

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE OF THE SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commission TITLE NUMBER: 114

CITE AUTHORITY: West Virginia Code Sections 33-2-10 and 46A-3-109(c)

AMENDMENT TO AN EXISTING RULE: YES NO

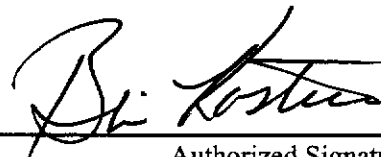
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 61

TITLE OF RULE BEING PROPOSED: Credit Personal Property Insurance

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

SCANNED

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 26, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER
ATTN: Legal Division
1124 Smith Street
Post Office Box 50540
Charleston, West Virginia 25305-0540

LEGISLATIVE RULE TITLE: CREDIT PERSONAL PROPERTY INSURANCE
(TITLE 114, SERIES 61)

1. Authorizing statute(s) citation:

W. Va. Code §§ 33-2-10 and 46A-3-109(c).

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

May 29, 2002 - Comment Period.

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of Public Hearing(s) or Public Comment Period ended:

Comment period ended July 1, 2002.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

**e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)**

July 26, 2002

Insurance Commissioner
Title 114, Series 61

- f. **Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)**

Mary Jane Pickens, Associate Counsel
West Virginia Insurance Commission
Legal Division
P.O. Box 50540
Charleston, WV 25305-0540
Phone: (304) 558-0401, ext. 159

Fax: (304) 558-1362
E-mail: pickensm@mail.wvnet.edu

- g. **IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)**

Not applicable

3. **If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:**

- a. **Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.**

Not applicable

- b. **Date of hearing or comment period:**

Not applicable

- c. **On what date did you file in the State Register the findings and determinations required together with the reasons therefor?**

Not applicable

- d. **Attach findings and determinations and reasons:**

Not applicable

ATTACHMENT TO QUESTION 2 (d):

Three sets of comments were received during the comment period in response to the proposed legislative rule; one from Household Insurance Services (Wesco Insurance Company, or "Wesco"), one from American Health and Life Insurance Company ("AHLIC"), and one from Assurant Group ("Assurant").

A. Household Insurance Services (Wesco Insurance Company)

1. Wesco has requested additional time to comment on the proposed legislative rule, or scheduling of a public hearing. However, this request cannot be accommodated. A thirty day comment period was afforded all those interested in commenting on the proposed rule, and additional time may not be provided while still complying with applicable deadlines in the rule making process.

2. Wesco strongly objects to the strict loss ratio approach set forth in subsection 6.2 of the proposed rule for determining whether or not benefits provided by the policies are reasonable in relation to the premium charged.

Specifically, Wesco states:

- Rather than a strict loss ratio approach of 60%, Wesco suggests a "component rating" approach be used similar to the current NAIC Consumer Credit Insurance Model Act.
- A strict loss ratio approach would require an insurer to abandon sound actuarial practices in determining rates for this coverage.

The Commissioner disagrees with these comments. "Loss ratio" means the incurred losses divided by the sum of earned premiums. In other words, a 60% loss ratio means that of every dollar in earned premium, at least sixty cents must be paid out by the insurer in claims, and the remaining forty cents must go toward the other expense factors set forth in subsection 6.2. The component rating language referred to by Wesco would, rather than set a *prima facie* reasonable loss ratio, require the Commissioner to determine if the loss ratio is reasonable after considering the same factors set forth in subsection 6.2, such as administrative expenses, loss experience, acquisition expenses, creditor compensation, insurer profit, investment income, etc. However, there would still be no "benchmark" reasonable loss ratio standard.

The Commissioner's purpose in proposing this rule is to protect consumers from predatory practices in connection with credit transactions involving insurance. This purpose would be thwarted if the rule allowed insurers to maintain lower loss ratios based upon factors such as administrative expenses, creditor compensation, or insurer profit. The Commissioner believes that the best way to protect consumers in connection with credit personal property insurance is to include a presumption in the rule that the premiums charged will meet the reasonableness requirement if they will develop a 60% loss ratio. Furthermore, the Commissioner cannot designate a loss ratio higher than 60% unless she does so after consideration of the several factors specifically designated in subsection 6.2.

Additionally, there is nothing in the rule that would prevent an insurer from filing new rates for approval by the Commissioner that would result in higher premiums, if the insurer experiences higher administrative costs, losses, etc. than anticipated. However, the new rates would be required to reflect in the supporting calculation the 60% loss ratio. Because the insurer is always free to seek approval for new rates, the strict loss ratio would not jeopardize the financial stability of the company or force it to abandon sound actuarial principles.

3. Wesco also requests that the Commissioner consider applying "longstanding actuarial pricing principles to the determination of credit personal property rates in WV" that were adopted in 1988 by the Casualty Actuary Society (copy attached to Wesco's comments).

In response to this comment, the Commissioner states that her Rates and Forms Division is responsible for determining if the rates filed in connection with credit personal property insurance are reasonable, and that qualified personnel with knowledge of the principles applicable to review of property and casualty insurance are involved in that process.

B. American Health and Life Insurance Company (AHLIC)

1. AHLIC states that the reference to "reverse competition" within the scope of the rule implies that reverse competition is a current problem in WV. In response to this comment, the Commissioner agrees to rewrite Paragraph (5), subdivision a, subsection 1.1 as follows:

"Address problems that could arise from reverse competition in credit insurance markets."

2. Subsection 3.2, which limits the amount of credit personal property coverage that an insurer may issue, states that in connection with a closed-end transaction, an insurer may not issue credit personal property insurance in an amount that exceeds the replacement value of the collateral, up to the amount of the underlying credit transaction (emphasis added). AHLIC requests clarification of whether the insurance amount is limited to the total of payments or the amount financed, and suggests that the limit not exceed the total of payments.

The Commissioner disagrees that the limit should be the total of payments. However, the Commissioner agrees that this needs to be clarified, and agrees to rewrite subsection 3.2 as follows:

"For credit personal property insurance sold in conjunction with a closed-end transaction, an insurer may not issue credit personal property insurance in an amount that exceeds the replacement value of the collateral, up to the amount financed in the underlying credit transaction, or with a term that exceeds in duration the scheduled term of the underlying credit transaction: Provided, that the debtor may obtain, at his or her option, greater coverages for longer periods of time if he or she so desires, as authorized by W.Va. Code §46A-3-109(b)(1)."

3. Under subsections 4.1 and 4.3, dealing with disclosures to debtors, AHLIC believes the disclosure requirements are too extensive.

