

## CREDIT PERSONAL PROPERTY INSURANCE MODEL ACT

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### Section 1. Purpose

- A. The purposes of this Act 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 the problems arising from reverse competition in credit insurance markets.
- B. Nothing in this Act is intended to prohibit or discourage reasonable competition. The provisions of this Act shall be liberally construed.

### Section 2. Scope

- A. This Act applies to an insurer or producer transacting credit personal property insurance as defined in this Act.
- B. All credit personal property insurance written in connection with credit transactions for personal, family or household purposes is subject to the provisions of this Act, except:

**Drafting Note:** A state may wish to authorize the commissioner to adopt the consumer protections in this model as a regulation. If so, this model can generally be adopted as a regulation with minor editorial changes.

- (1) Transactions involving extensions of credit primarily for business or commercial purposes;
- (2) Insurance on motor vehicles designed for highway use and mobile homes;
- (3) Insurance written in connection with a credit transaction that is secured by a real estate mortgage or deed of trust;

- (4) Creditor-placed insurance;
- (5) Title insurance;
- (6) Non-filing insurance; and
- (7) Insurance purchased by a creditor after repossession or a similar event where the creditor gains possession of the property; and
- (8) Insurance for which no identifiable charge is made to or collected from the debtor.

**Section 3. Definitions**

As used in this Act:

- A. “Closed-end credit” means a credit transaction that does not meet the definition of open-end credit.
- B. “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.
- C. “Commissioner” means the insurance supervisory authority of the state.
- D. “Compensation” means commission, 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.
- E. “Credit agreement” means the written document that sets forth the terms of the credit transaction and includes the security agreement.
- F. “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:
  - (1) 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
  - (2) Covers perils to goods purchased in connection with an open-end credit transaction.
- G. “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.
- H. “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.
- I. “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, has provided 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.
- J. “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.

- K. “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.
- L. “Experience” means earned premiums and incurred losses during the experience period.
- M. “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.
- N. “Finance charge” means any charge payable directly or indirectly as an incident to or as a condition of the extension of credit, including but not limited to: interest, 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 terms shall not include charges as a result of default, taxes, license fees, delinquency charges or filing fees.
- O. “Gross debt” means the sum of the remaining payments owed to the creditor by the debtor.
- P. “Incurred losses,” means total claims and claim adjustment expenses paid during the experience period plus any change in claim and claim adjustment expense reserves.
- Q. “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.
- R. “Insurer” means insurer as identified in [insert section of Code].
- S. “Loss ratio” means incurred losses divided by the sum of earned premiums.
- T. “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.
- U. “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.
- V. “Open-end credit” means credit extended by a creditor under an agreement in which:
- (1) The creditor reasonably contemplates repeated transactions;
  - (2) The creditor imposes a finance charge from time to time on an outstanding unpaid balance; and
  - (3) 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.
- W. “Producer” means a person or entity 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 Act applies.
- X. “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.

- Y. “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.
- Z. “Title insurance” means insurance that compensates for loss from title defects or encumbrances that were unknown but should have been discovered at the time the policy was issued.

**Section 4. Amount, Term, Coverage and Prohibited Practices**

- A. 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 \$[insert amount].
- B. 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 amount of the underlying credit transaction unless otherwise required by [insert state lending law cite].
- C. For credit personal property insurance sold in conjunction with a closed end transaction, an insurer may not sell credit personal property insurance with a term that exceeds in duration the scheduled term of the underlying credit transaction.
- D. Credit personal property insurance coverage shall, at a minimum, include the coverages in the standard fire policy with coverage attachment, and extended coverage endorsement.
- E. Credit personal property insurance shall cover a substantial risk of loss of or damage to the property related to the credit transaction.
- F. 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.
- G. An insurer shall not use gross debt as an exposure base in determining credit personal property insurance premiums.

**Section 5. Disclosure to Debtors and Provisions of Policies and Certificates of Insurance**

- A. Pre-purchase disclosure. The following shall be disclosed to the debtor in writing, and may be combined with other disclosures required by [insert state lending law cite] or by federal laws and regulations;
  - (1) That the purchase of credit personal property insurance through the creditor is optional and not a condition of obtaining credit approval;
  - (2) 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;
  - (3) That if the consumer has other insurance that covers the risk, he or she may not want or need credit personal property insurance;
  - (4) That within the first thirty (30) days after receiving the individual policy or certificate of insurance, the debtor may cancel the coverage and have all premiums 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 or any of the unearned premiums. 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;
  - (5) 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

- (6) If the premium or insurance charge is financed, it will be subject to finance charges at the rate applicable to the credit transaction.
- B. The disclosures required in Subsection A shall be provided in the following manner:
- (1) In connection with credit personal property insurance offered contemporaneously with the extension of credit or offered through direct mail advertisements, disclosure shall be made in writing and presented to the consumer in a clear and conspicuous manner; and
  - (2) In conjunction with the offer of credit insurance subsequent to the extension of credit by other than direct mail advertisements, disclosure may be provided orally or electronically so long as written disclosures are provided to the debtor no later than the earlier of:
    - (a) Ten (10) days after the election, or
    - (b) The date any other written material is provided to the debtor.
- C. 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 within ten (10) 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.”
- D. All credit personal property insurance shall be evidenced by an individual policy or a certificate of insurance that shall be delivered to the debtor.
- E. The individual policy or certificate of insurance shall, in addition to other requirements of law, set forth the following:
- (1) The name and home office address of the insurer;
  - (2) The name or names of the debtor or debtors, or, in the case of a certificate of insurance, the identity by name or otherwise of the debtor or debtors;
  - (3) The premium or amount of payment by the debtor, except that for open-end loans, the premium rate and balance to which the rate applies shall be specified;
  - (4) A full description of the coverage or coverages including the amount and term thereof, and any exceptions, limitations, and exclusions;
  - (5) 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;
  - (6) 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.
  - (7) Policies issued to cover open-end consumer transactions 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.”

- F. (1) Except as provided in Paragraph (2), the individual policy or group certificate shall be delivered to the debtor upon acceptance of the insurance by the insurer.
- (2) 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 deemed to be delivered or the election to purchase insurance is made if the delivery occurs within thirty (30) days of the date the insurance is requested by the debtor.

