Credit Insurance: The $2 Billion A Year Rip-Off

Ineffective Regulation Fails to Protect Consumers

A Report by Consumers Union
and the Center for Economic Justice[1]

1. Introduction: What is Credit Insurance?

Credit insurance is big business. From 1995 to 1997, more than $17 billion of credit insurance was sold in the United States.

Credit insurance refers to a group of insurance products sold in conjunction with a loan or credit agreement. Credit insurance makes payments for the consumer to the lender for a specific loan or credit agreement in particular circumstances. The common types of credit insurance sold include:

- *Credit Life* pays off the consumer's remaining debt on a specific loan or credit card account if the borrower dies during the term of the coverage.

- *Credit Accident and Health, also known as Credit Disability,* pays a limited number of monthly payments on a specific loan or credit card account if the borrower becomes disabled during the term of coverage.

- *Credit Involuntary Unemployment* pays a limited number of monthly payments on a specific loan or credit card account if the borrower becomes involuntarily unemployed during the term of coverage.

- *Credit Property* pays to repair or replace personal property purchased with the loan or credit proceeds and/or serving as collateral for the credit if the property is lost or damaged. Unlike the first three credit insurance products, credit property insurance is not directly related to an event affecting a consumer's ability to pay his or her debt.

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[1] **Consumers Union** is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about good, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports,* its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports* with approximately 4.5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

The Center for Economic Justice is a Texas non-profit advocacy organization dedicated to representing the interets of low income consumers on insurance, credit and utility issues.

This report reviews the performance of state insurance regulation in protecting the consumers of credit insurance. Our analysis shows that ineffective regulation has caused consumers to overpay for credit insurance by $2 billion dollars a year. We estimate that credit insurance consumers were overcharged by over 35% of the amounts they pay. After a discussion of credit insurance generally, this report looks at the particular problems of credit property insurance.

2. Credit Insurance Consumers Overcharged by $ 2 Billion a Year

The single most important measure of the reasonableness of credit insurance benefits in comparison to the cost is the *loss ratio*. The loss ratio is the ratio of benefits paid by credit insurers to the premiums paid by consumers for the product.[2] The National Association of Insurance Commissioners (NAIC)[3] model regulation for credit life and disability insurance specifies a 60% loss ratio as the minimum benefit consumers should expect in relation to premiums paid. The NAIC has not established loss ratio standards for credit unemployment or credit property insurance.

The 60% loss ratio standard for credit life and disability insurance is a modest one. Actual historical loss ratios for group life insurance and group accident and health insurance exceed 90% and 75%, respectively. Historical loss ratios for private passenger automobile insurance are just under 70%.[4]

Our review of actual credit insurance loss ratios shows that state legislatures and/or state insurance regulators, with only a very few exceptions, have failed to protect credit insurance consumers. Actual historical credit insurance loss ratios are far below even the NAIC model's modest 60% loss ratio standard.

Table 1 shows 1997 countrywide credit insurance premiums, loss ratios and commissions by coverage. The 1997 credit insurance loss ratios ranged from 12% to 49%, depending upon the coverage. Overall, less than 39 cents on the premium dollar was paid out in claims on behalf of consumers.

These loss ratios are unconscionably low – far below any reasonable measure of benefit in relation to the premium charged to consumers. The actual loss ratios fall far

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[2] The loss ratios discussed are incurred losses to earned premiums. Incurred losses are claims paid plus changes in loss reserves.

[3] The NAIC is a trade association of state insurance regulators. The purpose of the NAIC is assist state insurance regulators in their efforts. The NAIC provides technical assistance to state insurance regulators. For example, the NAIC collects extensive financial data from insurers to help state regulators with monitoring insurer solvency. Another major activity of the NAIC is the development of model laws and model regulations. These models theoretically represent consensus among insurance regulators regarding minimum statutory and regulatory standards. As described below, the NAIC activity on credit insurance in recent years has been woefully inadequate to protect consumers.

[4] See Best's Aggregrates and Averages, 1998 Life Health Edition, page 59 for 1987-1996 experience for group life and group accident and health and Best's Aggregate and Averages, 1998 Property Casualty Edition, page 226 for 1988-1997 experience for private passenger automobile liability and physical damage experience.

below even the NAIC minimum standards. The credit involuntary unemployment and credit property loss ratios are particularly egregious.[5]

Table 1
Countrywide Credit Insurance Experience, 1997

	Earned Premium	Loss Ratio	Compensation Ratio	Excessive Premiums Paid By Consumers
Life	$2,167,090,316	41.6%	33.3%	$664,879,714
Disability	$2,190,298,711	48.6%	28.5%	$415,841,316
Unemployment	$763,112,174	12.6%	52.6%	$635,128,143
Property (FEC)	$399,072,541	26.3%	32.8%	$259,159,049
Property (Other)	$104,072,500	11.6%	45.1%	$87,986,495
Total	**$5,623,646,242**	**38.7%**	**34.2%**	**$2,062,994,717**

If credit insurance had been priced to provide even minimum reasonable benefits to consumers in relation to premiums paid, consumers would have paid $2 billion less in premium for credit insurance in 1997.[6] Overall credit insurance overcharges were almost 37% of total premium charged.[7] For credit unemployment and credit property (other), premiums were excessive by more than 80% of premium.

Table 2 shows countrywide experience for the three-year period 1995 to 1997. On a countrywide basis, from 1995-1997, more than $17 billion in credit insurance was sold with consumers paying almost $6 billion in excessive premium.

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[5] The data source for all tables in this report the NAIC Credit Insurance Experience Exhibit. The NAIC does not endorse any calculation based upon these data. Credit property (FEC) is typically credit property sold in conjunction with closed-end (or fixed-term) loans, while credit property (other) is typically credit property sold in conjunction with credit card accounts. See Appendix C for a more detailed discussion of data sources and analysis.
[6] Excess Premiums were calculated using 60% as a minimum reasonable loss ratio for credit life and credit disability and 75% as a minimum reasonable loss ratio for credit unemployment and credit property. See section 10 below for discussion of these minimum loss ratio standards.
[7] Calculated as $2.96 Billion / $5.62 Billion

Table 2
Countrywide Credit Insurance Experience, 1995-1997

	Earned Premium	Loss Ratio	Compensation Ratio	Excessive Premiums Paid By Consumers
Life	$6,556,257,882	42.1%	34.4%	$1,956,702,937
Disability	$6,955,104,104	49.6%	30.7%	$1,208,015,611
Unemployment	$2,071,899,892	14.9%	49.1%	$1,660,271,645
Property (Fire)	$1,183,980,751	33.1%	34.6%	$661,347,832
Property (Other)	$304,198,603	13.9%	41.4%	$248,013,752
Total	$17,071,441,232	40.7%	34.8%	$5,734,351,778

While a few states do a good overall job of regulating credit insurance and protecting consumers – New York, Maine and Pennsylvania – the vast majority of states fail miserably in protecting credit insurance consumers. Table 3 shows the 1995-97 combined loss ratio for credit life, disability, unemployment and property and the amount of premium overcharges by state for the same period. The worst states for credit insurance consumers include Louisiana, North Dakota, Mississippi, Alaska, Nebraska and Minnesota where overall loss ratios were *less than* 32% and consumer overcharges were around *50% or more of total premium*. Forty-five states and the District of Columbia had three-year overall credit insurance loss ratios of less than 50%. Three-year overcharges exceeded $100 million in 14 states.

Table 4 ranks the states by 1997 loss ratio for each coverage. Louisiana, Kentucky, Puerto Rico, Mississippi, Nebraska and New Mexico show credit life loss ratios of 30% or less – less than half the 60% standard. All but nine states show 1997 credit life loss ratios of less than 50%. Ten states show credit disability loss ratios of less than 40% with Minnesota’s 28.7% being the worst. For credit unemployment insurance, 48 states and the District of Columbia had 1997 loss ratios of less than 20%. Sixteen states had credit unemployment loss ratios of less than 10%. All but three states had credit property loss ratios in 1997 of less than 40%.

Appendix A provides earned premium and loss ratios by state and by coverage for each of the three years from 1995-1997.

Table 3
Credit Insurance Experience By State, 1995-1997
(sorted by Overcharge Percentage)

	Loss Ratios					Overcharge to Consumers	Overcharge as a Percentage of
	Life	Disability	IUI	Property	Total	($ Millions)	Earned Premium
Louisiana	21.2%	40.7%	11.4%	22.6%	26.4%	$271.7	57.4%
Mississippi	29.3%	36.0%	12.6%	23.2%	29.4%	$162.1	52.6%
North Dakota	30.8%	32.9%	12.8%	38.7%	29.0%	$19.9	52.6%
Alaska	35.4%	36.6%	14.3%	23.0%	30.3%	$16.2	50.9%
Nevada	43.2%	32.6%	11.7%	26.4%	31.2%	$44.9	49.5%
Nebraska	30.8%	38.6%	7.9%	21.5%	31.1%	$54.4	48.6%
New Mexico	29.0%	43.7%	12.0%	38.2%	32.6%	$68.2	48.0%
Minnesota	39.9%	29.3%	11.3%	13.4%	31.9%	$105.6	47.2%
South Dakota	37.4%	31.4%	7.1%	16.4%	32.2%	$31.2	46.6%
Utah	37.3%	38.1%	10.6%	27.5%	32.9%	$50.5	46.3%
Arkansas	33.4%	48.0%	10.2%	33.8%	33.4%	$68.5	45.9%
Montana	34.0%	39.5%	17.2%	31.6%	33.8%	$25.8	44.9%
Kansas	32.0%	42.5%	10.3%	31.4%	33.7%	$81.4	44.7%
Illinois	39.9%	38.5%	15.5%	22.4%	34.6%	$325.6	43.5%
Colorado	34.2%	42.4%	17.6%	44.2%	35.4%	$86.7	42.5%
Tennessee	34.8%	45.7%	11.8%	30.8%	35.9%	$245.9	41.8%
Oklahoma	37.9%	43.3%	13.0%	34.8%	36.0%	$89.5	41.3%
Georgia	49.1%	38.9%	10.0%	25.2%	36.5%	$274.5	40.9%
Kentucky	29.6%	49.9%	15.3%	31.4%	36.5%	$157.8	40.5%
Arizona	49.6%	38.1%	10.1%	22.5%	36.9%	$89.5	39.7%
Iowa	37.3%	44.1%	12.2%	16.7%	37.1%	$69.6	38.8%
Indiana	33.2%	47.7%	8.7%	24.3%	37.1%	$188.5	38.8%
California	52.4%	47.4%	18.5%	32.0%	38.9%	$460.5	38.3%
Dist Columbia	61.7%	45.2%	13.3%	25.9%	39.0%	$10.5	36.8%
Wyoming	43.7%	45.2%	11.6%	39.0%	38.7%	$11.7	36.4%
Idaho	37.6%	49.2%	16.2%	20.2%	38.8%	$29.8	36.3%

Table 3
Credit Insurance Experience By State, 1995-1997
(sorted by Overcharge Percentage)

