credit involuntary unemployment insurance benefit plans that differ from the plan described in subsection (a). Any alternate plan shall be described in a group policy and group certificate, or in an individual policy, and shall conform to the standards of section 7(b) of the act (40 P. S. § 1007.7(b)). The premium rate standards of § 73.112 apply to alternate benefit plans.

§ 73.111. Involuntary and voluntary unemployment insurance requirements.

A plan of credit involuntary unemployment insurance and a group policy and group certificate or an individual policy describing the plan shall comply with the following:

(1) *Joint coverage basis.* If joint unemployment coverage is provided, it shall be provided either on the basis of each debtor being insured for 100% of the monthly unemployment payment or on the basis of each debtor being insured for a specified portion of the monthly unemployment payment, with the total of these portions equal to 100% of the monthly unemployment payment.

(2) *Joint contract.*

(i) If joint unemployment coverage is provided, a group certificate or individual policy providing joint unemployment coverage shall be issued. Insurers may not issue two single unemployment coverage group certificates or two single individual policies.

(ii) The benefit payable in the case of simultaneous unemployment of both insureds may not exceed the benefit that would be payable if coverage were provided on only one debtor.

(3) *Continuation of coverage.* If joint unemployment coverage is provided and coverage on one of the insured debtors is terminated or voided for any reason other than for termination of the indebtedness, any remaining eligible debtor's coverage shall continue and an equitable adjustment of premium shall be made. The remaining eligible debtor's coverage shall continue under a single unemployment coverage group certificate or individual policy.

(4) *Voiding coverage for ineligible employment.* If a debtor who is not gainfully employed correctly stated employment status information in an application signed by the debtor, and if a group certificate or individual policy is issued, the insurer has the right to void coverage on the debtor, but only within 60 days from the date of issue of the group certificate or individual policy. This action shall be without prejudice to any claim for unemployment that commenced before the termination date.

(5) *Voiding coverage for ineligible age.* If a debtor exceeds the eligibility age for coverage and has correctly stated age information in an application signed by the debtor, and if a group certificate or individual policy is issued, the insurer has the right to void coverage on the debtor, but only within 60 days from the date of issue of the group certificate or individual policy. This action shall be without prejudice to any claim for unemployment that commenced before the termination date.

(6) *Terminating coverage for ineligible age.* When premiums are payable monthly based on the actual monthly outstanding balance, if a debtor who exceeds the age at which coverage is to terminate under a group certificate or individual policy has correctly stated age information in an application signed by the debtor, and premiums continue to be erroneously charged to the debtor, the insurer has the right to terminate coverage as of the next billing date. This action shall be without prejudice to any claim for unemployment that commenced before the termination date.

(7) *Reducing excess coverage.* If an identifiable charge is erroneously made to a debtor for an amount of coverage that exceeds the maximum dollar amount of coverage specified in the group policy and group certificate or individual policy, the insurer has the right to reduce the amount of coverage to the appropriate amount specified in the group policy and group certificate or individual policy, but only within 60 days from the date the identifiable charge is made to the debtor. If coverage is reduced, a refund shall be made of the difference between the actual amount charged and the appropriate amount that should have been charged.

(8) *Contestability.* A contestability provision may not be more restrictive than to provide that coverage on a debtor shall be incontestable after the group certificate or individual policy has been in force during the lifetime of the debtor for 2 years from the date of issue. Coverage shall be contested only based upon information contained in an insurance application signed by the debtor, a copy of

which is furnished, not later than when coverage is contested, to the debtor, a secondary beneficiary or other claimant.

(9) *Equitable premium or benefit adjustment.* A provision specifying an adjustment of premiums or of benefits or of both to be made if information relating to the age of a debtor has been fraudulently misstated shall be considered to be equitable if it places the debtor and the insurer in the position they would have been in had the age information been correctly stated. An adjustment may not be made unless the age information is contained in an application signed by the debtor, a copy of which is furnished, not later than the time the adjustment is made, to the debtor, a secondary beneficiary or other claimant.

(10) *Renewal or refinancing.* With respect to the renewal or refinancing of an existing insured indebtedness, the effective date of coverage on the renewed or refinanced indebtedness shall be the date on which the insurer originally insured the debtor with respect to the indebtedness that is renewed or refinanced.

(11) *Truncated unemployment coverage.*

(i) Truncated credit unemployment insurance may be provided only in connection with loans or credit transactions that are for a term greater than 60 months.

(ii) The truncated coverage period shall be at least 60 months.

(iii) If truncated coverage is elected by a debtor, at the time of the election of the insurance coverage the debtor shall be informed in writing of the term of the insurance coverage and that the coverage will terminate prior to the scheduled maturity date of the indebtedness.

(iv) A group certificate or individual policy providing truncated credit insurance coverage shall disclose both the term of the truncated insurance coverage and that the term of insurance coverage will terminate prior to the scheduled maturity date of the indebtedness. The termination disclosure shall appear in prominent type on the first page of the group certificate or individual policy.

(12) *Cancellation notice.* A group certificate or individual policy providing involuntary unemployment or voluntary unemployment insurance shall contain a disclosure that the benefit provided by the group certificate or individual policy is related to unemployment and that if the insured debtor retires or no longer plans to work, the insured debtor has the right to contact the insurer or creditor to cancel the insurance coverage. This disclosure shall appear in prominent type on the first page of the group certificate or individual policy.

(13) *Proof of unemployment.* For involuntary unemployment coverage, proof of involuntary unemployment may not be limited to eligibility for unemployment compensation benefits.

§ 73.112. Involuntary unemployment insurance rate standards.

(a) *Prima facie involuntary unemployment rates.* Premium rates for credit involuntary unemployment insurance benefits, as described in § 73.110(a) (relating to involuntary unemployment insurance benefits), may not exceed the prima facie premium rates referenced in this section and published in the *Pennsylvania Bulletin*, unless higher premium rates are approved under § 73.122 (relating to deviated rates). Premium rates for benefits that differ from those benefits described in § 73.110(a) may not exceed premium rates that are actuarially

consistent with the prima facie premium rates referenced in this section and published in the *Pennsylvania Bulletin*.

(b) *Debtor insurance charge.* The amount charged a debtor by a creditor for credit involuntary unemployment insurance may not exceed the premium amount charged by the insurer, as computed at the time the charge to the debtor is determined.

(c) *Single premium rates for a 12-month benefit period and a full term coverage period.* If premiums are payable on a single premium basis for insurance with a 12-month benefit period for a full term coverage period, the single premium prima facie premium rates for credit involuntary unemployment insurance on a single life shall be as published in the *Pennsylvania Bulletin*.