#### **Section 6. Filing, Approval and Withdrawal of Forms**

- A. 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 before being used. No policy, certificate of insurance, nor any application, endorsement or rider, shall be issued until the expiration of thirty (30) days after it has been filed, unless the commissioner shall have given prior written approval.
- B. The commissioner shall within thirty (30) days after the filing of a form or rate disapprove a form or rate if the benefits provided are not reasonable in relation to the premium charged, or if it contains provisions that are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the Insurance Code or of any regulation promulgated thereunder. If the commissioner does not disapprove a filing within thirty (30) days, it shall be deemed approved.
- C. If the commissioner notifies the insurer that the form is disapproved, it is unlawful for the insurer to issue or use the form. The commissioner shall specify the reason for disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer. No policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued until the expiration of thirty (30) days after it has been filed, unless the commissioner shall have given prior written approval.
- D. The commissioner may, at any time after a hearing held not less than twenty (20) days after written notice to the insurer, withdraw approval of any form or rate on any ground set forth in Subsection B. The written notice of hearing shall state the reason for the proposed withdrawal.
- E. An insurer shall not issue forms or use them after the effective date of withdrawal.

#### **Section 7. Reasonableness of Benefits in Relation to Premium Charge**

- A. 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 6. 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 as then on file with the commissioner.
- B. 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 (60%) 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.

- C. 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.

**Section 8. Limitation on Creditor Compensation [Optional]**

An insurer shall not pay compensation in excess of [insert amount] percent of premium to a creditor. A reasonable level of creditor compensation may be lower than this limitation and this reasonable level shall be justified in determining the reasonableness of benefits pursuant to Section 7.

**Section 9. Experience Reports and Triennial Filing Requirements**

- A. 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.
- B. Rates that have been filed and approved pursuant to Section 6 are effective for a period not to exceed three (3) years. An insurer shall file a new rate or support the previously approved rate before the three-year period expires. An insurer may file for a new rate before the end of the three-year period.

**Section 10. Cancellation and Refund of Unearned Premium**

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 \$[insert amount] are required.

**Section 11. Claims**

- A. 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.
- B. 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.
- C. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall 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.
- D. No claim may be denied because the debtor was ineligible for coverage later than ninety (90) 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 (90) days of 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.
- E. All claims for credit personal property insurance shall be subject to Section [insert reference to the Unfair Claims Settlement Practices Act].

**Drafting Note:** In the event enforcement is addressed on a global basis in other statutes, the following section should be omitted.

## **Section 12. Enforcement**

- A. The commissioner may conduct investigations or examinations of insurers and producers to ensure compliance with and enforcement of the provisions of this Act.
- B. The commissioner may take any of the following actions when necessary or appropriate to enforce the provisions of this Act and any regulations promulgated under this Act:
  - (1) Upon finding that an insurer or producer has violated a provision of this Act or a regulation promulgated under this Act, the commissioner may issue an order directing that the insurer or producer cease and desist from committing the violations, impose a civil penalty for the violations, provide an equitable remedy for past violations, or any combination of these.
  - (2) Upon the issuance of an order pursuant to Paragraph (1) of this subsection, the insurer or producer shall have the right to request a hearing. At the hearing, the burden shall be on the insurer or producer to show cause why an order pursuant to this subsection should be annulled, modified or confirmed. The provisions of [insert citation of statute concerning the conduct of hearing before the commissioner] shall apply to all hearings.
  - (3) Pending the hearing and the decision by the commissioner, the commissioner shall suspend the effective date of the order.
  - (4) Not more than sixty (60) days following completion of the hearing, the commissioner shall enter an order of final determination which shall specify all relevant findings of fact, conclusions of law and orders.
  - (5) With the agreement of each affected insurer or producer, and in lieu of a hearing, the commissioner may enter into a consent agreement disposing of the matters that would be the subject of the hearing and order.
  - (6) The commissioner may bring an action in [insert court] Court for an injunction or other appropriate relief to enjoin threatened or existing violations of this Act, the commissioner's orders or regulations. An action filed under this paragraph may also seek restitution on behalf of persons aggrieved by a violation of this Act or orders or regulations of the commissioner.

## **Section 13. Regulations**

The commissioner may, after notice and hearing, promulgate reasonable regulations and orders to carry out and effectuate the provisions of this Act.

## **Section 14. Judicial Review**

- A. A person subject to an order or final determination of the commissioner under Section 6 or Section 12 may obtain a review of the order or final determination by filing in the [insert date] Court of [insert county] County, within [insert number] days from the date of the service of the order, a written petition praying that the order of the commissioner be set aside. A copy of the petition shall be served upon the commissioner, and the commissioner shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order or final determination of the commissioner. Upon filing of the petition and transcript, the court shall have jurisdiction of the proceeding and of the questions determined, shall determine whether the filing of the petition shall operate as a stay of the order or final determination of the commissioner, and shall have power to make and enter upon the pleadings, evidence and proceedings set forth in the transcript a decree modifying, affirming or reversing the order or final determination of the commissioner, in whole or in part. The findings of the commissioner as to the facts, if supported by [insert type] evidence, shall be conclusive.

**Drafting Note:** Insert appropriate language to accommodate to local procedure the effect given the commissioner's determination.



- B. To the extent that the order or final determination of the commissioner is affirmed, the court shall issue its own order commanding obedience to the terms of the order or final determination of the commissioner. If either party applies to the court for leave to adduce additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be adduced upon the hearing in the manner and upon the terms and conditions the court may deem proper. The commissioner may modify the findings of fact, or make new findings by reason of the additional evidence so taken, and shall file such modified or new findings that are supported by [insert type] evidence with a recommendation, if any, for the modification or setting aside of the original order or final determination, with the return of the additional evidence.

**Drafting Note:** Insert appropriate language to accommodate to local procedure the effect given the commissioner's determination. In a state where final judgement, order or final determination or decree would not be subject to review by an appellate court, provision therefor should be inserted here.

- C. An order issued by the commissioner under Section 12 shall become final:
- (1) Upon the expiration of the time allowed for filing a petition for review if no petition had been duly filed within that time; except that the commissioner may thereafter modify or set aside the order to the extent provided in Section 12; or
  - (2) Upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for the review dismissed.
- D. No order of the commissioner under this Act or order of a court to enforce the same shall relieve or absolve any person affected by the order from liability under any other laws of this state.