	Loss Ratios Life	Disability	IUI	Property	Total	Overcharge to Consumers ($ Millions)	Overcharge as a Percentage of Earned Premium
Wisconsin	40.4%	46.0%	12.8%	31.1%	39.2%	$124.1	35.6%
South Carolina	35.6%	57.1%	15.4%	35.4%	40.5%	$163.5	35.4%
North Carolina	35.1%	49.3%	12.5%	39.0%	40.1%	$230.8	35.2%
Maryland	53.0%	49.4%	7.9%	17.5%	39.8%	$107.8	34.6%
Florida	49.5%	46.7%	12.2%	24.7%	40.2%	$345.4	34.5%
Hawaii	44.0%	49.9%	21.7%	25.2%	40.8%	$25.2	34.0%
Texas	39.9%	49.5%	15.5%	25.0%	40.6%	$385.4	33.6%
Ohio	41.3%	49.3%	15.7%	23.3%	41.0%	$290.1	32.8%
Massachusetts	39.6%	44.3%	20.6%	40.2%	41.3%	$50.0	32.5%
Washington	49.8%	46.1%	16.1%	23.8%	41.3%	$121.8	32.5%
Oregon	51.6%	43.2%	18.3%	21.2%	41.3%	$68.8	32.5%
New Hampshire	39.7%	50.1%	11.9%	31.9%	41.1%	$20.6	32.4%
Connecticut	45.6%	45.2%	19.9%	41.7%	42.0%	$36.7	31.8%
Alabama	37.7%	51.9%	14.3%	48.0%	42.1%	$101.8	31.7%
Delaware	48.6%	47.6%	14.3%	22.1%	41.8%	$20.8	31.6%
Missouri	48.8%	43.0%	16.8%	29.8%	42.1%	$104.2	30.8%
Virginia	52.4%	52.6%	8.4%	29.5%	43.4%	$130.6	29.2%
Puerto Rico	30.9%	66.0%	17.1%	14.5%	42.7%	$85.9	28.8%
Michigan	43.2%	55.0%	12.8%	28.3%	45.4%	$203.9	25.1%
Rhode Island	53.7%	53.6%	21.6%	23.6%	46.8%	$11.4	23.6%
West Virginia	33.9%	74.8%	20.8%	31.8%	47.9%	$42.1	21.9%
New Jersey	53.4%	70.0%	16.4%	28.7%	49.7%	$72.6	19.0%
Vermont	48.5%	62.1%	15.3%	15.4%	54.0%	$2.5	10.3%
Pennsylvania	54.8%	67.6%	43.0%	42.5%	60.1%	$7.7	1.1%
Maine	64.6%	69.8%	15.7%	48.1%	64.7%	-$4.3	-7.1%
New York	74.9%	75.5%	33.8%	31.6%	69.3%	-$69.9	-14.0%

Table 4
1997 Credit Insurance Loss Ratios By State and Coverage
(Sorted by Loss Ratio)

Rank	State	1997 **Life** Loss Ratio	Rank	State	1997 **Disability** Loss Ratio
1	New York	67.6%	1	New York	70.5%
2	Maine	58.7%	2	West Virginia	69.4%
3	Dist Columbia	55.0%	3	Pennsylvania	67.7%
4	Pennsylvania	54.3%	4	Maine	63.8%
5	Oregon	52.6%	5	Vermont	62.4%
6	California	52.3%	6	New Jersey	60.6%
7	Rhode Island	51.8%	7	Puerto Rico	60.0%
8	New Jersey	51.0%	8	South Carolina	59.6%
9	Virginia	50.7%	9	Dist Columbia	57.8%
10	Arizona	49.7%	10	Rhode Island	55.7%
11	Delaware	49.0%	11	Virginia	55.6%
12	Missouri	49.0%	12	Hawaii	53.1%
13	Georgia	48.9%	13	Michigan	52.4%
14	Maryland	48.9%	14	Alabama	52.3%
15	Vermont	48.5%	15	Arkansas	51.6%
16	Florida	48.5%	16	North Carolina	51.4%
17	Washington	48.3%	17	Maryland	51.4%
18	Hawaii	47.2%	18	Connecticut	50.4%
19	Wyoming	46.5%	19	Delaware	49.1%
20	Oklahoma	42.2%	20	Idaho	48.3%
21	Nevada	41.8%	21	Massachusetts	48.1%
22	Michigan	40.7%	22	Wisconsin	46.9%
23	South Dakota	40.5%	23	Washington	46.9%
24	Illinois	40.1%	24	Texas	46.7%
25	New Hampshire	39.9%	25	Kentucky	46.3%
26	Ohio	39.8%	26	New Hampshire	46.3%
27	Texas	39.7%	27	Tennessee	46.3%
28	Idaho	39.7%	28	Wyoming	46.0%
29	Alaska	39.4%	29	Oregon	46.0%
30	Wisconsin	39.1%	30	California	45.9%
31	Connecticut	38.7%	31	Montana	44.8%
32	North Carolina	38.6%	32	Florida	44.6%
33	South Carolina	38.2%	33	New Mexico	44.5%
34	Montana	38.2%	34	Ohio	44.4%
35	Arkansas	37.8%	35	Indiana	44.1%
36	Minnesota	37.7%	36	Kansas	43.7%
37	Massachusetts	37.6%	37	Missouri	43.3%
38	Utah	37.1%	38	Iowa	43.1%
39	Alabama	36.9%	39	Nebraska	41.7%
40	Tennessee	36.3%	40	Colorado	41.4%
41	West Virginia	35.8%	41	North Dakota	41.1%
42	Iowa	34.9%	42	Louisiana	40.0%
43	Kansas	33.0%	43	Alaska	39.8%
44	Colorado	32.5%	44	Georgia	39.4%
45	Indiana	32.3%	45	Illinois	39.3%
46	North Dakota	32.0%	46	Oklahoma	38.4%
47	New Mexico	30.3%	47	Arizona	37.3%
48	Nebraska	29.6%	48	Mississippi	35.8%
49	Mississippi	29.4%	49	Utah	35.7%
50	Puerto Rico	29.2%	50	Nevada	33.8%
51	Kentucky	27.6%	51	South Dakota	30.1%
52	Louisiana	24.1%	52	Minnesota	28.7%

Table 4
1997 Credit Insurance Loss Ratios By State and Coverage
(Sorted by Loss Ratio)

Rank	State	1997 **Unemployment** Loss Ratio	Rank	State	1997 **Property** Loss Ratio
1	Pennsylvania	35.0%	1	Maine	54.0%
2	New York	33.6%	2	Alabama	53.9%
3	Hawaii	19.3%	3	North Dakota	40.7%
4	Minnesota	19.2%	4	Arkansas	38.8%
5	West Virginia	17.3%	5	Montana	36.5%
6	Montana	16.8%	6	Kentucky	35.6%
7	Connecticut	16.6%	7	New Mexico	34.4%
8	Massachusetts	16.3%	8	Colorado	34.1%
9	North Dakota	15.2%	9	Pennsylvania	29.4%
10	Idaho	15.1%	10	Alaska	28.7%
11	Texas	15.0%	11	California	28.5%
12	Alabama	14.9%	12	West Virginia	28.3%
13	California	14.8%	13	Tennessee	28.0%
14	Oregon	14.7%	14	Oklahoma	27.2%
15	Colorado	14.5%	15	Minnesota	27.0%
16	Delaware	14.4%	16	Virginia	26.9%
17	New Jersey	14.0%	17	Michigan	26.5%
18	Rhode Island	13.9%	18	Washington	25.7%
19	Missouri	13.8%	19	North Carolina	25.7%
20	Puerto Rico	13.7%	20	Wisconsin	25.5%
21	Alaska	13.3%	21	New Jersey	25.5%
22	Vermont	13.0%	22	Missouri	25.2%
23	Maine	12.8%	23	New York	25.1%
24	Iowa	12.4%	24	South Carolina	24.7%
25	Michigan	12.4%	25	Indiana	23.2%
26	Ohio	12.4%	26	Idaho	23.1%
27	Washington	12.4%	27	Ohio	22.8%
28	Kentucky	12.3%	28	Dist Columbia	22.6%
29	Illinois	12.2%	29	Kansas	22.1%
30	Dist Columbia	12.0%	30	Utah	21.1%
31	South Carolina	10.8%	31	Mississippi	20.8%
32	Mississippi	10.8%	32	Wyoming	20.5%
33	New Mexico	10.7%	33	Delaware	20.3%
34	Tennessee	10.4%	34	Florida	19.8%
35	Wisconsin	10.3%	35	Arizona	19.2%
36	Louisiana	10.2%	36	Nevada	18.5%
37	Wyoming	9.9%	37	Hawaii	18.1%
38	Florida	9.8%	38	Massachusetts	18.0%
39	North Carolina	9.7%	39	Nebraska	17.5%
40	Utah	9.4%	40	Georgia	17.3%
41	Arkansas	9.2%	41	Illinois	16.9%
42	New Hampshire	9.0%	42	South Dakota	16.2%
43	Nevada	8.9%	43	Oregon	16.1%
44	Georgia	8.8%	44	Iowa	15.7%
45	Arizona	8.2%	45	Louisiana	15.2%
46	Kansas	8.1%	46	Texas	14.1%
47	Indiana	8.0%	47	Vermont	14.0%
48	Oklahoma	7.2%	48	Rhode Island	13.5%
49	Maryland	6.9%	49	Maryland	13.1%
50	Virginia	6.3%	50	New Hampshire	12.4%
51	Nebraska	5.7%	51	Connecticut	12.1%
52	South Dakota	3.6%	52	Puerto Rico	-11.1%

Ineffective Rate Regulation and Reverse Competition Cause Overcharges

Tables 3 and 4 show that consumers in the vast majority of states are getting a bad deal on credit insurance, as measured by loss ratios. The low loss ratios for credit insurance in almost every state are a result of two factors. First, credit insurance is characterized by *reverse competition*. As explained further below, competition among credit insurers to sell their product to lenders – who in turn sell the credit insurance to borrowers – causes prices to *increase*. For products sold in reverse-competitive markets, strong rate and market conduct regulation is required to protect consumers. Second, state regulation of credit insurance has failed to protect credit insurance consumers from reverse competition.

3. The Sale of Credit Insurance

Credit insurance is typically sold as a package of products, or coverages. The package will almost always include credit life and credit disability and will often include credit involuntary unemployment and credit property.[8]

Credit insurers sell a credit insurance group policy to the lender. The lender then sells the credit insurance to the borrower on behalf of the credit insurer and issues a certificate of insurance under the group policy to the borrower. The entities that sell credit insurance on behalf of the credit insurers are more generally called *producers* and include banks, credit unions, finance companies, automobile dealers, department stores, furniture stores and jewelry stores. These entities are called producers because they produce the business for the credit insurer. Consequently, credit insurers market their products to the producers of business rather than to the ultimate consumers.[9]

Credit insurance is typically offered to the consumer when the consumer is obtaining a loan or financing purchase of a vehicle or product. With credit card credit insurance, the credit insurance offer is made through a sales flyer accompanying the

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[8] Three additional credit insurance coverages are not discussed in this report. Credit *leave of absence* insurance pays a limited number of monthly payments on a specific loan or credit card account if the borrower goes on a temporary, unpaid leave of absence from work for specified reasons, such as childbirth or adoption. Credit family leave is a new coverage, typically sold as in a package with credit life, disability and involuntary unemployment for credit card accounts.