- In particular, AHLIC feels that the requirement in subdivision e, subsection 4.1 of a brief description of coverage, including description of the major perils, exclusions, deductibles, payee of benefits, and premium, to be provided contemporaneously with the extension of credit, duplicates the certificate provided to the insured debtor at point of sale.
- As an alternative, AHLIC suggests that the disclosure requirements be reworded to require the additional disclosure only where the debtor will not receive a full explanation of coverage as evidenced by a policy or group certificate within 30 days of the extension of credit.
- AHLIC also comments on the language in subsection 4.3 which requires a disclosure in connection with open-end consumer transactions that a premium will be charged based on things for which a claim may not be made, such as services, meals or other consumables, entertainment, finance or service fees, loan interest, delivery charges or other insurance premiums. AHLIC questions whether the Commissioner expects insurers to have information to differentiate between accounts with charges for perishable goods vs. those that only include charges for tangible personal property, and then make a rate adjustment based on that distinction. AHLIC suggests instead a disclosure that all goods and services charged to the account are subject to a premium charge for the insurance purchased.

In response to these comments, the Commissioner believes that the disclosures set forth in subdivision e, subsection 4.1 of the proposed rule need to be made at the time the credit is extended even if it duplicates what the debtor receives in a certificate or policy. The Commissioner believes that the debtor needs this information in order to make an informed decision on purchasing the insurance product.

The Commissioner also does not agree to adopt the alternative language suggested by AHLIC for the disclosure required by subsection 4.3. The rule does not require a rate adjustment based upon the distinction between accounts with charges for perishable goods and accounts with charges for tangible personal property. The alternative language suggested by AHLIC would not list examples of the services and other charges on which premiums are based. A specific disclosure about these types of charges will better inform the debtor of exactly what kinds of charges are being considered in connection with the premium.

4. AHLIC also comments on the 60% loss ratio, stating that it is just too high. Specifically, AHLIC comments:

- The 60% loss ratio in the NAIC Model on which the proposed rule was based was likely developed on the basis of relatively recent insurer experience, reflecting unusually good economic conditions.
- AHLIC suggests a 50% loss ratio as an alternative, which they say is a better balance and will promote companies' financial safety and soundness.
- AHLIC also states that the rule as proposed would allow the Commissioner to set a loss ratio that is higher than 60% based on what it characterizes as a vague standard. As an alternative, AHLIC suggests saying "this requirement [of reasonableness] is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty percent or such loss ratio as designated by the commissioner. (emphasis added) The standard proposed by AHLIC for setting "such loss ratio" is the same as in the proposed rule, i.e. one that affords a reasonable allowance for a catastrophe provision, general and administrative expenses, acquisition expenses, creditor compensation, investment income, premium taxes, licenses, fees, assessments, and insurer profit.

In response to AHLIC's comments regarding the 60% loss ratio, the Commissioner declines to change the *prima facie* reasonable loss ratio to 50%, for reasons set forth in response to Wesco comments, above. The Commissioner further disagrees that the standard for designating a higher loss ratio is vague. In fact, the factors for designating a higher loss ratio in the proposed rule are identical to the standards set forth in the alternative language suggested by AHLIC. The difference in the AHLIC language, however, would allow the loss ratio to be lower or higher based upon that standard, and the Commissioner declines to adopt a lower or higher approach to the loss ratio because it would not be as protective of consumers.

5. AHLIC recommends that subsection 8.1 of the proposed rule, dealing with refund of unearned premium upon cancellation of the policy, be changed to except premiums paid on a monthly basis from the subsection.

In response to this comment, the Commissioner notes that AHLIC has offered no reason or support for this request, and the Commissioner would have to speculate about why AHLIC has made this comment. The proposed provision is consistent with 114CSR6, which regulates credit life and credit accident and sickness insurance, and follows the NAIC model on credit personal property insurance. For these reasons, the Commissioner declines to change subsection 8.1.

C. Assurant Group ("Assurant")

1. Assurant also offered comments on subsection 3.2 of the proposed rule. As noted in response to comments on this subsection from AHLIC, (and including the change made by the Commissioner in response thereto) subsection 3.2 limits the amount of coverage that an insurer may issue to the replacement value of the collateral, up to the amount financed in the underlying credit transaction. Assurant points out that if the value of the collateral is more than the amount of the loan, the debtor would be unable to fully insure the value of the collateral, and asks if this is the intention of this subsection.

The Commissioner responds to this comment by pointing out that subsection 3.2 contains a proviso that allows the debtor to purchase greater coverages for longer periods of time if he or she chooses to do so. Therefore, if the debtor wishes to fully insure collateral worth \$1000, for example, that has been pledged to secure a \$500 loan, the debtor would be free to make that choice under the rule as it is proposed. The Commissioner, however, agrees that the proviso in subsection 3.2 could be made more clear by changing the proviso to read:

" Provided, that the debtor may obtain from the insurer, at his or her option, greater coverages for longer periods of time if he or she so desires, as authorized by W.Va. Code §46A-3-109(b)(1)."

2. Subsection 6.2, regarding the loss ratio, is conflicting according to Assurant. Specifically, Assurant comments:

- If the language "to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit" only modifies the language that says the Commissioner may designate a higher loss ratio, then it must actually allow the Commissioner to designate a "higher or lower loss ratio."
- Assurant wishes to point out that loss ratio is not the only measure of consumer value, noting that solvency of the company is critical. If the Commissioner is really to look at all of the factors listed in subsection 6.2, then "higher or lower" ratio must be allowed to be designated.

In response to these comments from Assurant regarding the loss ratio provisions of subsection 6.2, the Commissioner refers to her above responses to comments from Wesco and AHLIC. The Commissioner disagrees that a “higher or lower” designation is required if the factors set forth in subsection 6.2 are to be considered. Although the Commissioner agrees that the solvency of insurers is critical, she believes that a 60% loss ratio is a necessary protection for consumers. The 60% loss ratio has been fully aired with the insurance industry in connection with adoption of the NAIC model, and insurers have offered the same comments to the model that are being offered to this proposed rule. The Commissioner, in the interest of uniformity promoted by the NAIC models, declines to change the proposed rule with regard to the loss ratio provisions of subsection 6.2.

7/2/02 - Copy to Mary Jane

Claudia H. Ormrod
Household Insurance Services
200 Somerset Corporate Blvd.
Suite 100
Bridgewater, NJ 08807
908-203-2107
908-203-4222 FAX
chormrod@household.com



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JUL 01 2002

LEGAL DIVISION
W.VA. INS. DEPT.