**Drafting Note:** In the event penalties are addressed on a global basis in other statutes, the following section should be omitted.

#### **Section 15. Penalties**

An insurer that violates an order of the commissioner while the order is in effect, may after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to either or both of the following:

- A. Payment of a monetary penalty of not more than \$1,000 for each violation, but not to exceed an aggregate penalty of \$100,000, unless the violation was committed flagrantly in a conscious disregard of this Act, in which case the penalty shall not be more than \$25,000 for each violation not to exceed an aggregate penalty of \$250,000; or
- B. Suspension or revocation of the insurer's license.

#### **Section 16. Severability**

If any provision of this Act, or the application of the provision to any person or circumstance, shall be held invalid, the remainder of this Act, and the application of the provision to any person or circumstance other than those as to which it is held invalid, shall not be affected.

#### **Section 17. Effective Date**

This Act shall take effect [insert effective date].

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*Chronological Summary of Action (all references are to the Proceedings of the NAIC).*

*2001 Proc. 1st Quarter 16-17, 279, 300, 302-309 (adopted).*

*2002 Proc. 4<sup>th</sup> Quarter 32-33, 524, 768 (amended).*

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## CREDIT PERSONAL PROPERTY INSURANCE MODEL ACT

**This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.**

**This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.**

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**KEY:**

**MODEL ADOPTION:** States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

**RELATED STATE ACTIVITY:** Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

**NO CURRENT ACTIVITY:** No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama		ALA. ADMIN. CODE r. 482-1-093 (1992/2002).
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	ARIZ. REV. STAT. ANN. §§ 20-1621 to 20-1621.11 (2002).	
Arkansas	NO CURRENT ACTIVITY	
California	NO CURRENT ACTIVITY	
Colorado		3 COLO. CODE REGS. § 4-9-2 (1974/2009).
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida		FLA. ADMIN. CODE ANN. r. 690-184.006 (1992).
Georgia	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Guam	NO CURRENT ACTIVITY	
Hawaii	NO CURRENT ACTIVITY	
Idaho	NO CURRENT ACTIVITY	
Illinois	NO CURRENT ACTIVITY	
Indiana	NO CURRENT ACTIVITY	
Iowa	NO CURRENT ACTIVITY	
Kansas		KAN. STAT. ANN. § 16a-4-301 (1973/1999); Opinion No. 86-42 (1986).
Kentucky	NO CURRENT ACTIVITY	
Louisiana	NO CURRENT ACTIVITY	
Maine	NO CURRENT ACTIVITY	
Maryland	NO CURRENT ACTIVITY	
Massachusetts	NO CURRENT ACTIVITY	
Michigan	NO CURRENT ACTIVITY	
Minnesota	NO CURRENT ACTIVITY	
Mississippi	NO CURRENT ACTIVITY	
Missouri		MO. REV. STAT. §§ 385.010 to 385.080 (1977/1992); MO. CODE REGS. ANN. tit. 20, § 1140-3.041 (1978/2006).
Montana	NO CURRENT ACTIVITY	
Nebraska	NO CURRENT ACTIVITY	
Nevada	NEV. REV. STAT. §§ 691C.010 to 691C.440 (2017).	BULLETIN 2007-003 (2007).
New Hampshire	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
New Jersey	NO CURRENT ACTIVITY	
New Mexico	NO CURRENT ACTIVITY	
New York		N.Y. INS. LAW § 2340 (1984/1996); N.Y. BANKING LAW § 357 (1996); N.Y. COMP. CODES R. & REGS. tit. 11, § 186.9 (Regulation 27-B) (1973/2002); OGC Opinion No. 2004-116 (April 29, 2004).
North Carolina		N.C. GEN. STAT. § 58-57-90 (1981/1994).
North Dakota		N.D. CENT. CODE §§ 26.1-37-01 to 26.1-37-16 (1985/2001).
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma		OKLA. STAT. tit. 14A, § 4-301 (1969/1988).
Oregon	NO CURRENT ACTIVITY	
Pennsylvania		31 PA. CODE §§ 112.1 to 112.6 (1974/1975).
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	NO CURRENT ACTIVITY	
South Carolina		BULLETIN 2014-09 (2014); BULLETIN 2012-05 (2012); BULLETIN 2010-08 (2010).
South Dakota	NO CURRENT ACTIVITY	
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Vermont	NO CURRENT ACTIVITY	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia		VA. CODE ANN. § 38.2-233 (1993/2009).
Washington	NO CURRENT ACTIVITY	
West Virginia	W. VA. CODE R. §§ 114-61-1 to 114-61-9 (2003).	
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	NO CURRENT ACTIVITY	



## CREDIT PERSONAL PROPERTY INSURANCE MODEL ACT

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In 1999 the Credit Insurance Working Group collected information about various credit insurance issues. A working group was formed in the spring of 2000 to develop a credit property insurance model act. **2000 Proc. 1st Quarter 564, 574.**

In preparation for its task, working group members and interested parties were provided with: 1) a copy of the Wisconsin statute on credit property; 2) a copy of the existing NAIC Consumer Credit Insurance Model Act that includes provisions for credit life, credit accident and health and credit unemployment; 3) a copy of a 1979 draft Credit Property Model Act; and 4) a comment letter from a consumer representative. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

A regulator advised the working group to consider availability of coverage and urged the group to not be so restrictive in drafting the model that coverage was eliminated or became unavailable to consumers. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

The chair recommended that the working group adopt the same thought process being used by the Speed to Market Working Group established under the NAIC president's financial modernization initiatives, specifically that the working group consider drafting the model in such a manner as to provide a standard for this line of insurance. The model act could serve as a measuring point and catalyst for uniform state action. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

An initial draft of the model dated June 6, 2000, was provided for use as a starting point for discussion. **2000 Proc. 2<sup>nd</sup> Quarter 416.**

Several regulators expressed the opinion that their states would appreciate the assistance provided by a credit property insurance model because they did not have comprehensive credit property insurance regulation. **2000 Proc. 2<sup>nd</sup> Quarter 416.**