Credit gap insurance, another recent offering, provides a benefit sufficient to pay off the difference between the amount remaining on the credit obligation and the amount paid from other insurance, or "the gap." Credit gap insurance is typically sold in conjunction with longer-term automobile loans and, in the event the financed auto is destroyed during the term of the loan, pays the difference between the amount paid by the automobile physical damage coverage and the remaining debt obligation.

This report also does not discuss *creditor-placed insurance*. Creditor-placed insurance refers to insurance that is "force-placed" by the lender in the event the borrower fails to maintain auto or homeowners insurance as required under the loan agreement. Although the lender "places" the insurance, the consumer pays for it. The consumer has no control over price, terms or type of coverage purchased. For a recent report on the sales abuses associated with this product, see Sheldon, "Force-Placed Automobile Insurance: Consumer Protection Problems and Potential Solutions," August 1996, American Association of Retired Persons (AARP).

[9] In some cases, the producer is not the lender. For example, an automobile dealer is a producer and sells credit insurance as part of arranging vehicle financing, but the automobile dealer is typically not the ultimate lender.

credit card application, solicitation or billing statement. Some credit card credit insurance is sold through telemarketers.

As stated above, the lender (or producer) selects the package of credit insurance products to be offered to the consumer. The consumer's choice is effectively limited to accepting or not accepting the package. There are only a few states that require credit insurers to offer consumers the choice of individual coverages.[10]

The lenders (producers) receive compensation for the sale of credit insurance. This compensation takes the form of commissions, service fees and services from the credit insurer. Most commission is paid up front as a percentage of premiums. In some cases, additional commission is paid based upon the profitability of the credit insurance business. Credit insurers also provide goods and services to producers, including calculators, personal computers and software for the sale of credit insurance.

In recent years, and as described below, there have been a number of regulatory enforcement actions and class action lawsuits against producers and credit insurers for unfair and deceptive sales practices. The enforcement actions and lawsuits allege, among other things, that lenders and producers used deceptive sales practices and otherwise sold credit insurance to consumers who did not want it.

Credit Insurance Rates and Coverages

Rates for credit life and credit disability insurance are typically set by state insurance regulators. In a few cases, the state legislature establishes credit life and credit disability rates.[11] The rates that states establish for credit life and credit disability insurance are called *presumptive* or *prima facie* rates. These rates are generally maximum rates that credit insurers can charge. As explained below, because of *reverse competition* most credit insurers charge the highest rate allowed by law or regulation. Rates for credit unemployment and credit property insurance are not typically established by states. Rather, credit insurers make rate filings for credit unemployment and credit property. In some cases, the insurers must obtain approval before using the rates, while in other cases, the insurers can simply file and then use the rates for credit unemployment and credit property insurance.

Credit insurance products also vary by the type of loan associated with the coverage. The two main categories of loans are closed-end and open-end. Closed-end loans are loans of specific duration, or term. For example, a 60-month auto loan is a closed-end loan. Most credit insurance sold in conjunction with a closed-end loan is single premium credit insurance. The coverage is called single premium because the credit insurance premium for the entire term of the loan is paid in one lump sum at the

[10] Texas and Oregon, for example, require the creditor to show the costs of each coverage separately and allow the consumer to purchase individual coverages.
[11] For example, rates for credit life and credit disability in Kentucky are established by statute, KRS Chapter 304 Subtitle 19.

same time the loan is made. The credit insurance single premium is typically financed by rolling the premium into the total amount of the loan.

Open-end loans are loans with a fixed term or duration and are sometimes called revolving loans. Credit cards are open-end loan or revolving loans. The premium for credit insurance sold in conjunction with open-end loans, such as credit cards, is typically paid monthly based on the monthly outstanding balance on the account. As explained below, the premium calculation for outstanding balance credit insurance coverages is typically based on the remaining amount owed (net indebtedness), while the premium calculation for single premium credit insurance coverages is based upon all principal and interest over the full term of the loan (gross indebtedness).

4. Reverse Competition in Credit Insurance

The dominant characteristic of credit insurance markets throughout the country is *reverse competition.* The credit insurance policy is a group policy sold to a lender who then issues certificates to individual borrowers. Because the lender purchases the policy, credit insurers market the product to the lenders and not to the borrower -- the ultimate consumer who pays for the product. This market structure leads insurers to bid for the lender's business by providing higher commissions and other compensation to the lender. Greater competition for the lender's business leads to higher prices of credit insurance to the borrower. This form of competition, which results in *higher* prices to consumers, is called *reverse competition*.

When states establish prima facie rates for credit life and credit disability insurance, credit insurers are generally allowed to charge lower rates if they want. Few credit insurers do so. Because of reverse competition, a credit insurer who wants to offer the ultimate consumer a lower rate will simply not be able to get a lender to select the product. The lender will select another credit insurer who, by charging a higher rate to the ultimate consumer, can offer a higher commission to the lender.

The following testimony of a credit insurance industry actuary, Gary Fagg, in a Texas credit insurance rate hearing, demonstrates the point.

Question: Now, if there were – during that same period based on the data that we've talked about, an insurer could have made adequate profits had they reduced their commission based on a 40 cent rate.
Fagg: Yes.
Question: Okay. So if there were true competition in the market, an insurer could have undercut the 53 cent rate and could have been charging 40 cents.
Fagg: They could have been charging it. They probably wouldn't have written any business.
Question: And why is that?

Fagg: Because the pressure is to pay the maximum that's payable within the rate.[12]

Consumer Choice

In a reverse-competitive market, the consumer is unable to effectively exert normal competitive pressure on the original seller of the product. This is the case in credit insurance. The choice of what credit insurance products to offer is made by the lender, who buys the group policy from the credit insurer. The ultimate consumer – the borrower – is effectively limited to accepting or rejecting the package offered. In most cases, the consumer cannot choose the coverage or coverages he or she wants.

Another critical feature of the credit insurance transaction is that it is typically a minor aspect (to the borrower) of a larger transaction – the loan to purchase a car, jewelry or furniture. Some consumers may feel they must purchase the credit insurance to get the financing to buy the product they want.

Consumers cannot practically shop around for credit insurance. If a consumer purchase a product and finances the purchase at one store or auto dealer, he or she cannot decide to go elsewhere to purchase the credit insurance for that loan. Unlike other insurance products, such as homeowners or automobile insurance, there is no marketplace for the insurance separate from the lender financing the purchase. The consumer's inability to shop around for credit insurance is part of the market structure that allows the lender to dictate the terms of the credit insurance sale.

The target market for credit insurance is typically lower-income consumers. Since credit insurance is only sold with consumer credit transactions, the market is immediately limited to those people who borrow to make consumer purchases. One credit insurance industry spokesman says:

> The people who tend to use it [credit insurance] are people who earn a lower income and don't have other insurance. It tends to be more attractive to minorities and the less educated.[13]

Because low-income consumers are most in need of the underlying loan, these consumers are most vulnerable to coercive sales tactics for credit insurance. As described below, such sales tactics are common in the sale of credit insurance

Effective Rate Regulation Necessary to Protect Consumers from Reverse Competition

Because of the reverse-competitive structure of credit insurance markets, it is essential to establish fair and reasonable rates to protect consumers from overcharges.

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[12] Docket 1869, 1992 Hearing before the Texas State Board of Insurance, Setting of Credit Life and Disability Presumptive Rates, Hearing Transcript, page 119
[13] Walter Runkle of the Consumer Credit Insurance Association in "Credit Insurance Worth It?" *Bank Rate Monitor*, February 16, 1999

Credit insurers will generally charge the maximum rates allowed, even if the presumptive rates are excessive to consumers. The structure of credit insurance markets and reverse competition will cause credit insurers to charge the maximum rate and pay extra commissions or other expenditures to compete for the producer's business. If rates are too high, consumers will pay excessive premiums.

The impact of reverse competition in credit insurance is demonstrated in a number of ways. For example, credit insurers and lenders add additional coverages to increase revenue and commissions. In his book, *An Introduction to Credit-Related Insurance*, Gary Fagg explains how credit insurers introduced credit unemployment coverage to increase revenues, as opposed to responding to consumer choice. Mr. Fagg explains how credit unemployment grew dramatically for open-end (credit card) loans, but not for installment (closed-end) loans.

> Since card balances were generally under $3,000, these two insurance products [life and disabilility] did not generate sufficient premium dollars to support the fixed expenses of processing the insurance products. Credit insurers chose to add a new product, involuntary unemployment insurance.[14]
>
> To generate more premium income to cover the fixed processing costs, credit insurers began to consider the last contingency that could impair the "collateral" of consumer credit. Since voluntary acts are generally not insurable, the product that was introduced only protected against the contingency of *involuntary* unemployment. . . .
>
> Growth was slow until the mid 1980's. Since then, a package of life, disability and IUI has been a staple auxiliary product offered to cardholders. Over $500 million of IUI premium was written in 1995. Only 10% of this premium volume was single premium IUI written in conjunction with installment credit.[15]

Mr. Fagg's account of credit involuntary unemployment insurance (IUI) demonstrates reverse competition in action. The coverage of IUI was added to the package of credit insurance products at the choice of the insurer and the producer. More important, the product is overwhelming offered only in conjunction with credit card credit insurance, "to generate more premium income to cover the fixed processing costs." If, in fact, IUI was a valuable coverage demanded by consumers, as opposed to simply mandated by certain producers, we would expect to see IUI coverages sold in conjunction with both outstanding balance and installment credit. Instead, very little credit IUI is sold with installment credit. And how have consumers fared from lenders' decision to add the IUI coverage to the credit insurance package? As shown in Tables 1 and 2 above, credit

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[14] Fagg, Gary. <u>An Introduction to Credit-Related Insurance</u>, Creditre Corporation, Colleyville, TX. 1997, page 5

[15] Fagg, Gary. <u>An Introduction to Credit-Related Insurance</u>, pp 18-19

IUI has generated a lot more revenue for credit insurers and lenders, but has provided very little benefit to consumers, as evidenced by the loss ratios of under 15%.

Unregulated Credit Property Insurance in Texas

Another example of the impact of reverse competition in the absence of effective rate regulation is shown for Texas credit property insurance. Credit property insurance rates in Texas were not regulated until the beginning of 1999.

The combination of reverse competition and no rate regulation has led to very high credit property insurance rates in Texas. A sales flyer for credit insurance for purchases on a Home Depot revolving charge card offers a credit insurance package including life, disability, involuntary unemployment and property coverages. Under the section "Cost of Coverage," the flyer states that the monthly premium is 99.9¢ per $100 of outstanding coverage and includes the following:

> The property coverage rate included in the total foregoing rates is 29¢ per $100 of your outstanding balances on your account in all states except: 15¢ in LA; 18.5¢ in Missouri; 23.7¢ in NJ; 23.1¢ in NY and NC; 12¢ in PA and 57.2¢ in TX.

Credit property insurance rates in Texas under this policy are twice the rates for any other state and almost four times the rate of some states. Similar examples of credit property insurance rates 100% to 300% higher in Texas than other states can be found in the Furrow's Project Card credit insurance program and the Sears credit card credit insurance program. The absence of effective rate regulation leads to excessive rates for credit insurance.