(d) *Single premium rates for a 12-month benefit period and a limited term coverage period.* For insurance with a limited term coverage period and a 12-month benefit period, the single premium prima facie premium rates shall be the prima facie premium rates published in the *Pennsylvania Bulletin*, for an installment period equal to the number of monthly installment payments in the limited term coverage period. The single premium shall be determined by multiplying the prima facie rate by the monthly installment payment, by the number of months in the limited term coverage period, divided by 100.

(e) *Monthly outstanding balance rates for a 12-month benefit period and a full term coverage period.* If premiums are payable on a monthly outstanding balance basis for insurance with a 12-month benefit period for a full term coverage period, the monthly prima facie premium rates for credit involuntary unemployment insurance on a single life shall be as published in the *Pennsylvania Bulletin*.

(f) *Monthly outstanding balance rates for a 12-month benefit period and a limited term coverage period.* For insurance with a limited term coverage period and a 12-month benefit period, the monthly prima facie premium rates shall be as published in the *Pennsylvania Bulletin*, for an installment period equal to the number of monthly installment payments in the limited term coverage period. The monthly premium shall be determined by multiplying the prima facie rate by the monthly installment payment, by the remaining number of months in the limited term period, divided by 1,000.

(g) *Joint rates.*

(1) When each debtor is insured for 100% of the monthly unemployment payment, the prima facie premium rates for joint credit involuntary unemployment insurance shall equal 180% of the prima facie premium rates for single involuntary unemployment coverage.

(2) When each debtor is insured for a specific portion of the monthly unemployment payment, the prima facie premium rates for joint credit involuntary unemployment insurance shall equal 100% of the prima facie premium rates for single involuntary unemployment coverage.

(h) *Actuarially consistent rates.* For credit involuntary unemployment insurance on any other basis, prima facie premium rates shall be actuarially consistent with the rate standards of subsections (c)—(f).

(i) *Adjustment of prima facie rates and loss ratio standards.* By ____ (Editor's Note: The blank refers to a date 3 years after the effective date of the adoption of this proposal) and at least every 3 years thereafter, the Department will review the appropriateness of the prima facie premium rates referenced in this section based upon

Commonwealth experience data for the preceding 3-calendar years. The nonclaim element of the prima facie premium rates may not be adjusted unless an adjustment is necessary under subsection (j). No adjustment to the prima facie premium rates will be made if the change in prima facie premium rates so determined would be less than 5%. If an adjustment to the prima facie premium rates is indicated, the Department will publish the new prima facie premium rates in the *Pennsylvania Bulletin*. If an adjustment to the loss ratio standards is indicated, the Department will propose appropriate amendments to § 73.123 (relating to loss ratio standards) to reflect the change.

(j) *Review of nonclaim elements.* By ____ (Editor's Note: The blank refers to a date 9 years after the effective date of adoption of this proposal) and at least every 9 years thereafter, the Department will review the changes in the average term and amount of coverage, the changes in fixed and variable expenses, and the reasonable profit margin for insurance companies writing credit involuntary unemployment insurance in this Commonwealth. If this review indicates that a change in the nonclaim elements of the premium rates is necessary, the Department will propose amendments to the loss ratio standards in § 73.123 and thereafter publish new prima facie premium rates in the *Pennsylvania Bulletin*.

§ 73.113. Voluntary unemployment insurance rate standards.

(a) *Debtor insurance charge.* The amount charged a debtor by a creditor for credit voluntary unemployment insurance may not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

(b) *Premium rates based on loss ratio.* The premium rates shall be based on a loss ratio not less than the loss ratio standard in § 73.123 (relating to loss ratio standards).

(c) *Actuarial memorandum filing.* The insurer shall include, with the rate filing made under § 73.136(a) (relating to filing of forms and rates), an actuarial memorandum which contains the basis of the claim costs used in computing the premium rates.

(d) *Joint rates.*

(1) When each debtor is insured for 100% of the monthly unemployment benefit, the premium rates for joint credit voluntary unemployment insurance shall equal 180% of the premium rates for single voluntary unemployment coverage.

(2) When each debtor is insured for a specific portion of the monthly unemployment benefit, the premium rates for joint credit voluntary unemployment insurance shall equal 100% of the premium rates for single voluntary unemployment coverage.

(e) *Adoption of prima facie rates.* If, in the opinion of the Commissioner, there is sufficient credit voluntary unemployment insurance experience data in this Commonwealth, the Commissioner may establish and adopt prima facie premium rates for voluntary unemployment and procedures for adjusting the prima facie premium rates.

(f) *Review of nonclaim elements.* By ____ (Editor's Note: The blank refers to a date 9 years after the effective date of adoption of this proposal) and at least every 9 years thereafter, the Department will review the changes in the average term and amount of coverage, changes in fixed and variable expenses, and the reasonable profit

margin for insurers writing credit voluntary unemployment insurance in this Commonwealth. If this review indicates that a change in the loss ratio standard is necessary, the Department will propose appropriate amendments to § 73.123 to reflect the change.

§ 73.114. Insurability requirements.

Plans of credit insurance as provided in §§ 73.104(a), 73.107(a) and 73.110(a) (relating to life insurance and life insurance with TPD benefit; A and H insurance benefits; and involuntary unemployment insurance benefits) may provide for either:

- (1) An evidence of insurability requirement.
- (2) No evidence of insurability requirement.

§ 73.115. Benefit exclusions.

Exclusions may be contained in a credit insurance plan as provided in §§ 73.104(a), 73.107(a) and 73.110(a) (relating to life insurance and life insurance with TPD benefit; A and H insurance benefits; and involuntary unemployment insurance benefits).

(1) The following exclusions may be contained in a life insurance plan or a life insurance with TPD benefit plan:

- (i) Death due to suicide within 1 year of the effective date of coverage.
- (ii) TPD due to intentionally self-inflicted injury.
- (iii) A preexisting conditions exclusion due to a condition for which the insured debtor received medical advice, consultation, diagnosis or treatment from a physician within 6 months before the effective date of coverage and due to which death occurs or TPD commences within 6 months after the effective date of coverage. This exclusion applies only if and to the extent that the total amount of all insurance that would otherwise be subject to the preexisting conditions exclusion exceeds \$1,000.
- (iv) For the application of the exclusions contained in subparagraphs (i)—(iii), the effective date of coverage for each portion of the insurance attributable to a different advance under an open end loan, is the date on which the advance or charge occurs, or if later, the date on which coverage is elected.

(2) The following exclusions may be contained in an A and H insurance plan:

- (i) Normal pregnancy.
- (ii) Intentionally self-inflicted injury.
- (iii) Nonscheduled aircraft flight.

(3) The following exclusions may be contained in an involuntary unemployment insurance plan:

- (i) Voluntary resignation of employment.
- (ii) Voluntary leave of absence.
- (iii) Voluntary forfeiture of salary, wages or income.
- (iv) Retirement.
- (v) Injury or disease.
- (vi) Disability.
- (vii) Strike or unionized labor dispute.
- (viii) Discharge by employer for cause.
- (ix) Involuntary unemployment for which severance pay is received by the debtor.