Fax

To: *The Honorable Gene D. Cline* From: Claudia H. Ormrod

Fax: *304-558-0412* Pages: *8* including cover

Phone: Date: *July 1, 2002*

Re: *Legislative Rule Proposal #114CSR61* CC:

Urgent For Review Please Comment Please Reply Please Recycle

● Comments:

Please consider the following comment letter regarding proposed Legislative Rule 114 CSR 61.

Thank you,

Claudia Ormrod

This message is intended for the use of the addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone. Thank you.

HOUSEHOLD

Household Insurance Services
200 Somerset Corporate Blvd.
Suite 100
Bridgewater, NJ 08807
Voice: (908) 203-2107
Fax: (908) 203-4221

Via e-mail to: clineja@mail.wvnet.edu and
Fax to 304-558-0412

July 1, 2002

Insurance Commissioner Jane L. Cline
West Virginia Insurance Commission
1124 Smith Street
Charleston, WV 25301

Re: Proposed West Virginia Legislative Rule 114CSR61 "Credit Personal Property Insurance"

Dear Commissioner Cline:

Wesco Insurance Company (Wesco), an admitted property and casualty insurer in West Virginia, wishes to comment on the proposed Credit Personal Property Insurance Legislative Rule 114CSR61 (hereafter referred to as the "Rule"). Wesco primarily provides credit personal property insurance through affiliated consumer finance branch offices and federally chartered financial institutions to West Virginia consumers. We are very concerned that we have not had sufficient time to analyze and comment on the proposed Rule but wish to provide general comments regarding our initial content review. We request that a public hearing be scheduled to afford industry representatives and the public more time to review and comment on the proposed Rule.

Our initial review indicates that the Commission based the proposed Rule on the recently adopted National Association of Insurance Commissioners (NAIC) Credit Personal Property Model Act (Model Act). While Wesco supports most of the Model Act, there are a few provisions that require "tweaking" and one that was overwhelmingly opposed by the insurer representatives participating in the NAIC drafting sessions. The most objectionable provision is the strict loss ratio approach for determining whether or not benefits provided by credit personal property policies are reasonable in relation to the premium charged, which the Commission has included in Section 114-61-6.6.2 of the proposed Rule.

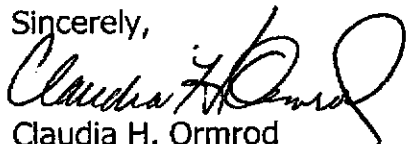
Page 2
West Virginia Proposed Legislative Rule

Instead of a strict loss ratio approach, Wesco recommended that an alternative "component rating" approach be included in the Model Act, similar to that contained in the current NAIC Consumer Credit Insurance Model Act. Property and casualty products have traditionally been priced using all costs associated with providing the product and insuring the risk. The "not less than 60% or such higher" loss ratio standard in the NAIC Model Act only takes claim costs into consideration and does not allow a "reasonable allowance" for the other costs listed in that provision. Those other costs include important property and casualty rate considerations such as catastrophe loading, administrative and marketing expenses, premium taxes, licensing expense, fund assessments, etc. Consequently, Wesco strongly objects to the language in Section 114-61-6.6.2 of the proposed Rule on the grounds that it requires an insurer to abandon sound actuarial practices in determining credit personal property rates. For the Commission's reference, we have included with a fax version of this letter, a copy of the "Statement of Principles Regarding Property and Casualty Insurance Ratemaking" which was adopted in 1988 by the Casualty Actuary Society. We respectfully request that the Commission consider applying these longstanding actuarial pricing principles to the determination of credit personal property rates in West Virginia.

We apologize that we were unable, in the short time frame allotted, to provide more detailed comment on the proposed Rule. We would appreciate another opportunity to provide our comments either through an extension of the comment period or at a public hearing.

Thank you for your consideration.

Sincerely,



Claudia H. Ormrod
Director, Government Relations
Household Insurance Services

CHO

**Statement of Principles Regarding
Property and Casualty Insurance Ratemaking**

(Adopted by the Board of Directors of the CAS May 1988)

The purpose of this Statement is to identify and describe principles applicable to the determination and review of property and casualty insurance rates. The principles in this Statement are limited to that portion of the ratemaking process involving the estimation of costs associated with the transfer of risk. This Statement consists of four parts:

- I. DEFINITIONS
- II. PRINCIPLES
- III. CONSIDERATIONS
- IV. CONCLUSION

The principles contained in this Statement provide the foundation for the development of actuarial procedures and standards of practice. It is important that proper actuarial procedures be employed to derive rates that protect the insurance system's financial soundness and promote equity and availability for insurance consumers.

Although this Statement addresses property and casualty insurance ratemaking, the principles contained in this Statement apply to other risk transfer mechanisms.

I. DEFINITIONS

Ratemaking is the process of establishing rates used in insurance or other risk transfer mechanisms. This process involves a number of considerations including marketing goals, competition and legal restrictions to the extent they affect the estimation of future costs associated with the transfer of risk. This Statement is limited to principles applicable to the estimation of these costs. Such costs include claims, claim settlement expenses, operational and administrative expenses, and the cost of capital. Summary descriptions of these costs are as follows:

—*Incurred losses* are the cost of claims insured.

—*Allocated loss adjustment expenses* are claims settlement costs directly assignable to specific claims.

—*Unallocated loss adjustment expenses* are all costs associated with the claim settlement function not directly assignable to specific claims.

—*Commission and brokerage expenses* are compensation to agents and brokers.

—*Other acquisition expenses* are all costs, except commission and brokerage, associated with the acquisition of business.

—*Taxes, licenses and fees* are all taxes and miscellaneous fees except federal income taxes.

—*Policyholder dividends* are a non-guaranteed return of premium charged to operations as an expense.

—*General administrative expenses* are all other operational and administrative costs.

—*The underwriting profit and contingency provisions* are the amounts that, when considered with net investment and other income, provide an appropriate total after-tax return.

II. PRINCIPLES

Rate-making is prospective because the property and casualty insurance rate must be developed prior to the transfer of risk.

Principle 1: A rate is an estimate of the expected value of future costs.

Rate-making should provide for all costs so that the insurance system is financially sound.

Principle 2: A rate provides for all costs associated with the transfer of risk.

Rate-making should provide for the costs of an individual risk transfer so that equity among insureds is maintained. When the experience of an individual risk does not provide a credible basis for estimating these costs, it is appropriate to consider the aggregate experience of similar risks. A rate estimated from such experience is an estimate of the costs of the risk transfer for each individual in the class.