5. Excessive Compensation to Producers

The most persistent evidence of harm to consumers resulting from reverse competition and ineffective rate regulation in credit insurance is excessive commissions and other compensation paid to lenders (producers).

Commissions paid to credit insurance producers are grossly excessive and out of proportion to costs incurred by producers in presenting the credit insurance product to consumers. As Table 1 above shows, credit insurers paid more than one-third of the premium dollar in commissions to producers in 1997. The payment of more than 50% of the premium dollar in commissions for credit unemployment insurance is particularly abusive because the cost to the producer of adding credit unemployment to the package of credit life and disability is small.

Credit Insurance Primarily Benefits Lenders and Producers

While credit insurance can provide important benefits to consumers by helping to pay off a debt in certain difficult circumstances, the current state of credit insurance regulation causes the benefits of credit insurance to go primarily to lenders and producers.

First, the lender is the primary beneficiary of the credit insurance products. The function of the credit insurance products is to ensure that the loan will be repaid despite impairment of the borrower's earning ability. In other words, the credit insurance protects the lender's loan. Credit insurance allows creditors to protect their loans without the cost or effort to initiate debt collection activities in difficult and unpleasant circumstances, such as debt collection from a surviving spouse

Second, the producer receives significant compensation from the credit insurer in commissions or other forms for selling the product. Creditor compensation averaged more than 30% of the premium dollar for credit life and credit disability. For some types of producers, the commission level is even greater. In Texas, where data by class of lender is available, commissions for auto dealers have averaged about 50% in comparison to an overall average of 35% for all credit life and credit disability business.[16]

Most of the commission is paid up front, but some commission is paid based upon the profitability of the credit insurance sold. Some producers, particularly auto dealers, establish credit insurance reinsurers. The producer sells the credit insurance for the credit insurer, who in turn cedes the business to the producer-owned reinsurer. This mechanism allows the producer to effectively assume the risk and rewards for writing the credit insurance.

Further, since a number of creditors own the insurance companies issuing the credit insurance policies, these creditors realize additional returns in the form of profits resulting from low loss ratios. Credit insurers who are owned by lenders or other producers are called producer-owned insurers. Examples include General Electric, which owns a lender and credit insurers, Zales Corporation, which owns jewelry stores and credit insurers, and the Associates, which is a lending company that owns credit insurers.

Third, the insurance premium itself is often financed, resulting in additional interest payments to the lender and additional commission to the producer. As seen in the example below, with gross indebtedness, the sale of credit insurance can add significant interest income for the lender because the premium is financed.

<u>Commission Levels Exceed Costs Incurred by Producers</u>

It is clear that producers receive substantial benefits from the sale of credit insurance – even absent any commissions. These benefits, described above, include loan protection, avoidance of debt collection costs and additional interest income.

On the other hand, it is unclear what the costs of activities performed by producers are. Those activities, and associated costs, appear minimal. There is little cost in obtaining and maintaining the necessary agent licensing. The sales pitch for credit

[16] Texas Department of Insurance. <u>Credit Call Data 1994-1997 Experience and Expense Summary</u>

insurance is brief and there is little or underwriting.[17] The sale of credit insurance is part of the overall lending transaction and typically requires checking of a box on a computer terminal to process. The credit insurer and/or lenders often provide producers who are not lenders with turn-key computer systems to process loan and insurance transactions.

In a normally-competitive market, we would expect that commissions to lenders would reflect, and be commensurate with, the costs incurred by the lender in presenting and selling the credit insurance product. But normal competition does not occur in credit insurance markets. Rather, commission levels result from a bidding war among credit insurers to obtain the producer's business. The lack of regard by credit insurers and producers for reasonable commission levels and rates paid by credit insurance consumers is exemplified by the testimony of the credit insurance industry actuary Gary Fagg. In his testimony, Mr. Fagg explains that costs incurred by lenders are irrelevant in determining reasonable commission levels. Mr. Fagg goes on to explain that auto dealers are going to get the money out of consumers one way or the other. The implication is clear – why bother to set fair rates for credit insurance when the consumers will be taken to the cleaners one way or the other?

> What are creditor expenses? What is fair compensation? It doesn't matter. The insurers must provide the financial incentive to creditors for the product to be closed.[18]

> The auto dealer has an array of products to offer beyond the car. Credit insurance must compete in the dealer's mind when the dealer decides the order of priority. When the compensation of one product changes, the priorities are reevaluated. Maybe the consumer needs paint sealants and rustproofing more than credit insurance, but the dealer will sell the customer something. If you think reducing the credit insurance compensation will change the dollars of profit left at the dealership, you've not spent a lot of time with auto dealers. They will just sell more paint sealant and less credit insurance.[19]

> If you change the compensation, the marketplace will react and will make every attempt to recoup the dollars lost through another source. The position of consumer advocates that cutting credit insurance rates will save consumers millions is false and misleading. It just changes where the dollars are spent.[20]

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[17] Underwriting refers to the selection process used by an insurer to determine who the insurer will or will not offer insurance to and at what price the coverage will be sold. For example, an insurer selling ordinary life insurance will ask questions about the consumer's health and may do some medical tests. An insurer selling automobile or homeowners insurance will ask for the consumer's driving record, type of vehicle, type of home construction, value of property and other items to determine if the consumer meets the risk profile of the insurer's market. For credit insurance, there is generally little or no underwriting. If a consumer meets the age requirements, he or she is generally eligible. Some credit insurers require lenders to ask one or two medical questions.

[18] Docket 1817, 1991 Hearing before the Texas State Board of Insurance, Setting of Credit Life and Disability Presumptive Rates, Hearing Transcript, Exhibit 18, Written Statement By Gary Fagg, page 4

[19] Docket 1817, Written Statement By Gary Fagg, page 5

[20] Docket 1869, 1992 Hearing before the Texas State Board of Insurance, Setting of Credit Life and Disability Presumptive Rates, Hearing Transcript, page 385

A comparison of credit insurance commission levels to commissions for other lines of insurance provides further evidence that credit insurance commissions are excessive. The typical commission level for private passenger automobile insurance is in the range from 8% to 15%. And an agent that sells private passenger automobile insurance, homeowners insurance or life insurance must pass tests to get his or her license. States require agents selling these lines of insurance to meet a variety of standards, including continuing education. In contrast, most states have no requirements for the people that actually sell credit insurance. In Texas, for example, anyone can get a credit insurance agent license by simply submitting a completed form to the Department of Insurance.[21]

Further, an agent selling private passenger automobile, homeowners or life insurance does far more than someone selling credit insurance. The agent selling automobile, homeowners or life insurance generally tries to learn about the consumer's insurance needs and develop an insurance product tailored to those needs. This may include activities ranging from determining the amount of auto insurance coverage and deductibles to determining how much life insurance is necessary or what life insurance product best fits a particular situation. In the case of credit insurance, the agent (or seller) provides only a short description of the product with an offer to the consumer to take it or leave it. In the case of credit insurance sold in conjunction with credit cards, there is often little agent or sales activity. The sales pitch is included in the credit card application or billing statement. For those credit insurance products that require a sales pitch, the activity is minimal.

> A typical sales pitch for most credit insurance is simple and quick: "If you die, your loan is paid off. If you are under age 65, you qualify. Insurance on your spouse is available if your spouse is a co-borrower. Disability insurance is available to fulfill your monthly payments if you are disabled. You must remain disabled for 14 days before you receive any benefits. The cost of insurance is shown on this form. It will be added to the amount you borrow and will be financed. Your monthly payment including insurance is this amount. It you wish the insurance, just sign the blocks marked.
>
> No underwriting; no embarrassing health questions. The presentation is simple and easy to understand.[22]

Commissions Paid Far Exceed Reasonable Commission Levels

Commissions for credit insurance exceed 35% of premium on average and are even greater for some types of lenders. These commission levels are far in excess of a reasonable benefit to lenders for the activities they perform in selling the product. As with most of the problems of credit insurance, the problem of excessive producer

[21] Texas Ins. Code Art. 21.07 sec. 21
[22] Fagg, Gary. Credit Life and Disability Insurance, Creditre Corporation, Colleyville, TX. 1986, pp 459-469

compensation can be fixed by lowering credit insurance rates and increasing credit insurance loss ratios.

6. Unfair and Deceptive Sales Practices

In our view, the tremendous profit to producers from the sale of credit insurance has led to numerous instances of unfair and deceptive sales practices by credit insurers and producers over the years. We cite just three major examples from the past few years. In the three examples cited, the credit insurers and lenders did not admit any wrongdoing. However, in each case, the credit insurers and lenders agreed to pay restitution and fines and to dramatically change existing sales practices.

<u>Levitz Furniture</u>

In December 1996, the California Insurance Department issued an order to show cause alleging a variety of unfair and deceptive sales practices against Levitz furniture stores and General Electric Capital Corporation. District Attorneys from several cities also filed suit against Levitz. The Department's order provided a detailed description of the methods used by Levitz sales people to force credit insurance upon consumers. Department investigators found that sales people were selling the product to consumers who specifically said they did not want the product and using deceptive practices to trick people into signing for credit insurance when the consumer had no idea or intention of doing so. We quote from the Department's show cause order at length to provide a detailed description of the unfair practices employed.

Tricking Consumers Into the Purchase of Credit Insurance

> The Levitz Revolving Charge Agreement . . . and the Insurance Elections agreement to purchase the credit insurance package . . . are printed together on one form, are together on the same page, and are only separated by a fine line. The combined agreements, by their design, give the appearance of a single agreement and violate California Insurance Code §779.7 and Title X, Chapter 5, Section 2248.7(c)(4) (C) of the California Code of Regulations. . .. *Levitz customers often unknowingly sign the Insurance Elections agreement to purchase the credit insurance package, at the direction of the cashiers, thinking they have only signed up for credit.*
>
> Since GE Capital automatically assumes all Levitz charge accounts at the moment they are signed by Levitz customers, GE Capital becomes the true creditor. GE Capital arranged and placed the credit insurance program for Levitz and provides a financial inducement to Levitz to sell the credit insurance.
>
> GE Capital charges Levitz a monthly fee for servicing the Levitz credit accounts. If Levitz is able to sell the credit insurance package to at least 50% of its credit customers, Levitz is guaranteed a lower service fee than if Levitz fails to sell the credit insurance package to at least 50% of its retail customers.

> In order to ensure that 50% or more of its credit customers purchase the credit insurance package, guaranteeing them the lower service fee charged by GE Capital, Levitz offers production incentives to its individual cashiers and stores.
>
> By providing the financial inducements mentioned above . . ., GE Capital and Levitz are encouraging unfair and deceptive sales practices. By setting the production quotas mentioned above . . ., GE Capital and Levitz are encouraging unfair and deceptive sales practices.

