March 24, 2001

Commissioner David Parsons
Chair, Credit Property Working Group

Re: Comments on March 22, 2001 Draft Credit Personal Property Model Act

Dear Commissioner Parsons:

The Center for Economic Justice appreciates the efforts of the working group to craft a credit personal property model act that balances the interests of insurers, lenders and consumers.

We start our comments with a response to the recent comments from Household and Assurant regarding the current draft's standard for reasonable benefits in relation to premium charges:

> 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.

Ms. Ormrod of Household commented that their in-house actuary had determined that this language did not "make sense" and might not "reflect appropriate actuarial standards and practices."

> It seems to us that the phrase "not less than 60% or such higher loss ratio" is incongruent with the component language "to afford a reasonable allowance for..." If the loss ratio is higher, the "allowance" is obviously shrinking to the point that we are back to a straight loss ratio approach, without a consideration for expenses, commissions, etc.

We submit that the current draft's language makes perfect sense and clearly complies with "actuarial standards and practices." First, one of the most important actuarial standards of practice is that rates must comply with the law. Actuarial analysis does not trump statutory requirements. For example, even if an insurer could demonstrate that credit life claim costs were higher for African-Americans, the insurer could not used race-based pricing because state laws prohibit such practices. Similarly, if state laws provide a loss ratio standard as the minimum measure of benefits to premiums charged for credit insurance, then an insurer can not evade the statutory requirement by offering an actuarial analysis. The premise behind the current draft's language is that there should be a *minimum* standard of benefits to premiums charges, as measured by the ratio of claims paid on behalf of consumers to premiums paid by consumers.

Second, it is clear that minimum loss ratio standards are common. Many, if not most states, specify minimum loss ratios as the measure of minimum benefits to premiums charged for credit life and credit disability insurance. While credit insurers do not like minimum loss ratio standards in states where claim costs are low, such standards are legal and do not conflict with actuarial standards of practice.

Third, the Household comments are hypocritical. Household argues that the proposed language put us "back to a straight loss ratio approach, without a consideration for expenses, commissions, etc." Yet, the component rating language alternative proposed by the credit insurance industry and added to the NAIC Consumer Credit Insurance Model Act in 1994 was "60% or such *lower* loss ratio." Obviously, a component rating analysis could indicate a loss ratio higher than 60%, but the "or such *lower*" caps the loss ratio at 60%. Household, and the credit insurance industry, did not complain at the time that this language did not make sense or violated actuarial principles even though the same arguments offered by Household to the "or such *higher*" language apply exactly to the "or such *lower*" language. We submit that the Household comments are inconsistent and self-serving to the detriment of consumers.

Ms. Hollongquest of Assurant wrote "During the conference of call of March 21, 2001 the Working Group appeared to express a desire to be consistent with other Models adopted by the NAIC concerning credit related insurance products." She then offered the language from the Consumer Credit Insurance Model Act for consideration.

In response, we believe the working group expressed a desire to provide meaningful consumer protections in the Credit Personal Property Model Act and did not express a desire to replicate the poor "or such *lower* loss ratio" language of the Consumer Credit Insurance Model Act. Moreover, this is the first time the credit insurance industry has offered or mentioned the language in the Consumer Credit Insurance Model Act. It appears that the industry is suggesting "consistency" now only after the working group adopted a strong consumer protection. We urge the retention of the current draft's language as reasonable and necessary – the 60% standard is reasonable (as demonstrated by our extensive component rating analyses in previous comments) and a minimum loss ratio standard is necessary in credit insurance markets characterized by reverse competition.

Without repeating a number of our recommendations that the working group has declined to adopt, we do offer one recommendation for the working group's consideration. We recommend inserting an amount into Section 4.A. regarding a limitation on the sale of credit personal property insurance on closed-end loans if the amount financed does not exceed a certain amount. For your reference, Wisconsin Statute 424.301 (3) provides the following:

A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless the amount financed exclusive of charges for the insurance is $800 or more, and the value of the property is $800 or more.

Thank you for your consideration.

Sincerely,

Birny Birnbaum
Executive Director

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