§ 73.116. Age requirements.

(a) *Debtor age provisions.* Plans of credit insurance as provided in §§ 73.104(a), 73.107(a) and 73.110(a) (relating

to life insurance and life insurance with TPD benefit; A and H insurance benefits; involuntary unemployment insurance benefits) may provide for debtor age provisions not less favorable than any of the following:

(1) An age restriction making the debtor ineligible for coverage when one of the following applies:

- (i) The debtor will have attained 65 years of age at the time the indebtedness is incurred.
- (ii) The debtor will have attained 66 years of age on the scheduled maturity date of the indebtedness.

(2) A provision for coverage to terminate when the debtor attains a specified age not less than 66 years. If coverage is written on a single premium basis, the term of the insurance coverage on which the premium is based may not extend beyond the termination age.

(i) A debtor electing coverage that terminates when a specified age is attained shall be provided, at the time of election of insurance coverage, with a written disclosure specifying both the term of insurance coverage and whether the coverage will terminate prior to the scheduled maturity date of the indebtedness.

(ii) A group certificate or individual policy providing coverage that terminates when a specified age is attained shall disclose the term of insurance coverage and shall contain a disclosure whether the term of insurance coverage will terminate prior to the scheduled maturity date of the indebtedness. The termination disclosure shall appear in prominent print on the first page of the group certificate or individual policy.

(b) *Eligibility determination using age.* An age restriction shall be used only to determine initial eligibility for coverage and may not be used as a basis for denying claims or terminating existing coverage, except as provided in subsection (a)(2) and in § 73.105(3) and (4), § 73.108(5) and (6) or § 73.111(5) and (6) (relating to life insurance and life insurance with TPD benefits requirements; A and H insurance requirements; and involuntary and voluntary unemployment insurance requirements).

§ 73.117. Employment eligibility requirements.

Plans of credit accident and health insurance as provided in § 73.107(a) (relating to accident and health insurance benefits) may provide for either:

- (1) Any evidence of gainful employment requirement.
- (2) No evidence of gainful employment requirement.

§ 73.118. Initial eligibility requirements.

Plans of credit involuntary unemployment insurance as provided in § 73.110 (a) (relating involuntary unemployment insurance benefits) may provide for initial eligibility requirements, whereby an insurer may choose to exclude from credit involuntary unemployment coverage, one or more of the following:

- (1) Unemployed individuals.
- (2) Self-employed individuals.
- (3) Military personnel.
- (4) Workers in seasonal or temporary jobs which are designed to last 6 consecutive months or less.

(5) Debtors who have been notified of a layoff or of employment termination occurring within 60 days of the termination notification.

§ 73.119. Combination coverage rate.

If an insurer combines two or more insurance coverages which are provided under separate and distinct policy

forms, and if the debtor may purchase only a package of insurance coverages, the premium rate for the package shall be the sum of the separate approved premium rates for the applicable insurance coverages less a discount of 5% of the sum of the separate approved premium rates.

§ 73.120. Composite term premium rate.

Composite term premium rates may be used under the following conditions:

(1) The insurer shall include in the filing of the composite term premium rates a demonstration that the expected total premium to be collected by the insurer will not exceed the total premium that would be collected if term specific rates were charged.

(2) The composite term premium rates may not exceed by more than 5% any term specific rates within the composite term period.

§ 73.121. Maximum rates.

An insurer may use a rate for an account that is lower than the filed rate applicable to that account without notice to the Department.

§ 73.122. Deviated rates

An insurer may file for approval of and upon approval may use rates that are higher than the prima facie premium rates if the use of the higher rates will result in a loss ratio which is not less than the loss ratio standard in § 73.123 (relating to loss ratio standards). If rates higher than the prima facie rates are filed, the filing shall specify the account to which the rates apply. These rates may be:

- (1) Applied uniformly to all accounts of the insurer.
- (2) Applied on an equitable basis to only one or more accounts of the insurer for which the actual prima facie loss ratio was higher than the applicable loss ratio standard.
- (3) Applied on an equitable basis in accordance with an account rating procedure. The account rating procedure shall be filed with and approved by the Department prior to use.

§ 73.123. Loss ratio standards.

Unless revised loss ratio standards are adopted, the loss ratio standards for the coverages specified shall be as follows:

	<i>Loss Ratio Standard</i>
Credit Life	55%
Credit Life with TPD	55%
Credit Accident and Health	
14-Day Retroactive	65%
14-Day Nonretroactive	65%
30-Day Retroactive	60%
30-Day Nonretroactive	60%
Credit Involuntary Unemployment	
30-Day Retroactive	60%
30-Day Nonretroactive	60%
Credit Voluntary Unemployment	60%

§ 73.124. Duration of deviation.

Deviated rates may not be in effect for a period longer than 3 years. An insurer may file for a new rate before the end of the 3 years, but not more often than once during any 12 month period.

§ 73.125. Portability of rates.

If an account for which a higher (deviated) rate is approved changes insurers, the rate approved for use for

that account by the prior insurer shall be the maximum rate that may be used by any succeeding insurer for the remainder of the applicable rate period, applicable to the prior insurer, or until a new rate is filed for use in connection with the account, if sooner.

§ 73.126. Voluntary unemployment experience reports.

The Commissioner may require on advance notice that each insurer doing credit voluntary unemployment insurance business in this Commonwealth file a report of credit voluntary unemployment insurance written on a calendar year basis. The report shall follow the format specified for credit unemployment insurance of the Credit Insurance Experience Exhibit as required by the annual statement instructions and shall contain separate specific data for this Commonwealth, rather than an allocation of the company's countrywide experience.

§ 73.127. Refunds.

(a) *Refund provision.* If insurance terminates prior to the scheduled maturity date of the indebtedness, a refund of any unearned premium shall be made as follows:

(1) If the indebtedness is discharged due to prepayment, renewal or refinancing prior to the scheduled maturity date, credit insurance shall be terminated and a refund of the unearned premium shall be made.

(2) A refund of any unearned credit A and H insurance premium, credit involuntary unemployment insurance premium or credit voluntary unemployment insurance premium shall be made if the indebtedness is prepaid by the proceeds of credit life insurance or credit life insurance with TPD benefit. The refund of the unearned credit insurance premium shall be in addition to any credit life insurance or TPD benefit proceeds.

(3) A refund of the total premium charged for credit insurance coverage shall be made if coverage is voided ab initio for any reason other than termination of the indebtedness.

(4) If joint coverage on one of the debtors is voided ab initio, a refund of the difference between the premium actually charged for the joint coverage, and the premium that would have been charged if only single coverage had been provided shall be made.