High Pressure Sales Tactics

The Department's order described specific instances of unfair and deceptive sales practices:

> On May 23, 1995, the Investigator went to a Levitz Furniture store located at 4741 Watt Avenue, North Highlands, CA 95660-5515, to purchase a bunk bed. After the salesman entered the purchase information into the computer, he took the Investigator to the cashier's counter, allegedly for "credit approval" (despite the certificate of "pre-approved credit" which Levitz had mailed to the investigator earlier that month). The cashier produced a multiple page document entitled Levitz Revolving Charge Application, and completed the so-called Levitz Revolving Charge Application section of this multiple-page document. The cashier then rearranged the multiple-page document, and placed carbon paper between the pages. The cashier briefly explained the terms of the Levitz Revolving Charge Agreement, and circled the monthly periodic rate and annual percentage rate. The cashier then dated the applicants' signature line on the Levitz Revolving Charge Agreement <u>and</u> the applicants' signature line in the Insurance Elections section printed at the bottom of the same page. *The cashier then told the Investigator "You need to sign here and here", and placed an X on the two signature lines she had dated. The Investigator reviewed the upper portion of the Levitz Revolving Charge Agreement where the cashier had indicated. The Investigator then reviewed the lower portion of the page entitle Insurance Elections, which says "YES, I want Credit Life, Disability, Involuntary Unemployment and Property Insurance Coverages." The Department of Insurance Investigator was very surprised, since the cashier had not mentioned anything about insurance – she had only discussed the terms of the loan.* When the Investigator confronted the cashier about her not mentioning the credit insurance, the cashier went into a sales pitch. The cashier tried to convince the Investigator to purchase the credit insurance, arguing that the merchandise would be insured if it was damaged during transportation home. However, the cashier did not explain to the Investigator that, in order to purchase the property insurance that would cover the merchandise during transportation home, he would have to purchase the entire "Chargegard Plus" insurance package. The Investigator decided not to purchase the credit insurance, and did not sign the Insurance Elections agreement.

Shuffling the Papers

> The "Customer Copy" of the Levitz Revolving Charge Agreement, given the Investigator by the Levitz cashier, did not show the dates and X's made by the cashier after she rearranged the pages of the multiple-page document, and place carbon paper between the pages . . .. During an ensuing investigation by the Department of Insurance, the Investigator obtained the "Store Copy" of the Levitz Revolving Charge Agreement. Unlike the Customer Copy, the Store Copy shows the dates that cashier wrote on the two signature lines. *The Levitz cashier adjusted the carbon paper on the Levitz Revolving Charge Agreement so that the dates and X's would not appear on the "Customer Copy." Thereby disguising an unfair/deceptive practice being used by Levitz to sell insurance.*
>
> Other Levitz customers have also unknowingly purchased the credit insurance package, mistakenly believing that they were only signing up for credit. . . . Numerous Levitz customers have contacted the Department of Insurance complaining they were tricked into signing the agreement to purchase the credit insurance package, thinking they were only signing up for credit.

The settlement with Levitz included a restitution fund of up to $4.1 million, up to $1.2 million in credit insurance premium waivers, a civil penalty of $2 million and reimbursement of expenses to district attorneys and the California Department of Insurance of $2.025 million.

<u>Montgomery Ward</u>

In January 1998, The Texas Department of Insurance signed a consent order with Montgomery Ward Insurance Company, Montgomery Ward Life Insurance Company and Forum Insurance Company, in which the Texas Department of Insurance alleged numerous violations of Texas insurance laws.

Failure to Disclose

Among other things, the Department alleged that Montgomery Ward sold credit insurance through retail sales staff who encouraged consumers to buy credit insurance by signing a line on the charge account sales slip without telling them that they were buying insurance and through telemarketers who called Montgomery Ward credit card holders and failed to fully disclose the plan's nature or its cost. Montgomery Ward agreed to implement full disclosure when selling insurance in the future at point of sale and to utilize a detailed telemarketing protocol that requires an accurate, complete and clear explanation of the coverages offered and their cost. Montgomery Ward also agreed to provide refunds to consumers totaling as much as $5 million and to pay the Texas Department of Insurance $500,000.

American Bankers

Market Conduct Problems Across the Nation

In November 1998, American Bankers – the largest writer of credit insurance in the country – entered into agreements with 39 states to settle allegations of a variety of violations of state laws in the sale of credit insurance, including unfair and deceptive sales practices. This multi-state settlement followed separate settlements by American Bankers with insurance departments in Missouri (March 1998) and in California (September 1998). As part of the multi-state settlement, American Bankers agreed to pay fines up to $15 million and restitution to consumers. American Bankers agreed to pay $250,000 in Missouri and $500,000 in California. The insurance departments alleged that American Bankers had used deceptive sales techniques, used unfiled rates and forms, and used unlicensed sales personnel. Consumers had complained that they were sold credit insurance without their knowledge.

Lower Rates the Key to Reducing Unfair and Deceptive Sales Practices

The single most important action to stop unfair and deceptive sale practices in credit insurance is to lower credit insurance rates to reasonable levels. When credit insurance rates are significantly excessive, there is huge pressure and profit for the producer to sell credit insurance – whether the consumer wants it or not. By lowering credit insurance rates to reasonable levels, much of the incentive for unfair and deceptive sales practices will vanish.

7. Gross versus Net Indebtedness

Another reason why consumers overpay for credit insurance is because they are charged for unnecessary coverage – so-called *gross indebtedness*. Gross indebtedness refers to the sum of all principal and unearned interest payments. With a gross indebtedness premium calculation, the premium is based not on the amount borrowed, but on the amount borrowed plus all the interest payments over the term of the loan. In the typical gross indebtedness credit insurance premium calculation, the insurance premium is typically financed and the premium is then based on the total of loan principal, loan interest, credit insurance premium, and credit insurance premium loan interest. To illustrate, consider an auto loan of $15,000 for 60 months at 10% interest with credit life and credit disability insurance in Kentucky.[23]

[23] The Kentucky credit life and credit disability rates are $3.00 and $5.68, respectively, per $100 of initial indebtedness. The premium can be calculated by multiply $8.68 times $21,501 divided by $100. The actual calculation is complicated because the amount of gross indebtedness is function of credit insurance premiums which is, in turn, a function of the gross indebtedness.

1	Loan Principal	$15,000.00
2	Credit Insurance Premium	$1,866.34
3	Amount Financed	$16,866.34
4	Finance Charges:	
	a. On Principal	$4,122.34
	b. On Credit Insurance	$512.91
5	Gross Indebtedness (sum of lines 1 to 4)	$21,501.59

Consumers Overpay with Gross Indebtedness Calculations

In the example above, the SP credit insurance premium is $1,866.34. If, instead, the consumer had paid monthly credit insurance premiums based on the *net indebtedness*, the total premium would have been only *$1,324.36*. In this example, the gross indebtedness calculation causes the consumer to pay 33% more premium – plus the additional finance charges – than under the net indebtedness calculation. With net indebtedness, the premium calculation is based only on remaining principal. The consumer does not pay a premium based on unearned interest payments as in the gross indebtedness calculation. Please see Appendix B for a description of the net indebtedness (outstanding balance) credit insurance premium calculation.

In addition to the extra premium from the single premium coverage, the credit insurer and lenders get all the money up front, thereby earning significant investment returns that the consumer could have been earning had he or she been paying the premiums over the term of the loan. Thus, the difference in premiums understates the cost to consumers of gross indebtedness coverages compared to net indebtedness coverages.

Lenders Choose Gross Indebtedness

Lenders choose gross indebtedness credit insurance coverages and that choice provides substantial benefits to lenders – not to consumers. Recall that it is the lender who chooses the credit insurance products that will be offered to the consumer. The consumer is offered only to take it or leave it. The credit insurer gets the entire premium up front and the producer gets the entire commission up front. By getting the entire premium up front, the credit insurer gains significant investment income that the consumer would have gained under a monthly outstanding balance coverage. The credit insurer further benefits because the credit insurance premium is based upon an amount *50% greater* than original loan amount. The lender benefits because the amount lent is increased by the total of insurance premium and interest on that premium.

Eliminating Gross Indebtedness Calculations

Gross indebtedness premium calculation should be prohibited. Gross indebtedness calculations cause the consumer to pay credit insurance for more coverage than necessary to protect the lender's interest. Gross indebtedness calculations make the consumer pay not only to protect the lender's principal, but also the lender's unearned finance charges. While the NAIC credit insurance model provides only for net indebtedness premium calculations, only a few states have followed this part of the model and prohibited gross indebtedness calculations.[24]

8. Post-Claims Underwriting

Another problem found in the sale of credit insurance is the sale of coverages to borrowers who are ineligible for benefits. Kathleen Keest, in *The Cost of Credit*, describes the problem.

> Unlike ordinary insurance sales, creditors rarely ask borrowers for information relating to their eligibility for benefits under credit insurance policies, such as medical histories. Instead, only after a claim is filed are eligibility factors such as health, age, and employment checked to see if grounds exist for denying coverage. Many policies simply provide that the policy will be canceled and the premium refunded if ineligibility is determined. The result of this arrangement is that creditors and insurance companies keep the premiums paid by ineligible debtors who never file an insurance claim, while refusing to pay on the same policies if claims are ever filed.[25]

The problem of post-claims underwriting was recently identified in a Kentucky task force on credit life and disability insurance.[26] Further, because credit insurance is typically sold as a package, a consumer who wants one coverage may have to pay for another coverage for which she is not eligible. For example, if a retired person purchasing a package of credit life, disability and unemployment is not eligible for any unemployment coverage benefits.

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[24] An alternative to prohibiting gross indebtedness calculations is to adjust the calculation to make the premium mathematically and financially equivalent to that produced through a net indebtedness or outstanding balance calculation. The adjustments include:

1. An *exposure adjustment* to reflect the fact that a multi-year coverages have less exposure per year than multiple single year coverages;
2. An *interest discount* to reflect the greater investment income earned by credit insurers when they get the full premium up front;
3. A *mortality discount* for life coverages to reflect the fact that insurers earn the entire single premium if a consumer dies early in the term of coverage;
4. A *term discount* to reflect the fact that, because some credit insurer expenses are fixed and/or associated with policy issuance, credit insurer expenses decline per year with longer term coverages.

[25] Keest, Kathleen. The Cost of Credit: Regulation and Legal Challenges, National Consumer Law Center, Boston, MA (1995 and supp.) page 285.

[26] Kentucky Credit Life and Disability Task Force, Minutes from December 15, 1998 Meeting, page 3.

A glaring example of post-claims underwriting was the case of *Vining v. Enterprise Financial Group* where the United States Court of Appeals for the Tenth Circuit found:

> Vining demonstrated at trial a deliberate, willful pattern of abusive conduct by Enterprise in handling claims under its life insurance policies. Vining offered evidence that as a matter of course Enterprise would rescind [credit] life insurance policies issued on a guaranteed basis as soon as claims were made. Enterprise based these recessions on the grounds that the insured had made material misrepresentation on the insurance application regardless of whether Enterprise in fact would have declined to write the policy had it known of that information at the time the policy was written. Vining presented evidence that Enterprise engaged in a systematic, bad faith scheme of canceling policies without determining whether it had good cause to do so.[27]

<u>Stopping Post-Claims Underwriting</u>

Post-claims underwriting should be prohibited and declared an unfair trade practice. To prohibit post-claims underwriting, insurers should be prohibited from denying coverage after a reasonable period of time in which the insurer can check the representations made by the borrower. Further, state insurance regulations must engage in aggressive market conduct examinations and apply penalties sufficient to deter such practices in the future. We believe that, in most cases, fines are not sufficient to deter credit insurers from unfair practices, such as post-claims underwriting – even when the fines are in the millions of dollars. State regulators must be willing to revoke a credit insurer's license to write insurance as the appropriate punishment for serious violations.

