

OREGON ADMINISTRATIVE RULES

DIVISION 60

INSURANCE POLICIES (ORS CH. 743)

Credit Life and Credit Health Insurance

Statutory Authority; Purpose; Effective Date

836-060-0000 (1) OAR 836-060-0000 through 836-060-0060 are adopted pursuant to the general rulemaking authority of the Director in ORS 731.244.

(2) The purpose of OAR 836-060-0000 through 836-060-0060 is to protect the interests of debtors and the public by providing a system of rate, policy form and operating standards for the transaction of credit life and credit health insurance in Oregon. These rules interpret and implement ORS 733.306, 742.003, 742.005, 743.015, 743.371 to 743.380, 746.160, 746.220, and 746.240.

(3) OAR 836-060-0000 through 836-060-0060 as amended become effective on January 1, 2001, and apply as follows:

(a) Except as otherwise provided in this section, on January 1, 2001, all forms not in compliance with OAR 836-060-0000 through 836-060-0060 as amended become disapproved for use in Oregon. No such form may be issued or delivered after that date unless it has been changed and resubmitted to and approved by the Director, or unless an approved rider has been attached bringing the form into compliance with OAR 836-060-0000 through 836-060-0060 as amended;

(b) Certificates, notices of proposed insurance and premium rates for existing group policies shall conform to OAR 836-060-0000 through 836-060-0060 as amended not later than the anniversary date of the group policy on or next following January 1, 2001;

(c) Any replacement or amendment of a group credit insurance policy in an attempt to delay or circumvent application of these rules shall nonetheless be subject to OAR 836-060-0000 through 836-060-0060 as amended. No group credit insurance policy in force may be rewritten or redated in order to delay or circumvent the effect of OAR 836-060-0000 through 836-060-0060 as amended;

(d) All forms received for filing on or after October 10, 2000 must comply with OAR 836-060-0000 through 836-060-0060 as amended. No such form may be issued or delivered on or after January 1, 2001 unless the form has been submitted to and approved by the Director.

(4) These rules, except as provided in OAR 836-060-0041, do not apply to production credit associations, bank agricultural loans or educational loan commitments.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 742.003, 742.005, 743.015, 743.371-743.380, 746.160,

746.220 & 746.240

Definitions

836-060-0005 As used in OAR 836-060-0000 through 836-060-0060:

- (1) "Closed-End Credit" means credit other than open-end credit.
- (2) "Credit Health Insurance" means the kind of insurance defined in ORS 743.371 and limited by ORS 743.372.
- (3) "Credit Insurance" means credit life insurance or credit health insurance or both.
- (4) "Credit Life Insurance" means the kind of insurance defined in ORS 743.371 and limited by ORS 743.372.
- (5) "Credit Transaction" means any transaction by the terms of which the repayment of money loaned, or payment for goods, services or properties sold or leased, is to be made at a future date or dates.
- (6) "Indebtedness" means total amount repayable, including principal, interest and finance charges.
- (7) "Open-End Credit" means credit extended by a creditor under an agreement in which:
 - (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.
- (8) "Underwritten" or "underwriting" refers to the use of medical questions to elicit the existence of high risk medical conditions as described in OAR 836-060-0026 and 836-060-0031 for the purpose of determining insurability, to the extent such conditions were assumed in developing the underwritten prime facie rates.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 742.005, 743.015, 743.371-743.380, 746.220 & 746.240

Rights and Treatment of Debtors

836-060-0011 (1) Multiple Plans of Insurance. If a creditor makes available to debtors more than one plan of credit life insurance or more than one plan of credit health insurance, the creditor must inform each debtor of all such plans.

(2) Substitution. When a creditor requires credit life insurance, credit health insurance or both as additional security for an indebtedness, the creditor shall give the debtor the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor, or of procuring and furnishing the required coverage through any insurer authorized to transact insurance in this state. The debtor shall be informed by the creditor before the transaction is completed of this right to provide alternative coverage.

(3) Evidence of Coverage. All credit insurance shall be evidenced by an individual policy or, in the case of group insurance, by a certificate of insurance. The policy or certificate shall be delivered to the debtor in accordance with ORS 743.377, and shall set forth the information required by ORS 743.377 and other provisions of the Insurance Code.