A consumer representative offered some advice for the working group's consideration as they revised the model. First, he suggested that the working group should be mindful of whether the insurance was required or not. There would be differences in the timing and type of disclosure based on whether the insurance was mandatory. He suggested the working group keep in mind whether property has been pledged as collateral. Third, the consumer representative identified differences in open-end credit insurance versus closed-end credit insurance. These differences, he opined, would create different requirements. Finally, he advised the working group to consider the nature of the coverage. For instance, if coverage was designed to pay off a debt there might be different requirements than if the coverage was designed to repair or replace the property. **2000 Proc. 3<sup>rd</sup> Quarter 410.**

### Section 1. Purpose

A. A consumer representative recommended the working group consider adding "personal" when describing credit property insurance. **2000 Proc. 3<sup>rd</sup> Quarter 410.**

A regulator stated support for the addition of a fifth purpose of the model: "[a]ddress the problems arising from reverse competition in credit insurance markets." An industry representative stated there were other options available rather than identifying reverse competition in the purpose section. He opined that adding this language to the purpose implied that the issue of reverse competition was a substantive issue that would be dealt with in the model. Another interested party said that it was not clear that the additional language added any value to the model. He noted that he was not aware of any state legislature that had included this type of language. **2000 Proc. 3<sup>rd</sup> Quarter 410.**

A regulator said that the group should include the fifth purpose and noted that the limitation of creditor compensation in Section 8 was one method to limit the reverse competition factor often prevalent in credit insurance. He suggested that since Section 8 remained in the draft, Paragraph (5) should also remain in the draft. **2000 Proc. 4<sup>th</sup> Quarter 329.**

An interested party proposed the deletion of Paragraph (5) because Section 8 effectively achieved the intent to eliminate reverse competition. The chair inquired whether the party would support the model if it were introduced to state legislatures with Paragraph (5) omitted and Section 8 retained. The interested party affirmed his support for retaining Section 8. **2000 Proc. 4<sup>th</sup> Quarter 329.**

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#### Section 1A (cont.)

An industry spokesperson said the language in Paragraph (5) could be problematic when state legislatures considered the model. Previous experience with this type of language in legislation showed that either the language would be removed during deliberations or the bill would not progress through the legislative process. **2000 Proc. 4<sup>th</sup> Quarter 329.**

A consumer advocate indicated that credit insurance markets were characterized by reverse competition and that this was a problem that should be addressed by legislation. He stated that Paragraph (5) highlighted an important subject and should remain in the model. The chair reported that he has already discussed this issue with representatives from his state legislature and would like the other states to provide their input on this important topic. He stated that one of the goals for the working group was to develop a product that would be approved by the various state legislatures and suggested this topic might inhibit the ability to obtain approval in the states. **2000 Proc. 4<sup>th</sup> Quarter 329.**

The chair identified four options for addressing whether the model should include a reference to reverse competition in Section 1. The options were: (a) exclude the wording, (b) leave the wording as written, (c) insert the word “potential” before “reverse,” and (d) address the issue of reverse competition in a drafting note. **2001 Proc. 1<sup>st</sup> Quarter 310-311.**

A regulator stated that the issue of reverse competition exists and recommended that references to it remain in the model. No member of the working group spoke up in support of deleting references to reverse competition. **2001 Proc. 1<sup>st</sup> Quarter 309.**

An industry representative said that the language in the model was not likely to be accepted in the legislatures. Another industry representative recommended that, if references were to be included, the term should be defined in the model. An interested party noted that the term was already defined in another NAIC model dealing with property and casualty insurance and that the definition also could be used in this model. **2001 Proc. 1<sup>st</sup> Quarter 309.**

Three regulators said they could support option (c), which added the qualifier “potential” before “reverse competition.” Two of the three regulators stated a preference, however, for retaining the current language instead of adding a qualifier. **2001 Proc. 1<sup>st</sup> Quarter 310.**

#### Section 2. Scope

A regulator said that “phantom coverage” was an issue of importance. Phantom coverage referred to premium calculations based on amounts in excess of the amount of coverage provided. One example occurred in credit card credit property insurance when the premium calculation was based on the monthly outstanding balance. The outstanding balance might include items that were not covered property under the credit property insurance coverage, such as meals, finance charges and services. The chair agreed that phantom coverage should be addressed but stated a concern regarding how to include restrictions or provisions for this issue in the model. An interested party noted that some state statutes addressed phantom coverage. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

B. A regulator questioned whether the working group should discuss the exclusion of forced-placed or gap coverage and coverage for vehicles. Another regulator mentioned that most credit property insurance excluded vehicle coverage because it was written as an inland marine policy. Another regulator suggested that although gap coverage was an important issue, it may not be appropriate for inclusion in the model. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

The working group discussed whether creditor-placed insurance, also known as forced-placed or gap coverage, should be within the scope of the model. A consumer representative asserted that it should not because other NAIC models addressed it. A regulator suggested that the model should cover gap coverage. There was continued discussion about the definition of gap coverage and whether the model already addressed it. An interested party said that including gap insurance within the scope of the model would introduce complexity and inhibit progress on the model. **2000 Proc. 3<sup>rd</sup> Quarter 410.**

A consumer representative asked why the working group did not include gap insurance when creating this draft version of the model. An industry representative stated that gap insurance was not considered insurance and was not regulated by the state insurance regulators. **2000 Proc. 4<sup>th</sup> Quarter 329.**

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#### Section 2B (cont.)

A regulator suggested that the language in Subsection B(3) might exclude situations where an individual had a second mortgage. He asked that the working group consider rephrasing the language to exclude all real estate coverage. He also stated that there also might be some situations where inland marine insurance qualified as credit property coverage. **2000 Proc. 4<sup>th</sup> Quarter 329.**

The chair of the drafting group reported that the National Council of Insurance Legislators (NCOIL) did not support the model because it included a strict loss ratio. He suggested that the criticism was based on a misunderstanding of component rating and affirmed his support for including a strict loss ratio. A consumer representative proposed that the working group consider including a drafting note that referenced a state's ability to adopt the standards in the model as a regulation. **2002 Proc. 2<sup>nd</sup> Quarter 427.**

The chair said he had been advised that the major objection raised by NCOIL involved the inclusion of a loss ratio provision in the model act, not the 60% recommendation. **2002 Proc. 3<sup>rd</sup> Quarter 403.**

In December 2002 the committee that developed the model suggested an amendment to include a drafting note permitting the model to be adopted as a regulation. **2002 Proc. 4<sup>th</sup> Quarter.**