9. General Credit Insurance Recommendations

Credit insurance requires aggressive rate and market conduct regulation by states to protect consumers. To protect consumers from excessive rates and unfair and coercive sales practices, states should do the following:

- <u>Establish minimum loss ratios for credit insurance and enforce those standards.</u> Although higher standards are reasonable, the rock-bottom minimum loss ratios of 60% for credit life and disability and 75% for credit unemployment and credit property insurance should be enforced. Compared to actual loss ratios for group life, group accident and health and private passenger automobile insurance, for example, these minimum loss ratio standards are modest. Further, credit insurers who substantially fail to meet these standard should be required to rebate excessive premiums to consumers.

- <u>Prohibit gross indebtedness premium calculations.</u> Consumers should not be required, at the lender's choice, of paying credit insurance premium for coverage beyond that necessary to protect the lender's interest.

[27] *Vining v. Enterprise Financial. Group, Inc.* U.S.Ct.App., 10th Cir. (1998)

- Enact effective consumer disclosure requirements. Consumers must be given meaningful and effective disclosures about the terms and conditions of the insurance and the fact that it is optional, along with price information, so they can determine whether it's a good value. They should also be informed that they may have other insurance that covers the risk.

- Enact additional prohibitions and stronger penalties against credit insurers for unfair and coercive sales practices. For example, credit insurers should be prohibited from selling credit insurance until *after* the underlying loan has been made. Penalties for unfair sales practices should be sufficient to deter the practices and include revocation of the insurer's license to sell insurance.

- Prohibit post-claims underwriting. Credit insurers should be prohibited from denying coverage after a reasonable period of time in which they can verify representations made by the consumer. Post-claims underwriting should be declared an unfair trade practice.

- Provide consumer choice. Credit insurers and lenders should be required to offer consumers a choice of purchasing individual coverages instead of only a complete package of coverages. Consumers should have the choice of purchasing individual coverages.

10. Additional Problems with Credit Property Insurance

Credit Property pays to repair or replace personal property purchased with the loan or credit proceeds and/or serving as collateral for the credit if the property is lost or damaged. Credit property insurance primarily provides protection for the collateral taken as security for the insured loan. In most cases, the collateral is the property purchased with the insured loan. In some cases, credit insurance will cover personal property used to collateralize a loan whose proceeds are used to purchase items other than the collateral supporting the loan.

Credit property insurance is different from other credit insurance coverages in several ways. First, credit property insurance does not insure against an event affecting the borrower's ability to pay, but insures against damage or loss to the physical property serving as collateral for a loan. Second, credit property typically does not make payments to the lender, but attempts to restore the property serving as the lender's collateral.

Third, credit property can be single or dual interest. Single interest coverage provides a benefit equal to the lender's interest in the product, which is generally the amount remaining on the loan. Dual interest coverage provides for repair or replacement of the collateral, even if the lender's interest is less than the cost of repair or replacement. Dual interest coverage can thus provide benefits to both the lender and the borrower. The benefit to the borrower – the second part of the dual interest – is the difference between the cost of repair or replacement and the lender's interest. Most credit property coverage is dual interest.

Fourth, certain federal and some state credit statutes may be more relevant to credit property insurance. The Uniform Consumer Credit Code (UCCC) prohibits property insurance charges unless the coverage covers a substantial risk of loss or damage to the property related to the transaction and the amounts, terms and conditions of the insurance are reasonable in relation to the character and value of the property.[28] The Federal Trade Commission's (and some federal bank agencies) Credit Practices Rule prohibits creditors from taking a non-purchase money security interest in certain household goods.[29] Some states' credit statutes prohibit creditors from requiring credit insurance on very small loans or prohibit the writing of credit insurance unless the amount financed, exclusive of insurance charges or the value of the collateral exceed a specified minimum amount.[30]

While all credit insurance coverages suffer from the issues described above – such as excessive rates, unfair and deceptive sales practices and post-claims underwriting – credit property insurance has additional problems.

1. Insurance Packing and Equity Skimming
2. Phantom Coverage
3. Very Excessive Commissions and Very Low Loss Ratios

<u>Loan Packing and Equity Skimming</u>

Loan packing refers to the practice of lenders of adding to, or "packing," the amount financed by a consumer through the sale of expensive, unnecessary and often unwanted products, such as credit insurance. Lenders have great incentive to pack credit insurance. The lender typically gets a huge commission on the sale of credit insurance. The lender gets to finance a greater amount of the consumer's debt. And the lender's loan is protected by the credit insurance.

Because credit insurance is subject to less regulation and pays higher commissions, lenders' incentive to pack the loan with this insurance is great. Loan packing can lead to equity skimming – packing the loan with insurance to cause the amount financed to surpass statutory thresholds that allow the lender to take an interest in the consumer's property or home.

One example cited by The National Consumer Law Center involved a consumer whose loan was packed by extending the term of coverage and, as a result of the packing, the lender obtained a security interest in the consumer's home – for a consumer loan of about $1,400.

[28] UCCC § 4-301
[29] 16 CFR § 444. The rule does not apply to purchase money security interest and excludes some household goods, giving lenders ample opportunity to sell credit insurance on a variety of household goods.
[30] See Keest, <u>The Cost of Credit</u> at 276.

The incident involves a consumer seeking to borrow $1,400 who informed the lender she was able to afford monthly payments of $75.[31] The creditor could have written the loan for a three-year term, which was common for a small loan, at a 28.09% rate which would have cost the consumer $843.40 in finance charges and about $260.00 in insurance premiums.

The lender instead decided to write the loan on a six-year term, which increased the gross indebtedness to $5,400 and the insurance premiums to $972.00 – on an original principal amount of $1,442.

	36-Month Term	72-Month Term
Net Proceeds to Borrower	$1,440.22	$1,442.23
Credit Life Insurance	$49.42	$210.60
Credit Disability Insurance	$96.31	$275.40
Credit Property Insurance	$114.05	$486.00
Real Estate Security Fees		$184.00
Amount Financed	$1,700.00	$2,598.23
Monthly Payment	$70.40	$75.00
Total of Payments	**$2,543.40**	**$5,400.00**
Finance Charge	**$834.40**	**$2,801.77**
Insurance Payments	**$259.78**	**$972.00**

By extending the term of loan from three to six years, the lender not only succeeded in more than tripling the finance charge, but raised the gross indebtedness above the threshold necessary to allow the lender to take a security interest in the consumer's home. The lender now has the consumer's home as collateral.

Phantom Coverage and Excess Premium Calculations

Phantom coverage refers to premium calculations based on amounts in excess to the amount of coverage provided.

[31] See Keest, The Cost of Credit at 278.

Credit Card Credit Property Insurance

Credit property insurance only pays if certain personal property is stolen, damaged or destroyed. But, credit card credit property insurance premiums are based upon the total outstanding monthly balance on the charge card. Many items purchased – for which credit property insurance premium is also paid – are not covered. For example, items such as food, meals, airline tickets, finance charges and entertainment purchases, are not covered under credit property insurance but are included in the outstanding balance that is the basis of the premium calculation. It is surely no coincidence that the loss ratios for credit insurers selling credit property insurance in association with revolving loan / charge cards are significantly lower than the loss ratios for single premium credit insurance sold in conjunction with closed-end credit transactions.

The loss ratios for two insurers selling credit property in conjunction with general purpose credit cards vividly illustrate the problem of phantom coverage. From 1995 to 1997, Allstate Insurance Company wrote more than $76 million of credit property insurance in conjunction with the Sears credit card credit insurance program. Over that period, *Allstate paid out only 4.4% of premiums in claims*. From 1995 to 1997, Forum Insurance Company wrote more than $42 million in credit property insurance in conjunction with the Montgomery Ward credit card credit insurance program. Over that period, *Forum paid out 1.6% of premium in claims*. Table 5 show the state by state and countrywide experience for these companies.

Table 5
Credit Property Insurance Experience, 1995-97

	Allstate Insurance Company		*Forum Insurance Company*	
	Earned Premium	**Loss Ratio**	**Earned Premium**	**Loss Ratio**
Alaska	$252,780	3.3%	$11,352	0.0%
Alabama	$1,685,737	6.3%	$275,710	2.9%
Arkansas	$1,590,576	8.8%	$806,647	4.3%
Arizona	$2,529,273	3.2%	$1,775,573	1.9%
California	$8,596,223	6.1%	$10,683,282	1.0%
Colorado				
Connecticut				
Dist Columbia	$174,286	1.8%	$281,050	1.9%
Delaware	$255,322	2.4%	$33,214	-2.3%
Florida	$6,166,776	6.3%	$3,727,434	3.4%
Georgia	$2,434,155	4.8%	$980,981	-2.3%
Hawaii	$858,324	2.9%		
Iowa	$585,694	4.5%	$135,867	0.0%
Idaho	$28,632	8.3%	$27,453	1.7%
Illinois	$2,678,516	5.3%	$2,937,677	1.2%
Indiana	$1,748,952	3.1%		
Kansas				
Kentucky	$1,154,484	6.7%	$260,916	2.8%
Louisiana	$1,501,270	5.2%	$1,364,524	2.0%
Massachusetts	$1,782	4.2%	$224,374	3.2%
Maryland	$1,567,153	2.7%	$850,935	2.4%
Maine	$622,338	3.8%		
Michigan	$4,424,771	3.0%	$512,884	6.7%
Minnesota	$1,194,306	3.8%	$365,640	0.9%
Missouri	$1,590,089	5.9%	$350,171	0.9%
Mississippi	$1,009,069	7.1%	$57,259	0.6%
Montana	$185,860	2.5%	$53,864	0.0%
North Carolina	$1,465,038	6.2%		
North Dakota	$143,626	12.0%	$61,146	0.0%
Nebraska			$287,444	0.6%
New Hampshire			$170,605	1.0%
New Jersey			$226,919	-8.8%
New Mexico			$405,473	1.3%
Nevada	$514,836	8.8%	$334,637	0.6%
New York	$1,717	-154.0%		
Ohio	$3,852,579	3.6%	$1,136,927	0.3%
Oklahoma	$823,970	5.2%		
Oregon	$759,465	5.8%	$690,312	1.1%
Pennsylvania			$681,391	0.3%
Rhode Island	$286,991	6.8%	$56,152	2.8%
South Carolina	$1,407,652	5.7%		
South Dakota	$127,091	4.1%	$9,697	0.0%
Tennessee	$1,492,875	6.4%	$483,126	6.0%
Texas	$16,388,165	2.4%	$9,495,775	1.9%
Utah	$415,108	4.2%	$10	0.0%
Virginia			$1,351,293	0.5%
Vermont	$18,831	2.1%	$22,631	0.0%
Washington	$3,726,367	2.5%	$417,143	2.6%
Wisconsin	$1,001,837	2.7%		
West Virginia	$965,319	6.1%	$596,995	1.6%
Wyoming	$101,139	1.3%		
Countrywide	$76,328,974	4.4%	$42,144,483	1.6%

Overvalued Collateral

In some instances, lenders will require some collateral for a consumer loan. The collateral may be worth very little relative to the loan amount, but the lender may sell credit property insurance based on overvalued collateral, or an amount higher than the loan amount. This is what happened in the case of *Bailey v. Deffenbach*.[32] The borrower used a car valued at $25 as the collateral for a loan on which the payments were $1,050 and the amount of money received was $708.46. The finance company then charged the borrower for credit property insurance based upon a value of $1,000 for the car. Although the credit property insurance premium was ruled excessive in this particular case, the incident points to the need for limiting credit property insurance premium calculations to the lesser of purchase price of the covered property or amount of the loan principal. Also, lenders and insurers should not be allowed to value property if they have no knowledge of it, e.g., when it is not the basis of the loan.