(b) *Refund time frame.* Refunds of premiums paid by or charged to the debtor shall be remitted to the debtor or credited to the debtor's outstanding indebtedness within 10 working days after the agent or group policyholder receives the refund from the insurer.

(c) *Refund notice.* A refund payment shall be accompanied by an explanation that the payment is a refund of premium. If the refund amount has been deducted from the debtor's outstanding indebtedness, the debtor shall be notified in writing that the refund was applied toward the outstanding indebtedness.

(d) *Refund formulas.* Insurers shall file for approval all refund formulas intended for use. A reference to the Rule of 78 shall be acceptable, in lieu of filing the actual formula.

(1) The refund of premiums on a single premium basis shall be calculated by multiplying the original single premium charged, by the appropriate refund factor.

(i) In determining the refund, if fewer than 15 days of insurance coverage has been provided during the loan month, no charge shall be made for that month. If 15 or more days of coverage have been provided during the loan month, a full month may be charged.

(ii) For gross decreasing credit life insurance with or without TPD benefits, the refund shall be computed based on the Rule of 78.

(iii) For level term credit life insurance with or without TPD benefits, the refund shall be computed based on a pro rata basis.

(iv) For full benefit period credit A and H insurance and full benefit period credit involuntary unemployment insurance, the refund shall be computed based on the Rule of 78.

(v) For any coverage not listed in subparagraphs (ii)—(iv), the refund factor shall equal the sum of remaining insured balances divided by the sum of the original insured balances.

(2) Except as provided in § 73.139 (j) (relating to credit insurance on open end loans), the refund of any unearned premiums calculated and remitted to the insured on a monthly outstanding balance basis shall be equal to the monthly premium charged if fewer than 15 days of insurance coverage has been provided during that loan month. If coverage has been provided for 15 or more days of the loan month, no refund of premium is required.

(e) *Minimum refund.* Insurers need not issue refunds for less than \$10.

(f) *Termination and refund disclosures.* The group policy and group certificate or individual policy issued to provide insurance coverage shall disclose the conditions under which the coverage will terminate and under which a premium refund is required. This refund disclosure shall also describe the method used to calculate the premium refund.

§ 73.128. Terminations.

(a) *Individual policy termination.* An individual policy of credit insurance may not be terminated by an insurer, except for nonpayment of premium, prior to the scheduled expiration date of the policy, unless the indebtedness is sooner discharged due to renewal, refinancing or prepayment.

(b) *Continuation of coverage.* If a debtor is insured under a single premium group credit insurance policy, the insurer shall provide that in the event of termination of the policy, insurance coverage with respect to the debtor shall continue with either the original insurer or a new insurer for the entire period for which the single premium has been paid.

(c) *Notice of termination.* If a debtor is insured under a group credit insurance policy providing for the payment of premiums to the insurer on a monthly premium basis, the insurer shall, in the event of termination of the policy, cause a notice of termination to be provided to the insured debtor at least 30 days prior to the effective date of termination. A termination notice is not required if replacement coverage, of at least equal value, takes effect on the effective date of termination. The terminating insurer shall be responsible for assuring that any required termination notice is provided.

(d) *Assumption of coverage.* If an existing group policy is assumed by another insurer, the assuming insurer shall issue to the group policyholder a certificate of assumption for attachment to the group policy. If the entity to which the insured debtor is indebted is other than the group policyholder, the assuming insurer shall make reasonable efforts to notify the entity of the assumption.

§ 73.129. Dividends.

(a) *Dividend payment.* Dividends on participating individual policies of credit insurance may be payable to the owners of the individual policies. Payment of dividends may be deferred until the policy is terminated.

(b) *Nonparticipating policies.* Experience refunds or retrospective premium rate adjustments may not be applied to nonparticipating individual credit insurance policies.

(c) *Dividends or retrospective rate credits as compensation.* Dividends or retrospective rate credits on group policies may be paid or credited to the group policyholder. Dividends or retrospective rate credits, less the policyholder's own contributions, if any, and less any amounts of the dividends or retrospective rate credits paid or credited to the benefit of debtors insured under the group policy, shall be considered compensation for the purpose of § 73.134 (relating to compensation of producers or creditors).

§ 73.130. Election of coverage and disclosure requirements.

(a) *Separate purchase of coverages.* If more than one type of credit insurance coverage is offered for purchase in connection with an indebtedness and each coverage is provided under separate and distinct policy forms, the debtor shall be allowed to separately purchase each credit insurance coverage, unless the premium rate for a package policy is provided under to § 73.119 (relating to combination coverage rate).

(b) *Election of coverage.* If an identifiable charge is made to the debtor for credit insurance coverage, no coverage may be provided unless the debtor is liable under the credit agreement and the coverage is elected and signed for by the proposed insured debtor in the insurance application. If joint life, joint life with TPD benefit, joint A and H, joint involuntary unemployment, or joint voluntary unemployment coverage is offered, and an identifiable charge is made for the joint coverage, each proposed insured debtor shall be liable under the credit agreement, and shall elect the coverage by signing the insurance application. An insurer may require that only one of the joint debtors elect the credit insurance coverage if the following exist:

(1) The insurance application is mailed or electronically transmitted to the debtor and returned to the insurer or creditor by mail or electronically.

(2) The insurance application credit is completed after the application for the indebtedness is completed.

(c) *Single life designation.* In situations where two debtors are each liable for repayment of an indebtedness and insurance coverage on only one life is offered, both debtors shall be provided with the option to elect the coverage, if there is an identifiable charge to the debtor for the coverage. Only one of the debtors must be provided with the opportunity to elect the single coverage if the following exist:

(1) The insurance application is mailed or electronically transmitted to the debtor and returned to the insurer or creditor by mail or electronically.

(2) The credit insurance election is completed after the application for the indebtedness is completed.

(d) *Notice of proposed insurance.* With respect to section 6(4) of the act (40 P. S. § 1007.6(4)), the application and notice of proposed insurance shall be deemed to be prominently set forth in the financial instrument if set

forth in a separate provision on the face or reverse side of the financial instrument in type at least equal in size and prominence to the type used for other provisions of the financial instrument.

§ 73.131. Choice of insurer.

If insurance is required as additional security for an indebtedness, the debtor shall be informed by the creditor prior to completion of an application for credit insurance of the right to provide alternative insurance coverage through existing policies or by procuring and purchasing insurance coverage through an authorized insurer.

§ 73.132. Collection of premiums.

(a) *Collecting premiums as a representative.* If the creditor or its representative collects premiums or an identifiable charge for credit insurance from a debtor, it does so as a representative of the insurer and the moneys so collected shall be deemed received by the insurer for purposes of this chapter.