(4) Claims Processing. All credit insurance claims shall be processed in accordance with ORS 743.380.

(5) Claim Standards. The following requirements apply to claims:

(a) All claim payments shall go first to pay the balance of the indebtedness of the insured. Any residual benefit shall be paid to the insured or the designated beneficiary or the estate of the debtor;

(b) All claims are covered upon the earlier of the date of acceptance by the insurer for insurability or 30 days after the date of the application for coverage if not rescinded. Except for falsified statements, no claim may be denied for reason of ineligibility or uninsurability if the coverage is issued and not rescinded before the date of the claim; and

(c) All claims for consumer credit insurance are subject to ORS 746.230 and OAR 836-080-0205 to OAR 836-080-0235.

(6) Termination of Group Credit Insurance Policy:

(a) If a debtor is covered by a group credit insurance policy providing for the payment of single premiums to the insurer, provision shall be made by the insurer that, in the event of termination of the policy for any reason, insurance coverage with respect to the debtor shall be continued for the entire period for which the single premium was paid, subject to cancellation by the insured person;

(b) If a debtor is covered by a group credit insurance policy providing for the payment of premiums to the insurer on a monthly outstanding balance basis, the policy shall provide that, in the event of termination of the policy for any reason, notice of the termination shall be given to the debtor at least 30 days prior to the effective date of termination, unless replacement of the coverage by the same or another insurer in the same or greater amount occurs without lapse of coverage. This notice shall be given by the insurer or, at the option of the insurer, by the creditor.

(7) Interest on Premiums. If a creditor adds identifiable insurance charges or premiums for credit insurance to an indebtedness, and any direct or indirect finance, carrying, credit or service charge is made to the debtor on such insurance charges or premiums, the creditor shall remit and the insurer shall collect the insurance charges or premiums within 60 days after they are added to the indebtedness.

(8) Renewal or Refinancing of Indebtedness. If an indebtedness is discharged because of renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all such cases of termination prior to scheduled maturity, a refund shall be paid or credited to the debtor as provided in OAR 836-060-0036. In the renewal or refinancing of the indebtedness, the effective date of the insurance coverage with respect to any policy provision shall be

considered to be the first date on which the debtor became insured under the policy covering the indebtedness which was renewed or refinanced, at least to the extent of the amount and term of the indebtedness outstanding at the time of the renewal or refinancing of the debt.

(9) Maximum Aggregate Provisions. A provision in an individual policy or a group certificate that sets a maximum limit on total payments shall apply only to that individual policy or group certificate.

(10) Voluntary Prepayment of Indebtedness. If a debtor prepays the indebtedness other than as a result of a death payment or a lump-sum disability payment:

(a) Any credit life insurance covering the indebtedness shall be terminated and an appropriate refund of credit life insurance premium shall be paid to the debtor in accordance with OAR 836-060-0036;

(b) Any credit health insurance covering the indebtedness shall be terminated and an appropriate refund of credit health insurance premium shall be paid to the debtor in accordance with OAR 836-060-0036. If a claim under the coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit health insurance benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period; and

(c) A refund of premium that is owing because of early termination of a loan is determined as of the date the loan or coverage is terminated. The creditor shall promptly refund the amount owing the debtor or report a refund due to the insurer. In all cases, the insurer is responsible for a prompt refund. The refund shall be made not later than the 30th day after the loan is terminated.

(11) Involuntary Prepayment of Indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy or by a lump-sum payment of a disability claim under a credit insurance policy covering the debtor, it shall be the responsibility of the insurer that the following are paid to the insured debtor, if living, or to the beneficiary, other than the creditor, named by the debtor, or to the debtor's estate:

(a) In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump-sum total and permanent disability benefit under credit life insurance coverage, an appropriate refund of the credit health insurance premium in accordance with OAR 836-060-0036.

(b) In the case of prepayment by a lump-sum payment of a disability claim, an appropriate refund of the credit life insurance premium in accordance with OAR 836-060-0036; and

(c) In either case, the amount of the benefits in excess of the amount required to repay the indebtedness after crediting any unearned interest or finance charges.