<u>Very Excessive Commissions and Very Low Loss Ratios,</u>

While excessive commissions to producers are a problem for all credit insurance coverages, as described above, the higher commission levels for credit unemployment and credit property insurance are particularly egregious. Commissions in 1997 exceeded 52% of premium for credit unemployment and exceeded 45% for credit property insurance sold in conjunction with credit cards. Commissions for credit unemployment and credit property should be *less* than commissions for credit life and disability.

Credit unemployment and credit property are typically sold as add-ons to existing sales of credit life and disability. There is little additional cost to lenders for the sale of these additional coverages. The lenders' systems are set up to process the credit insurance transaction. All that is necessary is another 30 seconds of explanation. If 20-25% is the commission for credit life or disability, then reducing the commission to 5-10% for credit unemployment and credit property still provides the producer with extra revenue for virtually no additional activity. This is particularly true for credit card sales where the additional effort by the lender is even less.

The fact that credit unemployment and credit property commission levels are not lower than those of credit life and credit disability, but far higher, is further evidence of the failure of state insurance regulation to protect credit insurance consumers.

While excessive premiums are also a problem for credit life and credit disability, the very low loss ratios for credit unemployment and credit property insurance indicate that premiums for these coverages are even more excessive than those for credit life and credit disability. Minimum loss ratio standards for credit unemployment and credit property should be *higher* than those for credit life and credit disability.

The incremental cost for credit insurers for the additional sale of credit unemployment and credit property insurance is far less than the average cost (as a

[32] 513 F.Supp 232 (N.D. Miss. 1981)

percentage of premium) for sale of credit life and credit disability. It is well established that a significant portion of credit insurer costs are fixed. Additional revenue means that fixed costs get spread over a greater revenue base and become a smaller percentage of revenue. Credit unemployment and credit property provide additional revenue but add relatively little cost for the credit insurer. Insurers incur costs for filing and obtaining approval of forms and rates, but the incremental cost of printing up the credit unemployment and credit property sections of the insurance certificate, the incremental costs of marketing the extra products, and the incremental costs of adding the new coverages to the existing customer records are all far less as a percentage of premium than those for credit life and disability.

Put in another way, the credit insurer gets a lot more revenue from adding credit unemployment and credit property to the sale of credit life and disability coverages. The premium typically increases by a factor of two or more by adding these coverages. The costs to insurers and lenders increase by a factor significantly less than two. Thus, it is inappropriate to reward credit insurers and producers with the same (or greater) commission and expense percentages. A higher loss ratio for the additional coverages is necessary and reasonable.

For example, if 60% is the minimum target loss ratio for credit life and credit disability and that loss ratio reflects a 20-25% average commission, then a reduction in commission levels for credit property and credit unemployment to a 5-10% average commission will alone increase the minimum loss ratio target for credit unemployment and credit property to 75%.

11. Disparity in State Regulation of Credit Property Insurance

State regulation of credit property insurance is far less thorough and far more diverse than regulation of credit life and credit disability insurance. Every state has a statute specific to credit life and credit disability insurance, generally based upon an NAIC model credit insurance law. Most states have detailed regulations regarding credit life and credit disability insurance also. There is rate regulation for credit life and disability insurance in most states. In contrast, few states have credit property insurance statutes.

Rate regulation, if any, of credit property insurance is generally vague. Credit property insurance is often classified as “inland marine” insurance – a catchall line, or category, of insurance often not subject to rate regulation. In those states where credit property insurance is not specifically addressed by regulation or statute, the regulation of credit property may be subject to general rate regulation standards instead of the more specific rate regulation necessary for credit insurance.

While the NAIC has developed a model law and model regulation for credit life and credit disability insurance, it has not developed a model law or regulation for credit property insurance. The failure of the NAIC to develop such models is one reason for the absence of established minimum standards and great variation in regulation among states for credit property insurance.

In this section, we review credit property insurance regulation in related states.

Alabama

Statutes and Regulations

Alabama statutes permit creditors to require credit property insurance. However, if insurance is required, consumers must be given “written notice of the option of obtaining such insurance through a person of the debtor’s choice.”[33] The statute also provides “The premium or premiums charged for such required insurance shall not exceed the premium approved by the administrator or the rates filed by the insurer with the Alabama Department of Insurance.”[34]

Alabama also has a credit property insurance regulation.[35] Section 6(A), entitled “Consumer rights,” states that “The consumer shall not be required or coerced to obtain insurance from any particular insurer nor through any particular agent or representative as a condition to obtaining a loan.” This provision is important for consumers because it allows consumers to seek specific legal redress, instead of having to find a more general statute or regulation to sue under and may, therefore, cause creditors to be more careful in their sales practices.

Premium Calculations and Rate Standards

The Alabama statute includes the basic consumer protection that the insurance “shall not exceed the approximate amount and term of the credit,” but fails to limit credit property coverage or premium calculations to net principal amount. The strongest provision of the Alabama statute is the prohibition against the sale of credit property insurance unless the “original amount financed or original principal exclusive of the charges for insurance is $300.00 or more and the value of the property is $300.00 or more.”[36] Establishing a minimum property value for the sale of credit property insurance does help to prevent the sale of unnecessary insurance to consumers who obtain small loans. However, any minimum amount represents a target for insurance packing schemes.

The Alabama credit property regulation establishes both prima facie rates and loss ratio standards. Premium rates cannot exceed $2.35 per $1,000 of indebtedness per

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[33] Ala. Code § 5-19-20(e). Note: The federal Truth in Lending Act (section 106) requires credit insurance to be included in the finance charge unless certain disclosures about the voluntary nature of the coverage are provided. In the case of insurance for property, premiums must be included in the finance charge unless the lender discloses the cost if purchased through the lender and states that the borrower may choose from whom to purchase the insurance. TILA, 15 USC 1601 et seq.
[34] Ala. Code § 5-19-20(e).
[35] Ala. Admin Code r. 93 (1992).
[36] Ala. Code § 5-19-20(g).

month for dual interest coverage, with an additional charge of $ .65 per $1,000 of indebtedness per month if theft coverage is included. The regulation also requires rates for single interest coverage not be greater then 67% of the dual interest rates.

The regulation allows rates to exceed the standards if an insurer can "demonstrate that its rates produce or may reasonably be expected to produce a loss ratio of at least fifty percent." While the 50% loss ratio is a low standard, few states achieve even this low threshold. Table 4 shows that Alabama had a average loss ratio of 48% for 1995 through 1997 – not only close to the state's loss ratio target, but also one of the highest loss ratios for credit property insurance among the state. Alabama loss ratios for "other" credit property insurance were low, however – averaging under 15% for 1995 to 1997 period

<u>California</u>

Statutes and Regulations

The California Insurance and Finance Codes have credit insurance provisions, but neither apply to credit property insurance.[37] Credit insurance, other than credit life and credit disability insurance, is specifically exempted from the prior approval requirements of Proposition 103.[38]

Premium Calculations and Rate Standards

The California Finance Lenders Law does state that "The amount of insurance required by the licensee to protect its security interest shall not exceed the lesser of the principal amount of the loan or the replacement value of the security as determined by the insurer."[39] This provision seems to prohibit the sale of credit property insurance for non-covered goods, which is otherwise a common situation.

Insurers may file and use credit property insurance rates.[40] The statute requires that rates not be excessive, inadequate, or unfairly discriminatory.[41]

<u>Colorado</u>

Statutes and Regulations

The Colorado statute governing credit insurance in general includes credit property insurance.[42] A creditor may not require credit insurance on an open-end

[37] Cal. Fin. Code § 22314 (1995) and Cal. Ins. Code § 779 (1996).
[38] Cal. Ins. Code § 1861.137 exempts credit insurance Cal. Ins. Code § 1861.01 and § 1861.05.
[39] Cal. Fin. Code § 22314 (1995).
[40] Cal. Ins. Code § 1861.137(a).
[41] Cal. Ins. Code § 1861.137(b).
[42] C.R.S. 10-10-104.

account.[43] If required on a closed-end account, the debtor may *request* the option of furnishing the insurance through existing policies or procuring the insurance through another insurer.[44] Colorado also has a credit insurance regulation which specifically addresses credit property insurance.[45]

Premium Calculations and Rate Standards

The amount of the insurance may not exceed the total amount repayable under the contract.[46] Forms must be filed and the Commissioner must disapprove the form if the benefits are not reasonable in relation to the premium charged.[47] The form is presumed reasonable if the rate is reasonably expected to produce a ratio of incurred claims to earned premium of not less than 40%.[48]

The credit property regulation requires that, for single premium coverages, the premium must be based on the lesser of the purchase price or original amount of indebtedness and must be based on purchase of durable goods only and may not include the cost of any service, meals, entertainment, or any other non-durable item. While the limitation of premium calculations to durable goods is an important consumer protection, this regulation does not include the requirement for open-end, or credit card loan coverages. It is precisely the credit card loan coverages that are the most susceptible to the phantom coverage problem.

The Colorado regulation has fairly extensive requirements for rate filings. The rate filings must "conclusively demonstrate compliance with the loss ratio standard and must be certified by a qualified actuary." Rate filings must be accompanied by adequate supporting documentation, including, at a minimum, three years of premium and loss experience and demonstration of compliance with the loss ratio standard.

While there are prima facie rates for credit life, credit disability and credit unemployment coverages, no prima facie rates are promulgated for credit property insurance. However, if the cumulative three-year loss ratio falls below the minimum loss ratio standard, the insurer must "promptly file adjusted rates that can be prospectively expected to produce a loss ratio greater than or equal to the minimum standards, or submit reasons acceptable tot he Commissioner as to why it should not be required to do so. The regulation also provides that in certain circumstances the Commissioner may require corrective actions, including a rate decrease such that within the following two calendar years, the cumulative five-year loss ratio meets the minimum standard; payment of a settlement equal to 110% of the excess premium collected; or voluntary suspension of credit insurance sales.

[43] C.R.S. 10-10-118.
[44] C.R.S. 10-10-113.
[45] Regulation 4-9-2.
[46] C.R.S. 10-10-106 (1).
[47] C.R.S. 10-10-109 (2).
[48] *Id.*

The Colorado statutes and regulations are unique in several ways. First, while the 40% target loss ratio for credit property insurance does not seem like a large hurdle, it is certainly far higher than many credit property insurers achieve in most other states. Second, the actions envisioned in certain situations where the insurer does not achieve the minimum loss ratio depart from prospective ratemaking procedures and require insurers to essentially pay back overcharges. Colorado had one of the highest credit property loss ratios for the 1995-1997 period at 44.2%, but the loss ratios have dropped from 1995 to 1997. The 1997 credit property loss ratio was 34.1%.