#### Section 3. Definitions

A regulator stated that the model act should include standard definitions for benefits and coverage. Another regulator said that the definition should be as broad as possible. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

F. The chair stated that the initial task of the working group should be to define credit personal property insurance as it would be used in the model act. The definition would serve as the focal point for the drafting of the model. He also said that a review of the *prima facie* rates would be required in development of the model. **2000 Proc. 2<sup>nd</sup> Quarter 424.**

A consumer representative suggested a modification to the definition of "credit personal property insurance." He recommended removing the phrase "and that concerns a creditor's interest" because the phrase eliminated some credit card insurance. A regulator questioned whether the definition intended to reference a peril or debt. **2000 Proc. 3<sup>rd</sup> Quarter 410, 411.**

A regulator noted that the purchase of actual personal property with a credit card would fall within the definition of "credit personal property insurance"; however, the term should not include the purchase of consumables. **2000 Proc. 4<sup>th</sup> Quarter 329.**

An interested party said that the definition was too broad and suggested that an insurance premium charged to a credit card could fall within the definition. The chair said that this type of transaction was not intended to fall under this definition and opined that it was improbable that circumstance would be construed as applicable under this model definition. **2001 Proc. 1<sup>st</sup> Quarter 311.**

An industry representative said that she was not comfortable with the definition. She noted that a revolving charge account did not require a security interest and that, without a security interest, there was no reason to write the coverage. **2001 Proc. 1<sup>st</sup> Quarter 299.**

An industry representative provided suggested wording to exclude coverage without an identifiable insurance charge and the working group agreed to that suggestion. **2001 Proc. 1<sup>st</sup> Quarter 311.**

I. When discussing the definition of "creditor-placed insurance," an industry commenter recommended removing "limited" from "limited dual interest" to avoid confusion. Unlike dual interest insurance, limited dual interest did not permit the borrower to initiate a claim. An industry association representative proposed that the entire definition be deleted because creditor-placed insurance was outside the scope of the model. **2000 Proc. 3<sup>rd</sup> Quarter 410.**

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#### Section 3I (cont.)

An industry representative stated that, in the definition of “creditor-placed insurance,” use of the language “subsequent to the day of the credit transaction” could inadvertently include blanket insurance. He explained that blanket insurance was used by small and mid-size lending institutions and that there was continued interest in retaining this type of coverage. He recommended adding the words “excluding blanket creditor-placed insurance that is part of the loan document.” He said blanket insurance should not be regulated in this model act because to do so would create significant issues. **2000 Proc. 4<sup>th</sup> Quarter 329.**

N. An interested party recommended that the group modify the definition of “finance charge” to track the language in truth-in-lending legislation. **2000 Proc. 3<sup>rd</sup> Quarter 410.**

W. A regulator asked the working group to consider changing the term “commission” to “compensation” in the definition of “producer” because compensation was defined. An interested party said that commission would be consistent with the NAIC Producer Licensing Model Act. He suggested that the term compensation would incorporate a broader group of individuals than the working group intended to include. Another regulator said she believed that the term “compensation” would be appropriate because her state has experienced the use of terms other than “commission” due to efforts to circumvent statutory requirements. She encouraged the working group to utilize the broader term in this definition. **2000 Proc. 4<sup>th</sup> Quarter 329.**

X. An industry representative said that reference to reverse competition was not likely to be accepted in the legislatures. Another industry representative recommended that, if references were to be included, the term should be defined in the model. An interested party noted that the term was already defined in another NAIC model dealing with property and casualty insurance and that the definition also could be used in this model. **2001 Proc. 1<sup>st</sup> Quarter 309.**

#### Section 4. Amount, Term, Coverage and Prohibited Practices

A consumer representative inquired whether the section would address single premiums and predatory lending practices. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

A regulator addressed consumable items and whether they should be eligible for credit property coverage. He believed that property insurance for services was not necessary. It was not clear, however, that the insurer would have the ability to distinguish between services and property. **2000 Proc. 4<sup>th</sup> Quarter 329.**

An interested party said that the issue of covering consumables had been raised on several occasions and was currently being addressed in form and rate filings through the use of a composite rating approach. The current approach was to adjust the rate because there was recognition that some portion of certain credit transactions may include services. A regulator asked whether the composite rate should be included in this model. **2000 Proc. 4<sup>th</sup> Quarter 329-330.**

A consumer representative stated that phantom coverage has not been adequately addressed by other means, such as loss ratio requirements. These measures did not address the underlying issue, which was that consumers paid for coverage that does not exist. The technology was available to distinguish between durable and non-durable items because there were already statements and other data accumulated by creditors that distinguished among the types of transactions. A lead-time could be included in the model to allow creditors to develop technology if they did not currently have the ability to make this type of distinction. **2000 Proc. 4<sup>th</sup> Quarter 330.**

An industry representative suggested that some types of information may have been problematic to share because it was difficult to define on a consistent basis what was a service versus goods. **2000 Proc. 4<sup>th</sup> Quarter 330.**

The working group chair offered the option of addressing the phantom coverage issue by requiring creditors to track the balances attributable to non-durable and durable goods respectively. The insured would be charged for rates applicable only to durable goods. Generating a system to track the balances might have had cost implications. **2001 Proc. 1<sup>st</sup> Quarter 310.**

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#### Section 4 (cont.)

An industry representative said that tracking the durable and non-durable goods balances was technically possible, but that developing a mechanism to do so would delay implementation of the model requirements. He noted that the concept of phantom coverage exists in other insurance lines. A regulator expressed support for addressing phantom coverage, particularly the option of including language in the model that would require grouping of durable and non-durable purchases for purposes of evaluating historical and expected loss ratios. Two industry representatives said that they viewed this option as feasible. A regulator said that she could support requiring phantom coverage to be addressed in the rating structure if there were slight rewording of the draft language. The chair indicated that this option would be recommended for the model. **2001 Proc. 1<sup>st</sup> Quarter 310.**

A. There was extensive discussion of how to calculate the amounts to be inserted in this subsection. A regulator expressed doubt that replacement cost could be calculated. A consumer representative questioned who would determine the replacement value. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

An interested party said the language in Subsection A was inappropriate for open-end transactions. A consumer representative said that the drafters should consider what the amounts inserted should represent: purchase amount, amount financed or replacement cost. He proposed that the regulators consider open-end and closed-end transactions in determining the permissible amount of credit property coverage. Industry representatives expressed concern about whether insurers could establish systems to determine when prescribed thresholds were met for open-end transactions. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