Principle 3: A rate provides for the costs associated with an individual risk transfer.

Rate-making produces cost estimates that are actuarially sound if the estimation is based on Principles 1, 2, and 3. Such rates comply with four criteria commonly used by actuaries: reasonable, not excessive, not inadequate, and not unfairly discriminatory.

Principle 4: A rate is reasonable and not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer.

III. CONSIDERATIONS

A number of rate-making methodologies have been established by precedent or common usage

within the actuarial profession. Since it is desirable to encourage experimentation and innovation in ratemaking, the actuary need not be completely bound by these precedents. Regardless of the ratemaking methodology utilized, the material assumptions should be documented and available for disclosure. While no ratemaking methodology is appropriate in all cases, a number of considerations commonly apply. Some of these considerations are listed below with summary descriptions. These considerations are intended to provide a foundation for the development of actuarial procedures and standards of practice.

Exposure Unit—The determination of an appropriate exposure unit or premium basis is essential. It is desirable that the exposure unit vary with the hazard and be practical and verifiable.

Data—Historical premium, exposure, loss and expense experience is usually the starting point of ratemaking. This experience is relevant if it provides a basis for developing a reasonable indication of the future. Other relevant data may supplement historical experience. These other data may be external to the company or to the insurance industry and may indicate the general direction of trends in insurance claim costs, claim frequencies, expenses and premiums.

Organization of Data—There are several acceptable methods of organizing data including calendar year, accident year, report year and policy year. Each presents certain advantages and disadvantages; but, if handled properly, each may be used to produce rates. Data availability, clarity, simplicity, and the nature of the insurance coverage affect the choice.

Homogeneity—Ratemaking accuracy often is improved by subdividing experience into groups exhibiting similar characteristics. For a heterogeneous product, consideration should be given to segregating the experience into more homogeneous groupings. Additionally, subdividing or combining the data so as to minimize the distorting effects of operational or procedural changes should be fully explored.

Credibility—*Credibility* is a measure of the predictive value that the actuary attaches to a particular body of data. Credibility is increased by making groupings more homogeneous or by increasing the size of the group analyzed. A group should be large enough to be statistically reliable. Obtaining homogeneous groupings requires refinement and partitioning of the data. There is a point at which partitioning divides data into groups too small to provide credible patterns. Each situation requires balancing homogeneity and the volume of data.

Loss Development—When incurred losses and loss adjustment expenses are estimated, the development of each should be considered. The determination of the expected loss development is subject to the principles set forth in the Casualty Actuarial Society's *Statement of Principles Regarding Property and Casualty Loss and Loss Adjustment Expense Reserves*.

Trends—Consideration should be given to past and prospective changes in claim costs, claim frequencies, exposures, expenses and premiums.

Catastrophes—Consideration should be given to the impact of catastrophes on the experience and procedures should be developed to include an allowance for the catastrophe

exposure in the rate.

Policy Provisions—Consideration should be given to the effect of salvage and subrogation, coinsurance, coverage limits, deductibles, coordination of benefits, second injury fund recoveries and other policy provisions.

Mix of Business—Consideration should be given to distributional changes in deductibles, coverage limitations or type of risks that may affect the frequency or severity of claims.

Reinsurance—Consideration should be given to the effect of reinsurance arrangements.

Operational Changes—Consideration should be given to operational changes such as changes in the underwriting process, claim handling, case reserving and marketing practices that affect the continuity of the experience.

Other Influences—The impact of external influences on the expected future experience should be considered. Considerations include the judicial environment, regulatory and legislative changes, guaranty funds, economic variable, and residual market mechanisms including subsidies of residual market rate deficiencies.

Classification Plans—A properly defined classification plan enables the development of actuarially sound rates.

Individual Risk Rating—When an individual risk's experience is sufficiently credible, the premium for that risk should be modified to reflect the individual experience. Consideration should be given to the impact of individual risk rating plans on the overall experience.

Risk—The rate should include a charge for the risk of random variation from the expected costs. This risk charge should be reflected in the determination of the appropriate total return consistent with the cost of capital and, therefore, influences the underwriting profit provision. The rate should also include a charge for any systematic variation of the estimated costs from the expected costs. This charge should be reflected in the determination of the contingency provision.

Investment and Other Income—The contribution of net investment and other income should be considered.

Actuarial Judgment—Informed actuarial judgments can be used effectively in ratemaking. Such judgments may be applied throughout the ratemaking process and should be documented and available for disclosure.

IV. CONCLUSION

The actuary, by applying the ratemaking principles in this Statement, will derive an estimation of the future costs associated with the transfer of risk. Other business considerations are also a part of ratemaking. By interacting with professionals from various fields including underwriting,

marketing, law, claims, and finance, the actuary has a key role in the ratemaking process.

AMERICAN HEALTH AND LIFE INSURANCE COMPANY

307 West 7th Street
 Suite 400
 Fort Worth, Texas 76102
 Phone: (817) 348-7525
 Fax: (817) 348-7530
 E-mail: laem@ahlifinancial.com

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 LEGAL DIVISION
 W.VA. INS. DEPT.

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ATTORNEY CLIENT COMMUNICATION AND/OR WORK PRODUCT

July 1, 2002

Commissioner Jane Cline
 West Virginia Insurance Commission
 1124 Smith Street
 Charleston, WV 25301

VIA E-MAIL clineja@mail.wvnet.edu
 VIA FAX: 304-558-0412

Re: WEST VIRGINIA RULE, 114 CSR 61 (IDC #02-237)
 Credit Personal Property Insurance

Dear Commissioner Cline:

American Health and Life Insurance Company appreciates the opportunity to submit the following comments on the West Virginia proposed credit personal property rule, 114 CSR 61. Below is a brief discussion of the provisions of the proposed rule which we would like to see modified prior to enactment.

Reverse Competition (Sections 114-61-1.a.5 and 114-61-2.25)

The scope of the proposed rule states one of the purposes is to address "problems arising from reverse competition". While we recognize the need to set forth the scope of the proposed rule, it does not appear to be appropriate to state as fact that reverse competition currently exists in West Virginia with respect to credit property insurance.

Amount of Coverage (Section 114-61-3.2)

This section indicates "an insurer may not issue credit personal property insurance in an amount that exceeds the replacement value of the collateral, *up to the amount of the underlying credit transaction.*" We request the rule be clarified to state whether the insurance amount is limited to the total of payments or the amount financed; and further suggest that the limit not exceed the total of payments.