(12) Amounts [to be] insured. The following types of insurance must provide benefits as follows:

(a) Credit life insurance based on gross coverage must provide benefits not to exceed the amount of indebtedness outstanding;

(b) Credit life insurance based on net coverage must provide benefits not to exceed the amount of indebtedness outstanding less the unearned interest and finance charges;

(c) Credit health insurance must provide benefits not to exceed the amount of outstanding indebtedness inclusive of unearned interest or finance charges for the benefit period unless paid in a lump sum.

(13) Participation. No group policy shall contain a minimum participation percentage.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743.376-743.378, 743.380, 746.220 & 746.240

Determination of Reasonableness of Benefits in Relation to Premium Charge

836-060-0021 (1) General Standard. Under ORS 742.005, benefits provided by credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied, in the opinion of the Director, if the premium develops, or reasonably may be expected to develop a loss ratio of not less than 60 percent.

(2) With the exception of deviations approved under OAR 836-060-0043, the rates established in OAR 836-060-0026 and 836-060-0031, as adjusted periodically pursuant to OAR 836-060-0041, are the prima facie rates and shall be conclusively presumed to satisfy the standard set forth in section (1) of this rule.

(3) Nonstandard Coverage. If an insurer files for approval a form providing coverage different from that described in OAR 836-060-0026 and 836-060-0031, the insurer shall demonstrate to the satisfaction of the Director that the premium rates to be charged for such coverage will develop, or reasonably may be expected to develop, a loss ratio not less than that contemplated for standard coverage, or are actuarially consistent with the rates used for standard coverages.

(4) Prima facie rates are presumed sufficient to cover up to two months of delinquencies.

(5) Coverage Without Separate Charge. If no specific charge is made to the debtor for credit insurance, sections (1) to (3) of this rule do not apply. In this case, any premium rates which exceed the premium rate standards set out in OAR 836-060-0026 and 836-060-0031 must be filed with the Director.

For purposes of this section, a specific charge is made to the debtor if an identifiable charge for insurance is disclosed in the credit or other instrument furnished the debtor which sets out the financial elements of the credit transactions, or if there is a differential in finance, interest, service or other similar charge made to debtors who are in like circumstances except for their insured or noninsured status.

Stat. Auth.: ORS 731.244

Credit Life Insurance Rates

836-060-0026 (1) Unless data submitted to the Director under OAR 836-060-0043 justify a higher rate in the Director's opinion, credit life insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, when the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not exceed the rates ("prima facie" rates) set forth in subsections (a) and (b) of this section. Subsections (c), (d) and (e) of this section prescribe the corresponding "prima facie" premium rates for other types of credit life insurance benefits. The prima facie premium rates are as follows:

(a) \$.65 per month per \$1,000 of outstanding insured indebtedness, if premiums are payable on a monthly outstanding balance basis (\$.59 if underwritten);

(b) If premiums are payable on a single premium basis and the amount of the insurance decreases in equal monthly amounts, the prima facie rates per \$100 of initial insured indebtedness shall equal:

(A) \$.42 per year on credit terms of 63 months or less (\$.38 if underwritten);
and

(B) On credit terms over 63 months

$$\frac{(n+1)}{20}$$

times \$.65 (\$.59 if underwritten), where n is the credit term in months. The rates so calculated are to be immediately rounded to two-decimal precision, i.e. to the nearest cent.

(c) If premiums are payable on a single premium basis and the benefit provided is level term, the prima facie rate is \$.76 per \$100 (\$.68 if underwritten) of insured indebtedness per year of term. The rate for a fractional part of a year shall be calculated pro rata and immediately rounded to two-decimal precision, i.e. to the nearest cent.

(d) The joint coverage rate shall be 165% of the rounded rate for single person coverage;

(e) If coverage is a combination of level term and decreasing term with equal decrements, the rate shall be a combination of the appropriate rate for level term and the appropriate rate for decreasing term with equal decrements;

(f) For coverage for outstanding indebtedness when only the principal is insured and the interest is paid on a scheduled basis to provide equal monthly repayments of indebtedness (simple interest loans), the premium shall be actuarially consistent with other premiums calculations described in this rule;

(g) For other benefits, except for benefits described in subsection (2)(e), of this

rule, rates shall be actuarially consistent with the rates specified in this section.