A consumer representative proposed the insertion of an \$800 minimum amount financed for issuance of credit personal property insurance in conjunction with a closed-end transaction. **2001 Proc. 1<sup>st</sup> Quarter 300.**

C. A consumer representative suggested including the phrase “in no case to exceed five years” to the subsection drafted to limit the term of credit property insurance to the scheduled duration of the underlying credit transaction. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

#### Section 5. Disclosure to Debtors and Provisions of Policies and Certificates of Insurance

In the interest of improving the disclosure requirements, an interested party directed the working group to consider how the product was sold to consumers. An industry representative stated that some of the disclosure requirements might be impossible or already required by state law. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

A regulator requested that the working group verify that the disclosure standards match those that are applicable in the credit life and credit health model regulations. The chair supported another regulator’s suggestion that the disclosures be required to be printed in larger than eight-point typeface. **2000 Proc. 4<sup>th</sup> Quarter 330.**

D. An industry representative said that the reference to “a party named by the debtor” would create new signature requirements and could potentially slow down commerce. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

F. An industry representative proposed dividing the subsection about delivery of required disclosures and policies into separate provisions concerning open-end and closed-end transactions. An interested party said that the insurer should be required to send the required disclosure and policy or certificate in a timely manner before the consumer was billed. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

#### Section 6. Filing, Approval and Withdrawal of Forms

The chair said that he hoped the group would incorporate concepts developed by the Speed to Market Working Group about how to improve the approval and release of products to the marketplace. A regulator mentioned that another working group was currently developing standards for a market conduct review of credit property insurers, which would further enhance consumer protection. **2000 Proc. 2<sup>nd</sup> Quarter 416.**

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#### Section 6 (cont.)

The chair indicated that this section was drafted with traditional form filing requirements in mind. The chair noted that the speed-to-market efforts might affect the requirements, but the model could be amended later. **2000 Proc. 3<sup>rd</sup> Quarter 411.**

A consumer representative insisted that the reverse competition aspect of the credit property insurance marketplace should encourage the institution of prior approval requirements for these products. An industry representative commented that these products should be exempt from the filing process because the existing forms were largely standardized. The chair noted that the lack of prior approval requirements did not constitute a lack of form review. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

The chair again referenced the efforts of the speed-to-market group in relation to credit insurance and the filing process, specifically with regard to a prior approval requirement. A consumer representative encouraged the group to incorporate speedy review and operational efficiency recommendations. **2000 Proc. 4<sup>th</sup> Quarter 330.**

#### Section 7. Reasonableness of Benefits in Relation to Premium Charge

B. A consumer representative suggested the concept of a loss ratio should be added to this section. He said that the loss ratio requirement would not have to be separated from component rating structures. An industry representative stated that the model should include provisions for a catastrophic component. He cited one state law that allowed this concept. A regulator said that there was already reference to the catastrophic component. A consumer representative suggested that there does not need to be reference to a catastrophic component because the existing language did not preclude it. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

A consumer representative said that the language in this section provides for the inclusion of a catastrophe provision that may need to be complemented with industry experience. **2001 Proc. 1<sup>st</sup> Quarter 309.**

A regulator expressed concern about the lack of specific loss ratio requirements and commission recommendations. A consumer representative suggested that the concept of a target loss ratio should be a floor instead of a ceiling, as was proposed. He stated that it is important to establish a minimum basis for the loss ratio. There could be a target loss ratio that could be altered by component rating. **2000 Proc. 4<sup>th</sup> Quarter 330.**

An interested party said that one state had language allowing a 60% loss ratio or some other loss ratio as determined by the commissioner. He also said that another state had a 40% ratio moving to 50% and another had 40%. **2000 Proc. 4<sup>th</sup> Quarter 330.**

An interested party suggested that the working group utilize component rating. He believed the target loss ratio was nothing more than a guess as to where something ought to be and indicated there were several components of a rate, including a component for profit. **2000 Proc. 4<sup>th</sup> Quarter 330.**

An interested party suggested that the model language tracked the language of the existing life and health credit model and said that there was value in consistency. A consumer representative said that there were two approaches in the life and health model and opined that the component rating filing alone was not sufficient. He encouraged the working group to consider component rating in addition to a floor loss ratio. **2000 Proc. 4<sup>th</sup> Quarter 330.**

The chair referred the group and interested parties to a document intended to characterize the remaining issues for discussion. The issues were identified as: reverse competition, minimum loss ratios, the definition of credit personal property insurance, phantom coverage, and limitations on creditor compensation. A regulator recommended that the group address minimum loss ratios first because the determinations made on this topic might affect recommendations on other issues. **2001 Proc. 1<sup>st</sup> Quarter 309.**

There had not been a great deal of evidence provided to the working group about whether 60%, as was most frequently suggested, was an appropriate loss ratio for credit personal property. Because the loss ratio in the draft of the model act included loss adjustment expense, some of the state provisions currently in effect might not be directly comparable. **2001 Proc. 1<sup>st</sup> Quarter 311.**

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#### Section 7B (cont.)

A regulator said that a 60% ratio provided a reasonable benchmark for determining the appropriateness of rates. She stated support for option (d) in the document, which provided for changing the word “other” to “higher” in the following statement and including a 60% loss ratio. The statement in Section 7 would be modified to read, “This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than 60% or such higher loss ratio as designated by the commissioner . . . .” **2001 Proc. 1<sup>st</sup> Quarter 309.**

A regulator asked if the 60% loss ratio would be only for the most recent year or whether it would be applied over a three-year period. Another regulator said that the percentage was based on a prospective approach when calculating rates. **2001 Proc. 1<sup>st</sup> Quarter 309.**

An industry representative suggested that the working group consider use of the term “targeted” when referencing the loss ratio. A regulator said that the term “targeted” would not be supported when used in this context. **2001 Proc. 1<sup>st</sup> Quarter 309.**

An interested party commented that the model’s approach to rating, including a 60% loss ratio requirement, was inconsistent with other NAIC models related to credit insurance. She suggested that the required ratio figure be left for states to determine. She further noted that requiring a 60% loss ratio would not benefit consumers because it was actuarially unsound and could ultimately impact an insurer’s solvency. **2001 Proc. 1<sup>st</sup> Quarter 299.**