(b) *Remittance of premiums.* Premiums collected by the creditor from the debtor shall be remitted by the creditor to the insurer on a timely basis. For premiums collected on a single premium basis, premiums shall be remitted not later than 60 days from the last day of the month in which the insurance coverage was purchased. For premiums collected on a monthly outstanding premium basis, premiums shall be remitted not later than 60 days after the last day of the month or billing cycle in which the premiums from the debtor were charged or collected.

§ 73.133. Claims and examination procedures.

(a) *Claim procedures.* Every insurer shall be responsible for the settlement, adjustment and payment of all claims and shall establish and maintain adequate claim files.

(b) *Claim reporting.*

(1) Claims shall be promptly reported by the group policyholder or its representatives to the insurer or its designated claim representative, and all claims shall be settled as soon as practical and in accordance with the terms of the insurance contract.

(2) In the case where both A and H insurance benefit and life insurance with TPD benefit coverages are provided in connection with the same indebtedness, the group policyholder shall report the claim to the insurer for the appropriate coverage prior to or at the end of any applicable elimination period, subject to the group policyholder having received appropriate claim information from the insured debtor.

(c) *Payment of claims.* In addition to the payment of a claim by a draft drawn upon the insurer or by a check of the insurer, claims may also be paid by electronic transfer drawn by the insurer to the order of the claimant to whom payment of the claim is due. If the amount of the insurance payable exceeds the balance which the debtor is obligated to pay to the creditor, the creditor shall pay the excess directly to the beneficiary designated by the debtor or the estate entitled to the excess.

(d) *Settlement of claims.* If a group policyholder has made arrangements with an insurer to draw drafts or checks or make electronic transfers for payment of claims due to the group policyholder, the parties making the draws or electronic transfers may not be directly involved in making loans for the policyholder.

(e) *Creditor examination.* An insurer shall be responsible for conducting a thorough examination of creditors with respect to its credit insurance business during the

first policy year and at least annually thereafter to assure compliance with this chapter and other applicable insurance laws and regulations of the Commonwealth. The examination shall verify the accuracy of premiums or other identifiable insurance charges, premium refunds, claim payments which have been reported to the insurer and any other pertinent information necessary for the insurer to determine that debtors are being afforded proper coverage. Examinations performed by an insurer shall be subject to review by the Department. The group policy shall contain a provision explaining that the account will be examined annually.

(f) *Inspection of examination procedures.* Each insurer shall make available for Department inspection upon request its creditor examination procedures.

(g) *Record of examination.* The insurer shall establish and maintain a written record of each creditor examination. This record shall be maintained for at least 3 years from the date of examination or until the conclusion of the next succeeding regular examination by the Department of its domicile, whichever is later.

(h) *Record of coverage.* An insurer or, at the option of the insurer, the creditor shall establish and maintain adequate credit insurance records for at least 2 years after the termination of an individual debtor's insurance coverage. The records shall identify each individual debtor, the amount insured, the term of the insurance, the charge for the insurance and any refunds of unearned premiums. The records shall be made available for Department review upon request.

§ 73.134. Compensation of producers and creditors.

(a) *Compensation limits.* Premium rates shall be presumed to be excessive if the compensation for writing and handling credit insurance paid to a creditor, producer, or an affiliate, associate, subsidiary, director, officer, employe or other representative of the creditor or producer, exceeds:

(1) For credit life insurance and credit life insurance with TPD benefit, 27% of the prima facie premium rates referenced in § 73.106 (relating to life insurance rate standards) or 27% of the actuarially consistent premium rates for insurance for which prima facie rates are not published in the *Pennsylvania Bulletin*.

(2) For credit A and H insurance or involuntary unemployment insurance, 21% of the prima facie premium rates referenced in §§ 73.109 and 73.112 (relating to A and H insurance rate standards; and involuntary unemployment insurance rates standards) or 21% of the actuarially consistent premium rates for insurance for which prima facie rates are not published in the *Pennsylvania Bulletin*.

(b) *Additional compensation.* When a licensed producer, general producer, general agency or home office producer, having no direct or indirect affiliation or connection with the creditor, is involved in the solicitation of a credit insurance policy, the compensation of 27% as provided in subsection (a) shall be increased to 30% and the compensation of 21% as provided by subsection (b) shall be increased to 25% provided that the entire amount or any part of the additional compensation shall be used solely as commission for the licensed producer, general producer, general agency or home office producer involved in the solicitation. The creditor is prohibited from receiving indirectly or directly all or any portion of the additional 3% or 4% commission.

(c) *Compensation defined.* For purposes of this chapter, "compensation" means money or anything else of value

paid or credited to or on behalf of a group policyholder, producer, or general producer or withheld by a group policyholder, producer, broker or general producer within or outside this Commonwealth in relation to business produced or to be produced or written or to be written in this Commonwealth and paid or credited by or on behalf of the insurer or by any affiliate of the insurer or by another person. Compensation includes, but is not limited to, the following:

- (1) Commissions.
- (2) Fees, including administrative fees, service fees, consulting fees and expense fees.
- (3) Electronic data processing equipment used for purposes other than electronic rate books.
- (4) Electronic data processing services other than the programming of existing electronic data processing equipment used in lieu of rate books or charts.
- (5) Supplies, other than forms approved by the Commissioner and usual and customary claims and reporting forms and envelopes.
- (6) Rental equipment of any type provided by an insurer, its agent or any related person without charge of actual cost or at a charge less than the usual cost.
- (7) Advertising provided by an insurer, its agent or a related person without charge of actual cost or at a charge less than the usual cost.
- (8) Communication devices provided by an insurer, its agent or a related person without charge of actual cost or at a charge less than the usual cost.
- (9) Profit sharing plans.
- (10) Experience rating refunds and credits.
- (11) Dividends as provided in § 73.129 (relating to dividends).
- (12) Dividends received by a producer of credit insurance business who owns in part or whole a reinsurance company which assumes the credit insurance business from the direct insurer, if any of the following criteria are not met:
 - (i) The dividend payment on each share of stock represents no more than a reasonable return on the producer's capital investment.
 - (ii) The direct insurer has not contractually guaranteed to reassume any losses sustained by the reinsurer on the ceded business.
- (13) Expense allowances or reimbursement.
- (14) Stock plans and bonuses.
- (15) Extension of credit.
- (16) Reimbursement for expenditures.

§ 73.135. Licensed producers.

(a) *Individual policy.* All individual policies of credit life insurance, credit A and H insurance or credit involuntary or voluntary unemployment insurance shall be issued only through a producer licensed in this Commonwealth. A person performing in connection with an individual policy a conduct which would fall within the definition of a producer shall be licensed as a producer.

(b) *Employes of creditor or insurer.* If a group policy is issued to a creditor, bona fide employes of the creditor or insurer may issue certificates and perform functions related to the issuance of certificates and administration of the group policy without being licensed as producers.