(2) The premium rates in section (1) of this rule apply to credit life insurance policies that are issued without underwriting or with underwriting for high risk conditions that have the potential of becoming terminal during the period of coverage, and that are offered to all debtors. Such policies:

(a) Shall not contain exclusions other than suicide within six months following the effective date of coverage for the insured person. If a suicide exclusion is used, the exclusion shall not be effective for more than six months following the effective date of coverage for the insured person. With respect to an exclusion under this subsection:

(A) Except as provided in paragraph (B) of this subsection, the effective date of insurance coverage applicable to an indebtedness is the date on which the individual policy or certificate of coverage was first issued; and

(B) An individual policy for an open-end plan or a certificate of coverage under a group policy for an open-end plan may provide that the effective date of coverage of a specific advance or charge, for the amount in excess of the first \$3,000 of account balance, is the date of the specific advance or charge;

(b) Shall not contain age restriction other than age restrictions making ineligible for coverage debtors 66 or over at the time the indebtedness is incurred and may provide that all insurance will terminate upon attainment by the debtor of a specified age not less than 66 years;

(c) Shall not contain a provision excluding or denying a claim for death resulting from a preexisting condition except for those conditions for which the insured debtor received medical diagnosis or treatment within six months preceding the effective date of coverage and which directly contributed to the death of the insured debtor within six months following the effective date of coverage. For purposes of this subsection:

(A) Except as provided in paragraph (B) of this subsection, the effective date of insurance coverage applicable to an indebtedness is the date on which the individual policy or certificate of coverage was first issued; and

(B) An individual policy for an open-end plan or a certificate of coverage under a group policy for an open-end plan may provide that the effective date of coverage of a specific advance or charge, for the amount in excess of the first \$3,000 of account balance, is the date of the specific advance or charge; and

(d) May contain additional benefits to policyholders and their debtors, such as dismemberment, partial disability and other benefits of small economic value to the consumer, but an insurer shall not pass on the charge for such coverage to the debtor so as to increase the total rate to exceed the rate established by this rule.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 742.003 & 742.005

Credit Life Reserves

836-060-0027 (1) For policies or certificates issued prior to January 1, 2001, the minimum reserve standard is the Commissioners 1958 Extended Term Insurance Table and 4.5% interest.

(2) For policies or certificates issued on or after January 1, 2001, the minimum reserve standard is the Male Commissioners 1980 Standard Ordinary Mortality Table and 4.5% interest.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 733.306(8)

Credit Health Insurance Rates

836-060-0031 (1) Unless data submitted to the Director under OAR 836-060-0043 justify a higher rate in the Director's opinion, credit health insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not exceed the rates ("prima facie" rates) set forth in subsections (a) and (b) of this section. Subsections (c), (d) and (e) of this section prescribe the corresponding "prima facie" premium rates for other types of credit health insurance benefits. The prima facie premium rates are as follows:

(a) As set forth in Tables 1 and 2, if premiums are payable on a single premium basis for the duration of the coverage;

(b) As set forth in Tables 1 and 2, if premiums are payable on a monthly outstanding insured indebtedness basis for a closed-end loan;

(c) The actuarial equivalent of the rates specified in subsections (a) and (b) of this section, if the coverage provided is a constant maximum indemnity for a given period of time;

(d) An appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in even amounts per month, if the coverage provided starts as a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in even amounts per month;

(e) For credit health insurance on an open-end credit account, per \$1,000 of outstanding insured indebtedness, the following rates shall apply to the following minimum benefit plans:

(A) 14-day nonretroactive plan	\$1.66	\$1.49 if underwritten
(B) 30-day nonretroactive plan	\$1.40	\$1.26 if underwritten
(C) 14-day retroactive plan	\$1.89	\$1.70 if underwritten
(D) 30-day retroactive plan	\$1.74	\$1.57 if underwritten

(f) For other benefits, except for benefits described in section (2)(g) of this rule, rates shall be actuarially consistent with the rates specified in this section;

(g) For critical period credit health coverage, maximum rates shall be computed by using the conversion ratios based on the 1974 Basic Tables of Credit A & H Claim Costs published by National Association of Insurance Commissioners,

NAIC Proceedings, 1975 Volume 1, pp. 676-691, and the extension as published in 1970 Volume 1, pp.332-333. The factors are published in Exhibit 2.