An interested party presented testimony critical of a 60% loss ratio requirement. He noted that only two states currently regulated credit property insurance rates by loss ratio, that the working group did not perform any actuarial analysis aimed at determining the appropriateness of the proposed ratio and that mandating a 60% loss ratio was arbitrary and incompatible with other language in the model. He supported component methodology as the responsible approach to rate regulation. **2001 Proc. 1<sup>st</sup> Quarter 299-300.**

A regulator noted that his state had seen loss ratios of 10-20% during market conduct examinations of credit property insurance companies. He asked a representative from a credit insurer association what loss ratio would be acceptable. The representative responded that this figure would vary but that the key would be to include a component rating system. States that implemented a component rating system experienced as much as a 17% reduction in rates. He indicated that a 10-20% loss ratio would be acceptable in conjunction with a component rating system. **2001 Proc. 1<sup>st</sup> Quarter 300.**

An interested party said that a 60% loss ratio was an arbitrary figure and that industry actuaries should consider the requirement before its inclusion in the model. **2001 Proc. 1<sup>st</sup> Quarter 300.**

Another interested party noted that a regulator had previously studied loss ratios and presented warnings related to the use of loss ratios in long-term care insurance. He suggested that the term “targeted” should be used when referring to loss ratios. He said that his experience with loss ratios in another insurance line showed that the loss ratio could be exaggerated by catastrophic experiences during any one-year period. **2001 Proc. 1<sup>st</sup> Quarter 300.**

A consumer representative said that the minimum loss ratio as written was reasonable because the product was sold in a reverse-competitive marketplace. In this atmosphere, competition could not reliably control rates for the protection of consumers. He supported the 60% minimum loss ratio because component rating could result in a detriment to consumers. Comparing ratios used in other lines was inappropriate. The proposed ratio would comply with actuarial standards of practice and with existing state law. **2001 Proc. 1<sup>st</sup> Quarter 300.**

A regulator on the parent committee said that he was opposed to the establishment of a 60% minimum loss ratio and recommended that the language be changed to create more flexibility. A credit industry representative told the parent committee that the working group did not receive any conclusive documentation that a 60% minimum loss ratio would be appropriate. He added that other lines of insurance have minimum loss ratios of less than 60%. Rates should be established to ensure that they are neither excessive for consumers nor inadequate for insurers. **2001 Proc. 1<sup>st</sup> Quarter 279.**

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#### Section 7B (cont.)

A consumer advocate expressed strong opposition to changing the minimum loss ratio provision. Component rating without a minimum loss ratio has not worked in the past. The speaker noted that one state with component rating had credit property insurance loss ratios in the teens. **2001 Proc. 1<sup>st</sup> Quarter 279.**

The parent committee discussed whether an actuarial study should be completed to determine if the 60% loss ratio is appropriate. A consumer representative said that he had provided actuarial data supporting the proposed minimum loss ratio to the working group. The working group chair said that the regulators should adopt as strong of a model as possible and then the states could change the language if desired. **2001 Proc. 1<sup>st</sup> Quarter 279.**

Upon consideration of the model by the Executive Committee, a regulator noted that 60% was a target and that if insurers do not achieve the target they are not required to return any money. The Executive Committee considered whether the industry had opportunity to comment on the model and its adoption at each level of review. A regulator said that the industry's opposition to a 60% minimum loss ratio was indicative of the industry's concern about any loss ratio. This battle has been fought many times. **2001 Proc. 1<sup>st</sup> Quarter 16-17.**

The chair reported that the National Council of Insurance Legislators (NCOIL) did not support the model because it included a strict loss ratio. He suggested that the criticism was based on a misunderstanding of component rating and affirmed his support for including a strict loss ratio. A consumer representative proposed that the working group consider including a drafting note that references a state's ability to adopt the standards in the model as a regulation. **2002 Proc. 2<sup>nd</sup> Quarter 429.**

A consumer representative opined that NCOIL would not object to the model if it contained a 20% loss ratio requirement. He stated that the virtue of the model was the strict loss ratio coupled with component rating. He speculated that NCOIL may not fully appreciate the concept of reverse competition. An industry representative stated that there was not quantitative analysis to support the 60% loss ratio requirement. A 60% loss ratio with a 40% commission cap would result in no profits for the company. **2002 Proc. 2<sup>nd</sup> Quarter 429.**

A regulator opined that the rates developed using a component rating approach were too high. An industry representative responded that if there was a concern that commission rates were too high, states could make appropriate adjustment recommendations via the component rating structure. He reiterated that strict loss ratios were counter to the goal of ensuring solvency. **2002 Proc. 2<sup>nd</sup> Quarter 429-430.**

The chair reported that two states were acting on the model developed by the working group and were dealing with issues related to the loss ratio requirement. A regulator favored adding a drafting note to advise states that they could substitute an alternative loss ratio figure, because it would be compatible with a state statute allowing a company to justify an alternative loss ratio. A regulator proposed a drafting note in which the drafters recommended a minimum loss and loss expense ratio of 60%, "based on the consensus of informed regulators." **2002 Proc. 2<sup>nd</sup> Quarter 427.**

A credit insurance trade association representative stated that NCOIL objected to the inclusion of the loss ratio in a statute, not to the level of the recommended ratio requirement. He offered that the specific recommendation be eliminated in favor of a reference to determining the reasonableness of rates, including component rating as an option. The loss ratio requirement could be referred to in a footnote rather than in the model language. He proposed modifying the phrase "or such higher loss ratio" to read "or such other loss ratio." He referenced a state that enacted a credit insurance law without a required loss ratio where the state department intended to move forward with a 60% loss ratio requirement via regulation. **2002 Proc. 2<sup>nd</sup> Quarter 427.**

An interested party said that if the 60% loss ratio requirement remained in the statute, it would be more difficult to modify the loss ratio requirement as needed due to market fluctuations. Any loss ratio defined in the model would be appropriate in some markets but not others. He stated that NCOIL would accept the inclusion of a loss ratio requirement in a drafting note rather than in the model act language. **2002 Proc. 2<sup>nd</sup> Quarter 427.**



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#### Section 7B (cont.)