(c) *Receipt of compensation without licensing.* If a group policy is issued to a creditor, the creditor may, without being licensed as a producer, receive compensation for the issuance of certificates and performance of functions related to the issuance of certificates, subject to the limitation on compensation as provided in § 73.134 (relating to compensation of producers or creditors).

(d) *Licensed agent.* A licensed agent of the insurer who is not employed by the group policyholder may assist the group policyholder with the enrollment of persons in the program and with the issuance of certificates, but may not receive a commission from the group policyholder.

§ 73.136. Filing of forms and rates.

(a) *Approval of forms and rates.* Individual policies, group policies, group certificates, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this Commonwealth and premium rates and formulas used in this Commonwealth shall be filed with the Commissioner for approval in accordance with section 7 of the act (40 P. S. § 1007.7).

(b) *Identification of filing.* Each filing of an individual or group policy or group certificate shall be accompanied by a filing letter describing the specific type of credit instruments with which the form will be used. If the coverage is equal to the net unpaid indebtedness, the filing letter shall describe the method used to determine how the interest is earned. If an approved form is to be used with a type of credit instrument other than that stated in the original filing letter, or the method for earning interest is other than that as stated in the original filing letter, a new filing letter describing the specific type of loan and the interest charge calculation shall be filed.

(c) *Readability.*

(1) Forms shall be written in understandable language, which is not confusing or misleading to a person of average intelligence. Forms shall contain a definition or explanation of terminology that would not be ordinarily understood by a person of average intelligence.

(2) Forms may not contain inconsistent or contradictory language or provisions.

(3) Policies and group certificates shall accurately and completely explain the coverage and conditions of coverage. Group certificates shall be consistent with the group policies and contain provisions applicable only to insured debtors.

(d) *Combination forms.* Insurers may provide life coverage, life coverage with TPD benefit, A and H coverage (any and all benefit plans), or unemployment coverage (any and all benefit plans) on either a single coverage or joint coverage basis within the same policy or certificate. Every individual policy or group certificate shall provide a means of identifying which debtor is insured under which coverage.

(e) *Identity of insurer.*

(1) Forms shall disclose the identity of the insurer.

(2) If more than one insurer provides credit insurance coverages, a multicompany insurance application, policy or group certificate may be used, as long as the form clearly discloses which insurer provides which coverage.

(f) *Credit instrument application.*

(1) If an insurer relies on the credit insurance election portion of a credit instrument as the application for

insurance, the credit insurance election portion shall be filed with the Department for approval. Once approved, the identical credit insurance election portion of the form may be incorporated into other credit instruments without the necessity of refiling the credit insurance election form.

(2) If an insurer relies on the credit election portion of a credit instrument as the application for insurance, the credit insurance election portion shall be clearly differentiated in appearance from the rest of the credit instrument.

(g) *Identification.* No credit insurance rate book, rate chart, rate card, rate table, or refund table may be used or distributed in this Commonwealth, unless the premium payment, gross or net coverage basis and plan of benefits appear therein.

(h) *Out-of-State coverage.* If a group policy of credit insurance has been issued in another state, the insurer shall:

(1) File for approval the group certificate and notice of proposed insurance to be delivered or issued for delivery in this Commonwealth.

(2) Certify that the rates to be charged do not exceed the rates of the insurer on file with the Department.

(3) Identify the applicable rates on file with the Department. If no applicable rates are on file, file for approval the premium rates and formulas in accordance with § 73.106, § 73.109, § 73.112 and § 73.113.

(4) File the group policy with the Department for information purposes only.

§ 73.137. Compensating balances or special deposits.

(a) *Definition.* Compensating balances or special deposit accounts shall include the following:

(1) The deposit of premiums or money to the account of the insurer or an affiliate of the insurer when the account is either noninterest bearing or bearing interest at a rate less than the current market rate. The rate of interest will be considered less than usual if a higher rate of interest could be earned by combining the account with one or more other accounts, unless there is a business reason unrelated to the credit insurance program for maintaining separate accounts.

(2) The remittance of premiums to the insurer after the expiration of the grace period, except as provided in § 73.132(b) (relating to collection of premiums), on a regular basis thereby resulting in an arrearage period which is constant.

(3) The retention of premiums by a producer to whom the financial institution remits premiums beyond a reasonable period of time needed for the producer to remit premiums to an insurer, if the delay is a continuing practice in the premium paying process.

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

(b) *Illegal inducement.* The use of compensating balances or special deposit accounts in connection with a credit insurance program violates section 635 of The Insurance Department Act of 1921 (40 P. S. § 271), section 346 of The Insurance Company Law of 1921 (40 P. S. § 471) and section 5(a)(4) of the Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(4)).

(c) *Premium basis.* The prohibition on compensating balances and special deposits applies regardless of whether premiums are due the insurer on the single premium basis or on the monthly outstanding balance premium basis.

(d) *Nonapplicability.* This section does not prevent an insurer from making deposits in a financial institution which deposits are not related to a credit insurance program.

§ 73.138. Financial statement reserves.

The following reserves for credit insurance policies shall be maintained by insurers doing credit life insurance or credit A and H insurance business in this Commonwealth.

(1) The reserves for credit life insurance may not be less than the reserves as computed using the Commissioners 1980 Extended Term Mortality Table, using mortality rates applicable to male lives for insurance issued prior to or on or after _____. (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) with interest at the rate specified in section 301(c) of the Insurance Department Act of 1921 (40 P. S. § 71).

(2) The reserves for single premium credit A and H insurance or TPD benefits may not be less than the mean of the amounts of unearned premium calculated from gross premiums in force on the following bases:

(i) The pro rata basis.

(ii) Rule of 78 basis.

(3) The reserves for monthly premium credit A and H insurance and TPD benefits may not be less than the amount of unearned premium calculated from gross premiums in force on the pro rata basis.

(4) The claim reserves for credit A and H insurance shall be calculated using a generally accepted actuarial method or other reasonable method acceptable to the Commissioner.

§ 73.139. Credit insurance on open end loans.

(a) *General requirements.* Credit insurance may be provided in connection with open end loans. This insurance is provided on the outstanding balance of the indebtedness, subject to any maximum dollar amount of coverage or limited benefit period specified in the group certificate or individual policy. If no indebtedness exists, the insurance amount shall be zero and shall remain so until an advance or charge occurs under the plan. This section supersedes other provisions of this chapter as they relate to credit insurance on open end loans, to the extent that they are inconsistent.

(b) *Identification.* A credit insurance program designed for use with open end loans shall be identified as such when filed with the Department in accordance with § 73.136 (relating to filing of forms and rates).

(c) *Symbols.* The symbols used in this section shall have the following meaning:

(1) i = actual monthly interest rate (APR/12).

(2) i' = $(i + .0025)$.