(2) The premium rates in section (1) of this rule shall apply to credit health insurance policies issued without underwriting or with underwriting for conditions with a high potential of resulting in permanent disablement, and offered to all eligible debtors. Such policies:

(a) Shall not contain a provision excluding or denying a claim for disability resulting from preexisting conditions except for those conditions for which the insured debtor received medical diagnosis or treatment within six months preceding the effective date of the debtor's coverage and which caused loss that commences within six months immediately following the effective date of coverage. For purposes of this subsection:

(A) Except as provided in paragraph (B) of this subsection, the effective date of insurance coverage applicable to an indebtedness is the date on which the individual policy or certificate of coverage was first issued; and

(B) An individual policy for an open-end plan or a certificate of coverage under a group policy for an open-end plan may provide that the effective date of coverage of a specific advance or charge, for the amount in excess of the first \$3,000 of account balance, is the date of the specific advance or charge;

(b) Shall not contain any other provision that excludes or restricts liability in the event of disability caused in a specified manner, except that the policy may contain provisions excluding or restricting coverage in the event of normal pregnancy and intentionally self-inflicted injuries;

(c) May contain an "actively at work test" only if the test applies solely when coverage is issued. Such a test shall not require that the debtor be employed more than 30 hours per week or deny coverage because the debtor is unemployed solely due to seasonal layoff;

(d) Shall not contain age restrictions other than age restrictions only making ineligible for coverage debtors 66 or over at the time the indebtedness is incurred and may provide that all insurance will terminate upon attainment by the debtor of a specified age not less than 66 years;

(e) Shall contain a daily benefit equal in amount to one-thirtieth of the monthly benefit payable under the policy for the indebtedness;

(f) Shall contain a definition of "disability" providing that during the first 18 months of disability the insured shall be unable to perform the duties of the insured's occupation at the time the disability occurred, and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training, or experience. This subsection shall not apply to lump-sum disability coverage;

(g) May contain other additional benefits to policyholders and their debtors, such as dismemberment, partial disability and other benefits of small economic value to the consumer, but an insurer shall not pass on the charge for such coverage to the debtor so as to increase the total rate to exceed the rate established by this rule; and

(h) Shall not contain a requirement of regular physician care unless the care is

medically necessary for determination of continued disability.

(3) The rates under section (1)(e) of this rule may be used as a composite rate for a benefit pay-off duration not to exceed 48 months. The percentage of monthly benefit must include accruing interest and charges. For durations greater than 48 months, rates filed must include actuarial development and adjustments consistent with this basis.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 742.003 & ORS 742.005(6)(c)

Refund Formulas

836-060-0036 (1) An insurer shall file for approval by the Director its refund formulas prior to their use. The following methods are considered appropriate for the plans described:

(a) Pro Rata Method. The pro rata unearned gross premium method shall be used for level term credit life insurance or credit health insurance where under the insured is covered for a constant maximum indemnity for a given period of time, after which the maximum indemnity begins to decrease in even amounts per month, and credit insurance coverage under which premiums are collected from the debtor on a basis other than the single premium basis;

(b) Actuarial method commonly referred to as the Rule of Anticipation. A refund of unearned premium used for decreasing term credit life insurance may be made as provided in this subsection. The amount of the refund shall be not less than the total premium, less the greater of:

(A) Ten percent of the premiums or \$75, whichever is less; or

(B) The premium earned to the installment due date of the loan nearest the date of prepayment, for the periods of time the loan balances were actually outstanding. For purposes of refund computations under this paragraph, the installment due date of the loan preceding the date of prepayment shall be considered to be nearest if prepayment occurs 15 days or less after that installment date. If prepayment occurs more than 15 days after the preceding installment due date, the next succeeding installment due date shall be considered to be nearest to the date of prepayment.