A consumer representative urged the working group not to modify the model based on other parties' apparent misunderstanding of the concept of reverse competition. He proposed language derived from a state statute that permitted the state to authorize the commissioner to establish a minimum loss ratio. He opined that this modification would address NCOIL's concerns. **2002 Proc. 2<sup>nd</sup> Quarter 427.**

The chair explained that after the June 2002 NAIC meeting, discussions were held with consumer representatives and industry representatives to try and reach agreement on draft language to address NCOIL's concerns about the minimum loss ratio. No consensus was reached, and since then states inquired about using a regulation instead of including the minimum loss ratio in the act. **2002 Proc. 3<sup>rd</sup> Quarter 403.**

#### Section 7B (cont.)

The working group discussed the NCOIL resolution and clarified that NCOIL did not necessarily object to the loss ratio requirement being set at 60%. The resolution cited other NAIC proposals requesting that NCOIL consider loosening regulatory authority, which seemed to contradict the recommendation in this model for strict legislation. The working group considered the likelihood that problems would arise if the minimum loss ratio were implemented via regulation. **2002 Proc. 3<sup>rd</sup> Quarter 403.**

#### Section 8. Limitation on Creditor Compensation [Optional]

A consumer representative urged the working group to focus on issues outside of creditor compensation. He proposed that the limitation on interest rates could control compensation abuses. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

A regulator said that the group should retain Section 1(A)5, which stated that the model was intended to address problems arising from reverse competition. He noted that the limitation of creditor compensation in Section 8 was one method to limit the reverse competition factor often prevalent in credit insurance. He suggested that since Section 8 remained in the draft, the Section 1(A)5 should also remain in the draft. **2000 Proc. 4<sup>th</sup> Quarter 329.**

An interested party proposed the deletion of Section 1A(5), which stated that one purpose of the model was to address problems arising from reverse competition, because Section 8 effectively achieved the intent to eliminate reverse competition. The chair inquired whether the party would support the model if it were introduced to state legislatures with Section 1A(5) omitted and Section 8 retained. The interested party affirmed his support for retaining Section 8 in the model. **2000 Proc. 4<sup>th</sup> Quarter 329.**

A regulator asked if compensation in this section would include reinsurance profits. The creditor might have established an offshore or on-shore reinsurer where underwriting profits were shared if losses did not exceed premiums written. The chair doubted that the language would include that type of an arrangement. **2000 Proc. 4<sup>th</sup> Quarter 330.**

A regulator asked whether, if the model does not include a commission cap or hard loss ratio, a component rating system with a reasonable cap on commissions was appropriate. An industry representative indicated he supported Section 8 "as is." A consumer representative suggested that this issue was related to the need for limitation of reverse competition. **2000 Proc. 4<sup>th</sup> Quarter 330.**

#### Section 9. Experience Reports and Triennial Filing Requirements

A. An interested party recommended deletion of any reference to allocation of the company's national experience. The chair suggested a preference for a company's actual state experience versus the national information. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

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#### Section 10. Cancellation and Refund of Unearned Premium

An interested party stated that a number of creditor systems were set up to provide a pro-rata calculation of unearned premium and that the use of a daily pro-rata calculation will be burdensome. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

An industry representative noted that creditors had built in refunding formulas that were dictated by the regulators. It would be difficult to modify systems if there were variations made to the refunding formula previously dictated. The language in this section would create considerable discussion in the credit insurance industry. The representative stated that it was too specific. The chair said that there were significant variances in methods for determining refunds. He heard the industry's concerns but focused on ensuring that there was a fair and reasonable return to the insured without requiring changes in the creditor's systems. **2000 Proc. 4<sup>th</sup> Quarter 331.**

The industry representative said that he had not heard that anyone would not receive a significant refund if warranted. He noted that he was not aware of any significant variations between the calculation methods. The chair said that in his state, there were instances where refunds were not returned to the appropriate party. The industry representative said that he fully supported that refunds should be made and calculated correctly but preferred not to provide extensive detail on the method of calculation. **2000 Proc. 4<sup>th</sup> Quarter 331.**

A consumer representative stated that the issue was whether a refund would be given to a consumer. The type of refund was important because a closed-end loan for a long duration would create a greater gap between refund calculations than many smaller dollar or short-term transactions. The industry representative said that the lending community could support the approach of including a more generic reference to the premium refund calculation. **2000 Proc. 4<sup>th</sup> Quarter 331.**

A regulator asked whether the time periods specified also provided for a consumer to request a refund even if the ultimate refund were less than a specified amount. If a consumer wanted a refund, he should be entitled to receive it even if it fell below a specified amount. **2000 Proc. 4<sup>th</sup> Quarter 331.**

#### Section 11. Claims

An industry representative asked how a creditor would be ineligible for credit property claims. A regulator said he was unaware of a specific situation; however, this section would apply to any unforeseen circumstances. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

#### Section 12. Enforcement

B. A regulator asked if the working group intended to limit the severity of the enforcement of cease and desist orders. The chair said that the working group could add any enforcement methods deemed appropriate. **2000 Proc. 4<sup>th</sup> Quarter 331.**

A regulator proposed adding a drafting note to this section to reference that a state might have existing global provisions related to enforcement and penalties, which might require the deletion of such language from any proposed legislation. **2001 Proc. 1<sup>st</sup> Quarter 300.**

#### Section 13. Regulations

The chair said that the working group's intent was to create a model act and that there might be future need for development of a model regulation. **2000 Proc. 3<sup>rd</sup> Quarter 412.**

#### Section 14. Judicial Review

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#### Section 15. Penalties

A. A regulator said that the penalties might not be sufficient in some situations. An industry representative said that the limitation established in Subsection 15A did not consider intentional versus non-intentional errors. He asked the group to consider reducing the maximum amount to \$10,000 instead of \$100,000. **2000 Proc. 4<sup>th</sup> Quarter 331.**

A regulator proposed adding a drafting note to this section to reference that a state might have existing global provisions related to enforcement and penalties, which might require the deletion of such language from any proposed legislation. **2001 Proc. 1<sup>st</sup> Quarter 300.**

#### Section 16. Severability

#### Section 17. Effective Date

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#### *Chronological Summary of Actions*

*June 2001: Adopted model.*

*March 2003: Amended to add drafting note to Section 2B regarding adoption of the model as a regulation.*

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**Proceedings Citations**

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