(3) n = $\log(z/(z-i))/\log(1+i)$ rounded up to an integer.

(4) NFC = gross/net conversion rate for an open end loan with the monthly benefit equal to a minimum monthly payment that is based on a percentage of the current month's balance.

(5) z = minimum monthly payment expressed as a decimal fraction.

(d) *Life benefit.* The credit life insurance benefit shall be equal to the lesser of:

(1) The amount of the outstanding balance of the indebtedness at the time of death.

(2) The maximum dollar amount of coverage specified in the group certificate or individual policy.

(e) *TPD benefit.* The TPD benefit shall be equal to the lesser of:

(1) The amount of the outstanding balance of the indebtedness at the commencement of the total and permanent disability plus the amount any monthly interest accruing on the net unpaid indebtedness from the date TPD commences until the date the TPD benefit is paid.

(2) The maximum dollar amount of coverage specified in the group certificate or individual policy.

(f) *A and H and involuntary unemployment benefit.* The minimum monthly insurance benefit for A and H insurance and involuntary unemployment insurance shall be equal to the lesser of:

(1) The minimum loan payment for the month in which disability or unemployment commences, excluding indebtedness incurred after the disability or unemployment commences and repayments made during the month in which disability or unemployment commences. The minimum loan payment shall be based on a percentage of the current month's balance.

(2) The maximum monthly dollar amount of coverage specified in the group certificate or individual policy.

(g) A and H and involuntary unemployment premium rates. If the A and H and involuntary unemployment premium rates are based on the net outstanding balance, the premium rates shall be determined as follows:

(1) If the benefit amount is equal to the minimum monthly loan payment and the benefit is paid until the indebtedness existing at the time of disability or involuntary unemployment, including accrued interest, is repaid, the following adjustment shall be made:

(i) For open end loans where the minimum monthly payment is based on a percentage of the current month's balance, the monthly outstanding balance *prima facie* rates published in the *Pennsylvania Bulletin* shall be converted from rates to be applied to gross monthly outstanding balance, to rates to be applied to the net monthly outstanding balance. The following formula may be used:

$$NFC = (n/a_n i) (Op_n)$$

(ii) Each creditor shall have its A and H and involuntary unemployment rate based on the creditor's minimum repayment schedule and current annual percentage rate. The insurer shall review the minimum monthly installment and annual percentage rate of each creditor at least annually. If there is a change in the minimum repayment percentage or the annual percentage rate, and the resulting premium rate is greater than the current premium rate, the insurer may adjust the rate. If the resulting rate is lower than the current premium rate, the insurer shall adjust the rate where the change results in a rate reduction of greater than 5%.

(iii) Either the actual interest rate used in calculating the loan or interest rate intervals may be used when converting the gross premium *prima facie* rates published

in the *Pennsylvania Bulletin* in accordance with subparagraphs (i) and (ii). When interest intervals are used, the monthly interest rate "i" shall be set equal to the midpoint of the range. The interest rate intervals shall be set so as to include all interest rates that produce the same loan duration for a specified payback percentage. The insurer shall include with the premium rate filing, required by § 73.136, a complete description of the method and formulas used to determine the interest rate intervals.

(2) For a benefit plan that is different than the plan described in paragraph (1), the insurer shall include with the premium rate filing, a description of the method and formulas used to determine the coverage period and benefit period, and a description of the method and formulas used to adjust the gross outstanding balance rates for a full coverage period and a full benefit period to net outstanding balance rates for the appropriate coverage period and benefit period. The insurer shall include the actuarial justification of the method.

(h) *Furnishing of forms.* Forms required to be furnished to a debtor as evidence of coverage need be furnished only once for each open end loan and may remain in force until terminated.

(i) *Assumption of coverage.* If an existing group policy providing insurance coverage in connection with open end loans is assumed by another insurer, the assuming insurer shall issue a replacement certificate to each existing certificate holder.

(j) *Premium refund.* Refund of premiums is not required in the event of termination of the coverage, except with respect to the termination of credit A and H, credit involuntary unemployment, or credit voluntary unemployment insurance as provided in § 73.127(a)(2) (relating to refunds).

§ 73.140. Credit insurance on closed end variable interest loans.

(a) *General requirements.* Credit insurance may be provided in connection with closed end variable interest loans. This section supersedes other provisions of this chapter as they relate to credit insurance on closed end variable interest loans to the extent that they are inconsistent.

(b) *Identification.* A credit insurance program designed for use with closed end variable interest loans shall be identified as such when filed with the Department in accordance with § 73.136 (relating to filing of forms and rates).

(c) *Disclosure.* If premiums are payable on a single premium basis and life insurance coverage is provided, the individual policy or group certificate shall contain a disclosure that the insurance benefit may end prior to the maturity date of the loan. If premiums are payable on a single premium basis and A and H, involuntary unemployment or voluntary unemployment insurance coverage is provided, the individual policy or group certificate shall contain a disclosure that the insurance benefits may not be sufficient to pay the entire amount of the periodic loan payment or may end prior to the maturity date of the loan. The disclosure shall appear in prominent type on the first page of the individual policy or group certificate.

(d) *Benefit amount.* Subject to policy limitations, if premiums are payable on a single premium basis, the monthly A and H insurance benefit and the involuntary unemployment insurance benefit shall equal the amount of the original monthly installment payment. Subject to

policy limitations, if premiums are payable on a monthly outstanding balance basis, the monthly A and H and involuntary unemployment insurance benefits shall equal the amount of the monthly installment payment amount on the day disability or unemployment began.

(e) *Coverage term.* If premiums are payable on a single premium basis, the term of the insurance shall extend until the original scheduled maturity date of the indebtedness, unless coverage terminates earlier in accordance with the policy or certificate provisions. If the term of the insurance extends to the original scheduled maturity date of the indebtedness, it may be extended for an additional 2 months to cover delinquencies or extensions due to increased interest rates. If premiums are payable on a monthly outstanding balance basis, the term of the insurance shall extend until the loan is repaid, unless coverage terminates earlier in accordance with the policy or certificate provisions.

(f) *Refund.* A refund of any unearned premiums shall be made as provided in § 73.127 (relating to refunds) if the indebtedness is prepaid prior to the original scheduled maturity date of the indebtedness as a result of a decline in interest rates. The refund shall be based on the term and interest rate applicable at the inception of the loan and the actual elapsed term.

(g) *Premium determination.* If premiums are payable on a single premium basis, the premium shall be based on the expected amount and term of coverage, in consideration of the amount financed, the expected loan term and the interest rate applicable to the loan at the time the insurance is elected.

§ 73.141. Credit insurance on lease transactions.

(a) *General requirements.* Credit insurance may be provided in connection with lease transactions. This section supersedes other provisions of this chapter as they relate to credit insurance on lease transactions, to the extent that they are inconsistent.