Disclosures to Debtors (Section 114-61-4.1 and 114-61-4.3)

It appears the proposed rule contemplates the disclosure requirements that are so extensive they would not be satisfied under the existing West Virginia Code or federal laws and regulations. In particular, the statement that "a brief description of coverage, including a description of the major perils and exclusions, any deductible, to whom the benefits would be paid, and the premium or premium rate" be provided to the debtor contemporaneously with the extension of credit duplicates the information set forth in the certificate that is provided to the insured debtor at point of sale. We suggest that the disclosure requirements be reworded to require the additional disclosure only where the debtor will not receive a full explanation of coverage as evidenced by a policy or group certificate within thirty days of the extension of credit.

The disclosure required on open-end consumer transactions by Section 4.3 states: "We are charging you a premium that may be based on things for which a claim cannot be made, such as services, meals or consumables, entertainment, finance or service fees, loan interest, delivery charges or other insurance premiums." Does the Commission have an expectation that insurers will have the information to differentiate between account balances that include charges for perishable goods, services and fees vs. those that include only charges for tangible personal property, and make a rate adjustment based on that distinction? We suggest a simple statement that all goods and services charged to the account are subject to a premium charge for the insurance purchased.

Loss Ratio (Section 114-61-6.2)

The language of this section allows the Commissioner to set the definition of benefits reasonable in relation to the premium charged using a minimum loss ratio of 60%. We respectfully contend that a base loss ratio of 60% is too high. This loss ratio was likely developed on the basis of relatively recent insurer experience, reflecting extraordinarily good economic conditions. A loss ratio of not more than 50% would better balance consumer interests and the interests of insurers - and the Insurance Commission - in promoting companies' financial safety and soundness.

Of additional concern is the provision that will allow the Commissioner to set a higher loss ratio based on what appears to be a vague standard of reasonableness. We submit the following language for your consideration:

"This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty percent or such loss ratio as designated by the commissioner. The commissioner will designate a loss ratio that affords a reasonable allowance for a catastrophe provision, general and administrative expenses, acquisition expenses, creditor compensation, investment income, premium taxes, licenses, fees, assessments, and insurer profit."

Refund of Unearned Premium Section 114-61-8.1

We recommend that premiums paid on a monthly basis not be subject to this section.

We appreciate your consideration of these comments. If you have any questions, please do not hesitate to contact me at 817-348-7525.

Sincerely,

**AMERICAN HEALTH AND LIFE
INSURANCE COMPANY**


Marla Dana Lee

Vice President and Assistant General Counsel

MDL/dkg

Cc: Larry Diehl, CCIA

Bcc: DG, RA, PD, DC, RR, NJ, DH, JH, MS, NG, AS, BS and CR

Direct Dial: (770) 763-2504
Facsimile: (770) 859-4632
barbara_hollonquest@assurant.com

260 Interstate North Circle, NW
Atlanta, Georgia 30339-2111
Mailing: P.O. Box 50355
Atlanta, Georgia 30302-0355
Telephone 770.763.1000
Facsimile 770.859.4632

Internet: www.assurant.com

Assurant Group

June 27, 2002

RECEIVED

Via e-mail to: clineja@mail.wvnet.edu and U.S. Mail

JUL 02 2002

LEGAL DIVISION
W.VA. INS. DEPT.

Jane L. Cline
Commissioner of Insurance
State of West Virginia
Charleston, WV 25301

Re: Proposed Legislative Rule 114CSR61 Concerning Credit Personal Property Insurance

Dear Commissioner Cline:

Member companies of Assurant Group include American Security Insurance Company, American Bankers Assurance Company of Florida, and other insurance companies. The companies of Assurant Group write credit personal property insurance and other specialty insurance products. We appreciate the opportunity to comment on proposed Legislative Rule 114CSR61 concerning credit personal property insurance.

Under proposed §114-61-3.2 if the value of the collateral pledged exceeds the amount of the loan, a borrower purchasing dual interest credit personal property insurance would not be able to fully insure the value of that collateral. Is this the intention of this section?

The language in proposed §114-61-6.2 is conflicting. The section states in part "This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than sixty per cent or such higher loss ratio as designated by the commissioner to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit."

If the phrase "to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit" is intended to have the affect on rates that the language appears to contemplate, it must allow the Commissioner to designate a "higher or lower" loss ratio. If a consideration of all the elements listed in § 114-61-6.2 indicates that the

Jane L. Cline
Commissioner of Insurance
June 27, 2002
Page 2 of 2

loss ratio should be 55%, the Commissioner would be unable to establish such a loss ratio and insurers writing the coverage would be doing so at rates not prudent for solvency purposes.

Loss ratio is not the only measure of consumer value. Other elements of consumer value include product satisfaction, convenience, and peace of mind. An often-overlooked value to consumers is insurer solvency. An insurer's financial ability to meet its obligations to policyholders is the ultimate consumer protection. Consideration of each of the items described in §114-61-6.2 (a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit) helps to assure insurer solvency. A reasoned consideration of those items must allow the Commissioner the authority to designate a "higher or lower" loss ratio.

Thank you for this opportunity to comment on proposed Legislative Rule 114CSR61. If you have any questions or concerns, please contact me at the address or telephone number on the letterhead, or by email to barbara_hollonquest@assurant.com.

Sincerely,



Barbara J. Hollonquest
Regional Director Government Relations

abm:bjh

Insurance Commissioner
Legislative Rule
Title 114, Series 61

CREDIT PERSONAL PROPERTY INSURANCE

TITLE 114, SERIES 61

BRIEF SUMMARY OF RULE

This rule will apply to all credit personal property insurance written in connection with credit transactions for personal, family or household purposes. The rule will provide standards for approval of rates and forms for credit personal property insurance, limit the use of credit personal property insurance to certain transactions and define the amount and terms of the insurance in connection with certain credit transactions, require certain notices to consumers about the insurance, and provide guidance for determining whether the amount, terms and conditions of property insurance are reasonable in relation to the character and value of the property insured.