(c) Any method that develops refunds that are at least as favorable to the debtor as refunds based on the actuarial method described in subsection (b) of this section.

(2) In the event of termination, no charge for credit insurance may be made for the first 15 days of a loan month, and a full month may be charged for 16 days or more of a loan month.

(3) The refund formula shall be set forth in the individual policy or group certificate.

(4) The requirement of ORS 743.378 that refund formulas be filed with the Director is fulfilled by inclusion of the refund formulas in the individual policy or

group certificate filed with the Director.

(5) No refund of \$5 or less need be made.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743.378

Experience Reports

836-060-0041 (1) Each insurer transacting credit insurance in this state shall submit an Oregon-specific Credit Insurance Experience Exhibit to the National Association of Insurance Commissioners (NAIC). If this report is discontinued as an NAIC report, the report must be sent directly to the Director by June 1 of each year.

(2) Notwithstanding section (1) of this rule, each insurer transacting credit insurance that is underwritten shall submit to the Director an Oregon-specific_Credit Insurance Experience Exhibit for the underwritten business. The information shall be reported on the NAIC form and submitted by June 1 of each year. An insurer need not comply with this section if the NAIC Credit Insurance Experience Exhibit includes a separate accounting for underwritten business.

(3) The experience reports required by this rule replace all other annual reports to the Director of credit insurance experience. The experience reports required by this rule are separate and distinct from the annual financial statement and are not for use in determining the financial condition of an insurer.

(4) The Director shall review the loss ratio development every four years and compare it with the standards set forth in OAR 836-060-0021 and the prima facie rates set forth for underwritten and non-underwritten in OAR 836-060-0026 and 836-060-0031 as adjusted and determine therefrom the statewide loss ratio using no less than three years of experience. The Director shall compare the expected loss ratio with the actual loss ratio for the preceding review period determined from the incurred claims and earned premiums at prima facie rates reported under this rule, and publish the adjusted actual statewide prima facie rates to be used by insurers. If published, the rates are adjusted for the difference between:

(a) Actual claims and expected claims; and

(b) Any other additional premium changes necessary to meet the loss ratio standards of OAR 836-060-0021.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 742.005(6)(c)

Use of Rates - Direct Business Only

836-060-0043 (1) An insurer that files rates or has rates on file that are not in excess of the prima facie rates shown in OAR 836-060-0026 and 836-060-0031, to the extend adjusted pursuant to OAR 836-060-0041 may use those rates without further proof of their reasonableness except as may be required by the Director.

(2) An insurer may file for approval of and may use rates that are higher than

the prima facie rates shown in OAR 836-060-0026 and 836-060-0031, to the extent adjusted pursuant to OAR 836-060-0041, if it can be expected that the use of such higher rates will result in a ratio of claims incurred to premiums earned (assuming the use of such higher rates) that is commensurately higher, depending on the upward deviation, for those accounts to which the higher rates apply and that the upward deviations will not result on a statewide basis for that insurer of a ratio of claims incurred to premiums earned of less than the expected loss ratio underlying the current prima facie rate developed or adjusted pursuant to OAR 836-060-0041. The insurer must justify the rates by showing its compensation structure, including compensation to lenders and other producers. If rates higher than the prima facie rates shown in OAR 836-060-0026 and 836-060-0031, to the extent adjusted pursuant to OAR 836-060-0041, are filed for approval, the filing shall specify the account to which the rates apply. Such rates may be applied on an equitable basis approved by the Director only to one or more accounts of the insurer for which the experience has been less favorable than expected.

(3) This section establishes approval periods of deviated rates, as follows:

(a) A deviated rate shall be in effect for a period of time not longer than the experience period used to establish such rate (i.e. one year, two years or three years). An insurer may file for a new rate before the end of a rate period, but not more often than once during any twelve-month period. A deviated rate

expires at the end of the rate period unless refiled and approved again by the Director;

(b) Notwithstanding section (1) of this rule, if an account changes insurers, the succeeding insurer may use the rate approved to be used for the account by the prior insurer only if the rate is filed by the succeeding insurer and approved for use on the account for the remainder of the rate approval period approved for the prior insurer or until a new rate is approved for use on such account, if sooner.