(b) *Identification.* A credit insurance program designed for use with lease transactions shall be identified as such when filed with the Department in accordance with § 73.136 (relating to filing of forms and rates).

(c) *Lease filing.* Insurers shall file a lease form and lease worksheet for each total monthly lease payment calculation method. An insurer, which has received approval of filed insurance forms, premiums and refund calculations for use with a particular monthly lease payment calculation method, may use the approved forms, premiums and refund calculations with any lease form providing for the same method. Approved insurance forms may be used with a different total monthly lease payment calculation method if the insurer files the lease form and receives approval of premium and refund calculations. The premium and refund calculations shall be consistent with the manner in which the newly filed total monthly lease payment is calculated.

(d) *Lease payment methodology.* Insurers shall include with the premium rate filing the methodology for calculating the actual monthly lease payment, including such factors as taxes, depreciation, interest, insurance premiums and service fees.

(e) *Coverage basis.* The decreasing credit life insurance benefit or credit life insurance with TPD benefit shall equal the decreasing term lease insurance amount, as defined in § 73.103 (relating to definitions). If the residual amount of a lease transaction is insured, the insurance shall be provided on a level term basis.

(f) *Benefit amount.* The monthly A and H insurance benefit and the involuntary unemployment insurance benefit shall equal the amount of each monthly lease payment. No credit A and H or involuntary unemployment insurance may be provided on the residual amount.

(g) *Payment to beneficiary.* If the credit life or TPD proceeds are applied to continue lease payments, the difference between the sum of the remaining payments plus the amount of level insurance, if applicable, and the sum of the present value of the remaining payments plus the present value of the residual payment, if applicable, shall be paid to the named beneficiary or the estate of the debtor regardless of whether the benefit is paid to the creditor as a lump sum or in installments. The present value shall be calculated using an interest rate not less than 5%.

(h) *Single premium calculation.* If premiums for credit life insurance or credit life insurance with TPD benefit are payable on a single premium basis, the single premium shall equal the sum of:

(1) The single premium for decreasing insurance with an amount of initial insured indebtedness equal to the initial amount of decreasing lease insurance, as defined in § 73.103, and with a number of equal monthly installments equal to the number of months in the lease term, less the number of monthly installments paid at the beginning of the lease.

(2) The single premium for level insurance with an amount of insurance equal to the amount of level lease insurance, as defined in § 73.103, and with a number of monthly installments equal to the number of months in the lease term.

(i) *Single premium formula filing.* Every insurer shall submit its formula for calculating the single premiums for the life, life with TPD, A and H, involuntary unemployment and voluntary unemployment insurance coverages consistent with the calculation of the monthly lease payment.

§ 73.142. Credit insurance on fixed residual loans.

(a) *General requirements.* Credit insurance may be provided in connection with motor vehicle fixed residual value financing. This section supersedes other provisions of this chapter as they relate to credit insurance on fixed residual loans, to the extent that they are inconsistent.

(b) *Identification.* A credit insurance program designed for use with fixed residual value financing shall be identified as such when filed with the Department in accordance with § 73.136 (relating to filing of forms and rates).

(c) *Filing requirement.* Every insurer shall file a fixed residual value financing loan form and the formula demonstrating the manner in which the actual installment payment will be calculated for each installment payment calculation method.

(d) *Level life coverage.* If the fixed residual value amount is insured, life insurance coverage shall be provided on a level term basis.

(e) *A and H and involuntary unemployment coverage.* The monthly A and H insurance benefit and the involuntary unemployment insurance benefit may not exceed the amount of each monthly installment payment. No credit A and H or involuntary unemployment insurance may be provided on the residual amount.

(f) *Single premium gross calculation.* If premiums for credit life insurance or credit life insurance with TPD

benefit are payable on a single premium basis, when the benefit is the gross unpaid indebtedness, the single premium shall equal the sum of the single premium for decreasing insurance with an amount of initial insured gross unpaid indebtedness equal to the sum of the schedule of installment payments and the single premium for level insurance with an amount of insurance equal to the fixed residual value.

(g) *Single premium net calculation.* If premiums for credit life insurance or credit life insurance with TPD benefit are payable on a single premium basis, when the benefit is the net unpaid indebtedness, the single premium shall equal the sum of the single premium for decreasing insurance based on an initial amount financed minus an amount equal to the fixed residual value, and the single premium for level insurance with an amount of insurance equal to the fixed residual value.

(h) *Payment to beneficiary.* If the insurance benefit is the gross unpaid indebtedness, and if the life insurance or TPD proceeds are applied to continue the installment, the group policy and group certificate or individual policy providing the coverage shall provide that the difference between the sum of the remaining payments plus the amount of level insurance, if applicable, and the sum of the present value of the remaining payments plus the present value of the fixed residual value payment, if applicable, shall be paid to the named beneficiary or the estate of the debtor, regardless of whether the benefit is paid to the creditor as a lump sum or in installments. The present value shall be calculated using an interest rate of at least 5%.

§ 73.143. Credit insurance on balloon loans.

(a) *General requirements.* Credit insurance may be provided in connection with balloon loans. This section supersedes other provisions of this chapter as they relate to credit insurance on balloon loans, to the extent that they are inconsistent.

(b) *Identification.* A credit insurance program designed for use with balloon loans shall be identified as such

when filed with the Department in accordance with § 73.136 (relating to filing for forms and rates).

(c) *Disclosure.* Every individual policy or group certificate shall contain a disclosure that neither the A and H nor the involuntary unemployment insurance benefit is provided on the balloon amount of the loan. The disclosure shall appear in prominent type on the first page of the individual policy or group certificate.

(d) *Benefit amount.*

(1) For credit life insurance or credit life insurance with TPD benefit, the balloon amount shall be included in determining the amount of gross unpaid indebtedness or net unpaid indebtedness.

(2) For credit A and H, involuntary unemployment, or voluntary unemployment insurance, no monthly benefit may be provided on the balloon amount.

(e) *Life insurance single premium gross calculation.* If premiums for credit life insurance or credit life insurance with TPD benefit are payable on a single premium basis when the benefit is the gross unpaid indebtedness, the single premium shall equal the sum of the single premium for the decreasing insurance with an amount of initial insured gross unpaid indebtedness equal to the actual amount of initial insured gross unpaid indebtedness minus the balloon amount and the single premium for level insurance with an amount of insurance equal to the balloon amount.

(f) *Life insurance single premium net calculation.* If premiums for credit life insurance or credit life insurance with TPD benefit are payable on a single premium basis when the benefit is the net unpaid indebtedness, the single premium shall equal the sum of the single premium for the decreasing insurance based on the initial amount financed minus the balloon amount and the single premium for level insurance with an amount of insurance equal to the balloon amount.

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