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CREDIT PERSONAL PROPERTY INSURANCE

TITLE 114, SERIES 61

STATEMENT OF CIRCUMSTANCES

Currently, only credit life and credit accident and sickness insurance are subject to an insurance commissioner rule, found at 114CSR6. The credit personal property insurance rule will create a legal framework within which insurance covering losses to property that is purchased through a credit transaction, or pledged as collateral in connection with a credit transaction, may be written in West Virginia. This rule will apply to all credit personal property insurance written in connection with credit transactions for personal, family or household purposes. The rule will provide standards for approval of rates and forms for credit personal property insurance, limit the use of credit personal property insurance to certain transactions and define the amount and terms of the insurance in connection with certain credit transactions, require certain notices to consumers about the insurance, and provide guidance for determining whether the amount, terms and conditions of property insurance are reasonable in relation to the character and value of the property insured.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Credit Personal Property Insurance
Title 114, Series 61

Type of Rule: X Legislative Interpretive Procedural

Agency: Insurance Commissioner

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

=====

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	None	None	None	None	None
PERSONAL SERVICES	None	None	None	None	None
CURRENT EXPENSE	None	None	None	None	None
REPAIRS AND ALTERNATIONS	None	None	None	None	None
EQUIPMENT	None	None	None	None	None
OTHER	None	None	None	None	None

2. Explanation of above estimates:

The rule will have no additional fiscal impact upon state, local or federal government.

3. Objectives of these rules:

These rules are intended to protect insurance consumers by providing standards for approval of rates and forms for credit personal property insurance. The rule will provide guidance for determining whether the amount, terms and conditions of property insurance are reasonable in relation to the character and value of the property insured. Currently, only credit life and credit accident and sickness insurance are subject to

Rule Title: Credit Personal Property Insurance
Title 114, Series 61

an insurance commissioner rule, found at 114CSR6. This new rule will create a legal framework within which insurance covering losses to property that is purchased through a credit transaction, or pledged as collateral in connection with a credit transaction, may be written in this State. The rule will apply to all credit personal property insurance written in connection with credit transactions for personal, family or household purposes.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

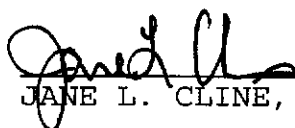
This rule should have no economic impact on political subdivisions. It will only have an economic impact on specific industries or any specific groups of citizens to the extent that the rule provides guidelines that may not currently be followed by the insurance industry with respect to credit property insurance that will protect consumers from certain predatory or unfair practices by the industry. The rule will have no economic impact on insurance companies or their customers if the companies are not engaging currently in such practices.

C. Economic Impact on Citizens/Public at Large.

There could be an economic benefit to citizens or the public at large as a result of the promulgation of this rule, to the extent that it places standards on rates and forms for writers of credit property insurance. For example, the rule will require a loss ratio (meaning incurred losses divided by the sum of earned premiums) of at least 60%. This requirement will mean that consumers will pay a fair premium for the coverage they receive.

Date: July 26, 2002

Signature of Agency Head or Authorized Representative



JANE L. CLINE, INSURANCE COMMISSIONER

114CSR61
WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 61
CREDIT PERSONAL PROPERTY INSURANCE

Section

- 114-61-1. General.
- 114-61-2. Definitions.
- 114-61-3. Amount, Term and Coverage of Credit Personal Property Insurance; Prohibited Practices.
- 114-61-4. Disclosure to Debtors; Provisions of Policies; and Certificates of Insurance.
- 114-61-5. Filing and Approval of Rates and Forms.
- 114-61-6. Reasonableness of Benefits in Relation to Premium Charge.
- 114-61-7. Experience Reports.
- 114-61-8. Cancellation and Refund of Unearned Premium.
- 114-61-9. Claims.

114CSR61 RECEIVED
WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER 02 JUL 26 PM 2:47

SERIES 61
CREDIT PERSONAL PROPERTY INSURANCE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§114-61-1. General.

1.1. Scope. --

a. The purposes of this rule are to:

1. Promote the public welfare by regulating credit personal property insurance;
2. Create a legal framework within which credit personal property insurance may be written in this state;
3. Help maintain the separation between creditors and insurers;
4. Minimize the possibilities of unfair competitive practices in the sale of credit personal property insurance; and
5. Address problems that could arise from reverse competition in credit insurance markets.

b. This rule applies to:

1. An insurer or producer transacting credit personal property insurance as defined in this rule; and
2. All credit personal property insurance written in connection with credit transactions for personal, family or household purposes, except:
 - A. Transactions involving extensions of credit primarily for business or commercial purposes;
 - B. Insurance on motor vehicles designed for highway use and mobile homes;
 - C. Insurance written in connection with a credit transaction that is secured by a real estate mortgage or deed of trust;

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D. Creditor-placed insurance;

E. Title insurance;

F. Non-filing insurance;

G. Insurance purchased by a creditor after repossession or a similar event where the creditor gains possession of the property; and

H. Insurance for which no identifiable charge is made to or collected from the debtor.

1.2. Authority. -- W. Va. Code §§33-2-10 and 46A-3-109(c).

1.3. Filing Date. --

1.4. Effective Date. --

§114-61-2. Definitions.

2.1. "Closed-end credit" means a credit transaction that does not meet the definition of open-end credit.

2.2. "Collateral" means personal property in which a purchase money security interest is retained, or that is pledged as security for the satisfaction of a debt.

2.3. "Commissioner" means the West Virginia insurance commissioner.

2.4. "Compensation" means commissions, dividends, retrospective rate credits, service fees, expense allowances or reimbursements, gifts, furnishing of equipment, facilities, goods and services or any other form of remuneration that is paid either directly or indirectly as a result of the sale of credit property insurance.

2.5. "Credit agreement" means the written document that sets forth the terms of the credit transaction and includes the security agreement.

2.6. "Credit personal property insurance" means a policy, endorsement, rider, binder, certificate or other instrument or evidence of insurance written in connection with a credit transaction that:

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a. Covers perils to the goods purchased through a credit transaction or used as collateral for a credit transaction and that concerns a creditor's interest in the purchased goods or pledged collateral either in whole or in part; or

b. Covers perils to goods purchased in connection with an open-end credit transaction.

2.7. "Credit transaction" means a transaction by which the repayment of money loaned or credit commitment made, or payment of goods, services or properties sold or leased, is to be made at a future date or dates.

2.8. "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges for which payment is arranged through a credit transaction, or any successor to the right, title or interest of a lender, vendor or lessor and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any person in any way associated with any of them.

2.9. "Creditor-placed insurance" means insurance that is purchased unilaterally by the creditor, who is the named insured, subsequent to the date of the credit transaction, which provides coverage against loss, expense or damage to the collateralized personal property as a result of fire, theft, collision or other risks of loss that would either impair a creditor's interest or adversely affect the value of collateral covered by dual interest insurance. It is purchased according to the terms of the credit agreement as a result of the debtor's failure to provide required insurance, with the cost of the coverage being charged to the debtor. It shall be either single interest insurance or dual interest insurance.