(4) An insurer may at any time use a rate for an account that is lower than its filed rate without notice to the Director.

(5) For purposes of this rule:

(a) "Experience" means "earned premiums" and "incurred claims" during the experience period;

(b) "Experience Period" means the most recent period of time for which experience is reported, but not for a period longer than three full years. For purposes of an individual policy, a year is a calendar year. For purposes of a group policy, a year is either a calendar year or policy year, at the option of the insurer;

(c) "Incurred Claims" means total claims paid during the experience period, adjusted for the change in claim service.

Stat. Auth.: ORS 731, ORS 742, ORS 743 & ORS 746

Stats. Implemented: ORS 742.005(6)(c) & ORS 743.015

Supervision of Credit Insurance Operations

836-060-0046 (1) Once every rate review period established under OAR 836-060-0041(4), each insurer transacting credit insurance in this state shall be responsible for conducting a thorough review of creditors with respect to the insurer's credit insurance business with such creditors, to assure compliance with the Oregon Insurance Code and OAR 836-060-0000 through 836-060-0060.

(2) The insurer shall maintain written records of these reviews for review by the Director. The records shall:

(a) Review and report the creditor's activities according to OAR 836-060-0011(5); and

(b) Verify the prompt and timely payment of claims and accuracy of refunds.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743.377, 743.378, 743.380 & 746.160

Prohibited Transactions

836-060-0055 The following insurer practices in connection with the sale or placement of credit insurance, or as an inducement thereto, constitute unfair methods of competition under ORS 746.160 or unfair or deceptive practices injurious to the insurance-buying public under ORS 746.240:

(1) Practices in connection with the creditor:

(a) The offer or grant by an insurer to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract.

(b) Agreement by an insurer to deposit with a bank or other financial institution money or securities of the insurer, with the design or intent that this deposit shall affect or take the place of a deposit of money or securities which otherwise would be required of the creditor by the bank or the other financial institution as a compensating balance or offsetting deposit for a loan or other advancement.

(c) Deposit by an insurer of money or securities with a creditor, bank or other financial institution without interest or at lesser rate of interest than is currently being paid to other depositors of like amounts. This subsection shall not be construed to prohibit the maintenance by an insurer of those demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of the insurer's business.

(2) Placement of insurance on an account by automatic deduction of premium payments without a signed consent by the insured authorizing such deduction for payments.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.160 & ORS 746.240

DIVISION 10

GENERAL PROVISIONS

Rates and Forms

Required Actuarial Data {NOTE: Only the Certification Statement for Credit Life and Disability, contained in the exhibit to this rule, is amended.}

836-010-0021 (1) An insurer shall file with the Director, on or before March 15 of each year, geographic average rates for small employer, portability and individual health benefit plans for a rating period. The supporting actuarial data must be submitted with the applicable certification statement in the Exhibit to this rule. The geographic average rates must demonstrate compliance with the applicable provisions of:

- (a) ORS 743.737, governing small employer premium rates;
- (b) ORS 743.760, governing portability premiums rates; and
- (c) ORS 743.767, governing individual premium rates.

(2) Except as provided in this section, supporting actuarial data shall accompany every filing of property or casualty insurance rates submitted on a file and use basis under ORS 737.205. The data shall be in sufficient detail to justify the rate level change and shall demonstrate compliance with ORS 737.310 governing the making of rates. This section does not apply to:

- (a) Title insurance filings;
- (b) Workers' compensation insurance filings;
- (c) Surety filings;
- (d) Home protection insurance filings;
- (e) Filings for mortgage insurance, which is the insurance against financial loss by reason of nonpayment of sums agreed to be paid, as defined in ORS 731.178, rather than a life insurance product offering payment of a mortgage in the event of death or disability;
- (f) Purchasing group insurance filings; and
- (g) Filings by legal expense organizations as defined in ORS 750.505.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 731.296, 737.205, 737.207, 743.015 & 743.018