2.10. "Debtor" means the borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

2.11. "Dual interest insurance" means credit personal property insurance covering the seller's or creditor's interest and at least partially the borrower's interest in the goods purchased through the credit transaction or pledged as collateral for the credit transaction.

2.12. "Experience" means earned premiums and incurred losses during the experience period.

2.13. "Experience period" means the most recent period of time for which earned premiums and incurred losses are reported, but not for a period longer than three (3) full years.

2.14. "Finance charge" means any charge payable directly or indirectly as an incident to

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or as a condition of the extension of credit, including but not limited to interest or time price differentials; amount payable under a discount system of additional charges; service, transaction or carrying charges; loan fees; points or similar charges; appraisal fees; or charges incurred for investigating the credit-worthiness of the consumer. The term shall not include charges as a result of default, taxes, license fees, delinquency charges or filing fees.

2.15. "Gross debt" means the sum of the remaining payments owed to the creditor by the debtor.

2.16. "Incurred losses" means total claims and claim adjustment expenses paid during the experience period plus any change in claim and claim adjustment expense reserves.

2.17. "Identifiable charge" means a charge for credit personal property insurance that is made to debtors having such insurance and not made to debtors not having such insurance. It includes a charge for insurance that is disclosed in the credit or other instrument furnished to the debtor which sets out the financial elements of the credit transaction and any difference in the finance, interest, service or other similar charge made to debtors who are in like circumstances except for the insured or noninsured status of the debtor.

2.18. "Insurance Producer" means a person as defined in W. Va. Code §33-12-2(f), that receives compensation for insurance written or that, on behalf of an insurer or creditor, solicits, negotiates, effects, procures, delivers, renews, continues or binds credit personal property insurance to which this rule applies.

2.19. "Insurer" means insurer as identified in W. Va. Code §33-1-2.

2.20. "Loss ratio" means incurred losses divided by the sum of earned premiums.

2.21. "Mobile home" means "manufactured home" as that term is defined in W. Va. Code §37-15-2(g), "mobile home" as that term is defined in W. Va. Code §37-15-2(h), or "modular home" as that term is defined in W. Va. Code §37-15-2(i).

2.22. "Net debt" means the amount necessary to liquidate the remaining debt in a single lump-sum payment, excluding all unearned interest and other unearned finance charges.

2.23. "Non-filing insurance" means insurance that indemnifies the creditor for loss of its interest in the collateral due to the failure to perfect a security interest.

2.24. "Open-end credit" means credit extended by a creditor under an agreement in which:

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- a. The creditor reasonably contemplates repeated transactions;
- b. The creditor imposes a finance charge from time to time on an outstanding unpaid balance; and
- c. The amount of credit that may be extended to the debtor during the term of the agreement, up to any limit set by the creditor, is generally made available to the extent that any outstanding balance is repaid.

2.25. "Reverse competition" means competition among insurers that regularly takes the form of insurers vying with each other for the favor of persons who control, or may control, the placement of the insurance with insurers. Reverse competition tends to increase insurance premiums or prevent the lowering of premiums in order that greater compensation may be paid to persons for such business as a means of obtaining the placement of business. In these situations, the competitive pressure to obtain business by paying higher compensation to these persons overwhelms any downward pressures consumers may exert on the price of insurance, thus causing prices to rise or remain higher than they would otherwise.

2.26. "Single interest insurance" means credit personal property insurance covering only the seller's or creditor's interest in the goods purchased through the credit transaction or pledged as collateral in the credit transaction.

2.27. "Title insurance" means insurance as defined in W. Va. Code §33-1-10(f)(4).

**§114-61-3. Amount, Term and Coverage of Credit Personal Property Insurance;
Prohibited Practices.**

3.1. For credit personal property insurance sold in conjunction with a closed-end transaction, an insurer may not issue credit personal property insurance coverage unless the amount financed exceeds five hundred dollars.

3.2. For credit personal property insurance sold in conjunction with a closed-end transaction, an insurer may not issue credit personal property insurance in an amount that exceeds the replacement value of the collateral, up to the amount financed in the underlying credit transaction, or with a term that exceeds in duration the scheduled term of the underlying credit transaction: Provided, that the debtor may obtain from the insurer, at his or her option, greater coverages for longer periods of time if he or she so desires, as authorized by W.Va. Code §46A-3-109(b)(1).

3.3. Credit personal property insurance coverage shall, at a minimum, include the

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coverages in the standard fire policy with coverage attachment, extended coverage endorsement, and replacement cost provision endorsement.

3.4. Credit personal property insurance shall cover a substantial risk of loss of or damage to the property related to the credit transaction.

3.5. An insurer may not require the bundling of other credit insurance coverages with the purchase of credit personal property insurance coverage. A debtor shall have the choice to purchase credit personal property insurance separate from other credit insurance coverage.

3.6. An insurer shall not use gross debt as an exposure base in determining credit personal property insurance premiums.

§114-61-4. Disclosure to Debtors; Provisions of Policies; and Certificates of Insurance.

4.1. The following shall be disclosed to the debtor in writing, and may be combined with other disclosures required by W. Va. Code §46A-3-109(b)(4), or by federal laws and regulations:

- a. That the purchase of credit personal property insurance through the creditor is optional and not a condition of obtaining credit approval;
- b. If more than one kind of credit insurance is being made available to the debtor, that the debtor can purchase credit personal property insurance separately;
- c. That if the consumer has other insurance that covers the risk, he or she may not want or need credit personal property insurance;
- d. That within the first thirty days after receiving the individual policy or certificate of insurance, the debtor may cancel the coverage and have all premium paid by the debtor refunded or credited. Thereafter, the debtor may cancel the policy at any time during the term of the loan and receive a refund of any unearned premium. However, only in those instances where the creditor requires evidence of insurance for the extension of credit, the debtor may be required to offer evidence of alternative insurance acceptable to the creditor at the time of cancellation;
- e. A brief description of the coverage, including a description of the major perils and exclusions, any deductible, to whom the benefits would be paid, and the premium or premium rate for the credit personal property coverage; and
- f. If the premium or insurance charge is financed, that it will be subject to finance

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charges at the rate applicable to the credit transaction.

4.2. The disclosures required in subsection 4.1 shall be provided in the following manner:

a. In connection with credit personal property insurance offered contemporaneously with the extension of credit or offered through direct mail advertisements, the disclosures shall be made in writing and presented to the consumer in a clear and conspicuous manner; and

b. When the offer of credit personal property insurance is subsequent to the extension of credit or not offered by direct mail advertisements, the disclosures may be provided in conjunction with the offer either orally or electronically so long as written disclosures are provided to the debtor no later than the earlier of:

1. Ten days after the election to purchase the credit personal property insurance; or
2. The date any other written material is provided to the debtor.

4.3. An offer to extend coverage for an open-end consumer transaction shall include, at the time of the invitation to contract, the written disclosure below in no smaller than twelve-point type. If the solicitation is made by telephone the disclosure may be summarized and given orally, provided that written disclosure is mailed to the debtor within ten days of enrollment.

“This coverage might duplicate existing coverage if you have a residential property insurance policy. It applies to any item of covered property on which you owe a debt. This coverage is primary, so it is the first source to be used in the event of a loss on property it covers. You may cancel this coverage at any time by calling the insurer at the telephone number provided to you, or by writing to the insurer. We are charging you a premium that may be based on things for which a claim cannot be made, such as services, meals or other consumables, entertainment, finance or service fees, loan interest, delivery charges or other insurance premiums.”

4.4. All credit personal property insurance shall be evidenced by an individual policy or a certificate of insurance that shall be delivered to the debtor. The individual policy or certificate of insurance shall, in addition to other requirements of law, set forth the following:

- a. The name and home office address of the insurer;
- b. The name or names of the debtor or debtors, or, in the case of a certificate of

**Insurance Commissioner
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insurance, the identity by name or otherwise of the debtor or debtors;

c. The premium or amount of payment by the debtor, except that for open-end credit, the premium rate and balance to which the rate applies shall be specified;

d. A full description of the coverage or coverages including the amount and term thereof, and any exceptions, limitations, and exclusions;

e. A statement that the benefits shall be paid to the creditor to reduce or extinguish the unpaid debt or to repair or replace the property and, whenever the amount of loss payment exceeds the unpaid debt, that any excess payment shall be payable to the debtor;

f. If the scheduled term of the insurance is less than the scheduled term of the credit transaction, a statement to that effect on the face of the individual policy or certificate of insurance in not less than twelve-point bold face type; and

g. If the policy is issued to cover open-end consumer transactions, it shall provide that the policyholder or certificate holder will be furnished the following disclosure notice with the account statement at least annually in no smaller than twelve-point type:

“You are paying credit property insurance premium based on the outstanding balance of this account. You may cancel this coverage at any time by calling the insurer at the telephone number the insurer has provided to you, or by writing to the insurer. Your premium may be based on things for which a claim cannot be made, such as services, meals or other consumables, entertainment, finance or service fees, loan interest, delivery charges, or other insurance premiums.”

4.5. Except as provided in subsection 4.6, the individual policy or group certificate shall be delivered to the debtor upon acceptance of the insurance by the insurer.

4.6. An individual policy or group certificate delivered in conjunction with an open-end credit agreement or any credit personal property insurance requested by the debtor after the date the indebtedness is incurred shall be delivered within thirty days of the date the insurance is requested by the debtor.

§114-61-5. Filing and Approval of Rates and Forms.

All policies, certificates of insurance, group and individual applications for insurance and enrollment forms, endorsements and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner and approved

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according to the provisions of article twenty, chapter thirty-three of the West Virginia Code.

§114-61-6. Reasonableness of Benefits in Relation to Premium Charge.

6.1. An insurer may revise its schedule of premium rates from time to time and shall file the revised schedules with the commissioner pursuant to the filing requirements in section five of this rule. An insurer shall not issue a credit personal property insurance policy for which the premium rates exceed that determined by the approved schedules of the insurer then on file with the commissioner.

6.2. Benefits provided by credit personal property insurance policies shall be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than sixty percent or such higher loss ratio as designated by the commissioner to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit.

6.3. For open-end credit transactions, an insurer's rating plan shall address, by grouping of like accounts, the expected variance in the mix of goods purchased that are covered under the credit personal property coverage versus items purchased that are not covered under the credit personal property coverage. Accounts shall be separated into groupings that possess or are expected to possess a similar mix of covered goods purchased versus not covered goods purchased.

§114-61-7. Experience Reports.

An insurer doing insurance business in this state shall annually file with the commissioner and the National Association of Insurance Commissioners (NAIC) a report of credit personal property insurance written on a calendar year basis. The report shall utilize the Credit Insurance Supplement-Annual Statement Blank approved by the NAIC, and shall contain data separately for each state, rather than an allocation of the company's countrywide experience. The filing shall be made in accordance with and no later than the due date in the Instructions to the Annual Statement.

§114-61-8. Cancellation and Refund of Unearned Premium.

8.1. Upon cancellation for any reason, the debtor is entitled to a refund of unearned premiums calculated on a daily pro rata basis. No refunds of less than one dollar are required.

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§114-61-9. Claims.

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

9.2. All claims shall be paid either by draft drawn upon the insurer, by electronic funds transfer, or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of the claimant to the party specified by the claimant.

9.3. No plan or arrangement may be used whereby any person, firm or corporation other than the insurer or its designated claim representative is authorized to settle or adjust claims. The creditor may not be designated as claim representative for the insurer in adjusting claims: *Provided*, that once the amount is determined a group policyholder may, by arrangement with the group insurer, draw drafts, checks or electronic transfers in payment of claims due to the group policyholder subject to audit and review by the insurer.

9.4. No claim may be denied because the debtor was ineligible for coverage later than ninety days after the initiation of coverage unless the debtor misrepresented a material fact. If a claim is denied because the debtor was ineligible for coverage within ninety days after initiation of coverage or because the debtor misrepresented a material fact for coverage, the insurer shall refund to the debtor all premium paid and the creditor shall refund any finance charge paid on the premium.

9.5. All claims for credit personal property insurance shall be subject to W. Va. Code §33-11-4(9).



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Legal Division

BOB WISE
Governor

JANE L. CLINE
Insurance Commissioner

July 26, 2002

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Ms. Cooper:

Please find herewith, one (1) copy of the following for filing:

- 1) Notice of Agency Approval of a Proposed Rule and Consent of Cabinet Secretary of Tax and Revenue;
- 2) Legislative Rule-Making Review Committee Questionnaire;
- 3) Brief Summary of Rule;
- 4) Statement of Circumstances;
- 5) Fiscal Note for Proposed Rule; and
- 6) Agency approved proposed rule entitled "Credit Personal Property Insurance" (Title 114, Series 61).

Please contact me if further information is required.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jane L. Cline".

Jane L. Cline
Insurance Commissioner

JLC/jz
Attachments