Florida

Statutes and Regulations

In Florida, credit property insurance is defined under the heading of casualty insurance, as " . . . a limited line of insurance providing coverage on personal property used as collateral for securing a loan or on personal property purchased under an installment sales agreement."[49] Florida also has a regulation addressing credit property insurance.[50]

Premium Calculations and Rate Standards

The statute specifies that "The coverage shall be issued on an inland marine policy form, and coverage limits shall be restricted to the initial amount of the loan or the amount of the installment sale. A Florida regulation emphasizes this point, stating that premiums for credit property insurance can be charged "only on the actual cost of the property and any sales tax thereon."[51] The regulation then adds that "finance or service fees, loan interest, delivery charges and other insurance premiums" are excluded from the total on which insurance premiums can be charged.

Credit property insurance rates are governed by general standards that rates will be approved unless they are excessive, inadequate or unfairly discriminatory. No target loss ratios are provided. The 1995 to 1997 Florida credit property loss ratio of 24.7% suggests that the general rate standards are not adequate for ensuring fair rates for consumers.

Kansas

Statutes and Regulations

Creditors may only contract for or receive a charge for insurance against loss or damage to property in an open end credit transaction or if the amount financed, exclusive of insurance charges, is $300 or more and the value of the property is $300 or more.[52]

[49] Fla Stat. Ch 624.605(j).
[50] Fla. Admin. Code Ann. R. 4-184.006(3).
[51] Fla. Admin. Code Ann. R. 4-184.006(3).
[52] K.S.A. 16a-4-301 §3.

The statute provides three requirements: the insurance must cover a substantial risk of loss or damage to the property; the amount, terms, and conditions of the insurance must be reasonable in relation to the character and value of the property insured; and the term of the insurance must be reasonable in relation to the terms of the credit.[53] The term is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.[54]

Kansas has the least amount of credit property insurance sold per capita of any state. While the prohibition against insuring amounts less than $300 contributes to this result, another factor likely contributing to the small credit property insurance sales is the absence of any provision allowing the sale group policies for property / casualty lines of insurance. Since credit property insurance is typically sold as a group policy to the lender with the lender issuing certificates to the borrower, Kansas law requires individual policies to be issued to borrowers. This requirement may cause some credit property insurers to avoid doing business in Kansas.

Missouri

Statutes and Regulations

Missouri regulates credit property insurance along with all other forms of credit insurance under several sections of their state statutes.[55] Credit property insurance is defined as "insurance against loss of or damage to personal property, covering a creditor's security interest in such property, when such insurance is written as part of a loan or other credit transaction. . . .," and it cannot "exceed in term the total amount of the indebtedness nor exceed in duration the scheduled term of the underlying contract."[56]

Missouri law requires that credit property insurance be cancelled and unearned premiums be returned when a creditor's underlying debt is satisfied.[57] This basic consumer protection targets single premium coverage situations in which consumers who pay off the loan early.

Premium Calculations and Rate Standards

The credit property insurance cannot exceed in term the total amount of the indebtedness nor exceed in duration the scheduled term of the underlying contract. Missouri, unlike most states, regulates credit property insurance rates. Rates of $1.85 per $1,000 of indebtedness per month are considered reasonable if the coverage includes "standard fire, extended coverage endorsement, and replacement cost provision endorsement, calculates benefits from data of loss, and provides primary coverage." Insurers may charge higher premiums if the insurer can demonstrate a loss ratio greater

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[53] K.S.A. 16a-4-301 § 1.
[54] *Id.* §2.
[55] See R.S.Mo. §385.010 – 385.080 (1995).
[56] R.S.Mo. §385.020; R.S.Mo. §385.070 (1)(5)(h) (1995).
[57] R.S.Mo. §385.070 (1)(5)(c).

than 75%.[58] However, the loss ratio includes creditor compensation, which is capped at 40%. Thus, in addition to excessive compensation to creditors, the Missouri provisions indicate a reasonable loss ratio to be only 35%. The 1995 to 1997 Missouri credit property insurance loss ratio was 29.8%.

Consumer Disclosures

Missouri also has provisions which specifically allow a homeowner's or renter's insurance policy with replacement cost endorsement to fulfill a creditors requirement that credit property insurance be purchased. In addition, the following disclosure is required: "You may not need to purchase credit property insurance, and you may have other insurance which this creditor will accept which covers the property securing the loan. You should examine any other insurance you have in order to determine if this coverage is necessary."[59]

While the concept of disclosure is certainly positive and pro-consumer, the Missouri provision highlights some of the problems with disclosures. First, the disclosure is provided in ten-point type size, which is small. Second, the disclosure may be, and is likely, to be included either within a lengthy loan agreement or within a sheaf of papers and, thus, unlikely to be read or even noticed by the consumer. Finally, the typical disclosure, like the Missouri disclosure, does not provide the type of information most likely to prod the consumer into thinking about the value of the product. For example, if a consumer know that, say, 40 cents on the dollar was being paid to the lender and 32 cents on the dollar would, on average, be paid in claims, we suspect more consumers would give a second thought to the purchase of the product.

<u>New York</u>

Statutes and Regulations

A New York statute defines credit property insurance as "insurance against loss of or damage to personal property covering a creditor's security interest in such property, when insurance is written as part of a credit transaction." The same statute also authorizes the superintendent of insurance to promulgate regulations covering credit property insurance.[60]

New York also has credit property insurance regulations. Debtors are given the option, when credit insurance is required, of using existing equivalent insurance policy, thereby preventing the sale of duplicative coverage in some instances.

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[58] R.S.Mo. §385.070.
[59] R.S.Mo. §385.070 (1)(5)(i).
[60] NY Code Ins § 2340 (1996).

Premium Calculations and Rate Standards

Another statute allows credit property insurance to be required, excluding household goods, on loans of $250 or more. The insurance can be written for an amount up to the lesser of the reasonable value of the insured property or the loan principal, and for no longer than the term of the loan contract.[61] There are, two important consumer protections in these provisions. First, household goods are excluded from the items in which security interests can be taken. Household goods are defined as "clothing, furniture, appliances, one radio and one television, linens, china, crockery, kitchenware, and personal effects, (including wedding rings) owned by the consumer and his or her dependents. . ."[62] Second, the $250 minimum prevents consumers receiving small loans from being forced to buy a product they do not need.

The New York credit property insurance regulations requires insurers to file rates that reflect estimated loss ratios of 55%.[63] For the 1995 to 1997 period, the actual New York credit property insurance loss ratio was 31.6%, well below the 55% target.

<u>North Carolina</u>

Statutes and Regulations

North Carolina statutes allow credit property insurance to be written in connection with either any consumer credit installment sales contract or any loan of less than 15 years duration.[64] Credit property insurance is defined as "insurance of the personal household property of the debtor against loss." Personal household property is considered "household furniture, furnishings, and appliances designed for household use . . .." [65] In contrast to the New York definition, the North Carolina definition of household property gives creditors greater opportunity to take security interests in the borrower's household goods.

Lenders must inform borrowers of the option of providing insurance from other sources if credit insurance is required. While the intention here is sound, a better implementation would be to require lenders to find out if the consumer has alternative coverage and then prohibit the sale of credit property insurance if alternative coverage exists.

Premium Calculations and Rate Standards

North Carolina is unusual in that the statute contains maximum credit property insurance rates. The maximum rates are $.87 per year per $100 of insured value for single interest coverage and $1.31 per year per $100 of insured value for dual interest

[61] NY Code Bank § 357 (1-2) (1996).
[62] NY Code Bank § 357 (2) (1996).
[63] 11 N.Y.C.R.R. § 186.9 (1995).
[64] See N.C. Gen. Stat. § 58-57-1 (1995).
[65] N.C. Gen. Stat. § 58-57-90-a (1995).

coverage.[66] These values correspond to $.725 per $1000 per month and $1.09 per thousand per month, respectively. This conversion allows comparison to the Missouri rates of $1.85 per thousand per month and the Alabama rate of $3.00 per thousand per month. North Carolina had one of the highest credit property insurance loss ratios for the 1995-97 period at 39%. However, the credit property loss ratio dropped from over 60% in 1996 to about 26% in 1997.

North Carolina allows a non-refundable origination charge to be added to the cost of each credit property insurance transaction. There is no fee if the insured valued is $250 or less. The fee is $1 for insured value greater than $250 but less than or equal to $500 and $3 for insured value greater than $500.[67] It is unclear if these fees are considered premium for purposes of calculating loss ratios.

Insurers are required to submit detailed premium, exposure and loss experience to the insurance department.[68] While the requirements by individual insurance departments for statistical reporting is not as important now because of the reporting of credit insurance experience to the NAIC in the Annual Statement Credit Insurance Experience Exhibit, more detailed reporting for credit property insurance is necessary and valuable. The availability of information to evaluate credit insurance loss experience, expenses and profits is essential for informed discussion of credit insurance rates and regulation.

<u>Pennsylvania</u>

Statutes and Regulations

Under Pennsylvania statutes, credit insurance is regulated as inland marine insurance.[69] However, Pennsylvania insurance regulations provided for specific regulation of credit property insurance. Credit property insurance is defined as "insurance covering personal property pledged by debtors as collateral to secure a loan or persona property purchased by a credit transaction."[70] Personal property is defined only as property used for personal use, not include mobile homes or motor vehicles.[71]

While both single and dual interest policies may be written, Pennsylvania was alone among the states surveyed in prohibiting borrowers from being charged for single interest coverage.[72] This is a major consumer protection, recognizing that debtors should not be charged for coverage that protects only the lender's interest. On the other hand, Pennsylvania has no credit property rate regulation.

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[66] N.C. Gen. Stat. § 58-57-90-b (1995).
[67] N.C. Gen. Stat. § 58-57-90-b (1995).
[68] 11 N.C.A.C. 16.0106 (1995).
[69] See 40 P.S. § 1221 et seq. (1995).
[70] 31 Pa. Code § 112.1 (1995).
[71] 31 Pa. Code § 112.2 (1995).
[72] See Pa. Code § 112.4, § 112.10(c) (1995).

Premium Calculations and Rate Standards

Regulations limit premium calculation to the cash value of personal property purchased, preventing the sale of coverage in excess of the underlying collateral.[73] Further, credit insurance may not be sold if a borrower has equivalent and valid insurance on the good serving as collateral. If a borrower pays off the debt early, here or she is entitled to a pro rata refund of all insurance premiums.[74]

Texas

Statutes and Regulations

Although Texas has specific statutes for credit life, credit disability and credit involuntary unemployment insurance, Texas has no statute relating to credit property insurance. However, A lender may require or request credit property insurance,[75] but must provide a statement to the debtor that he or she may use an existing policy or obtain a policy from an insurer of the debtor's choice.[76] The debtor has the option of furnishing the required or requested insurance through an existing policy or through a policy obtained from another agent or insurer.[77]

Credit property insurance is identified as an inland marine coverage by regulation. Prior to January 1, 1999, credit property insurance was not regulated. In 1998, the Texas Commissioner of Insurance promulgated a new rule introducing the regulation of credit property insurance.[78] However, certain types of insurance companies, such as reciprocal exchanges, remain exempt from credit property insurance regulation.[79]

Premium Calculations and Rate Standards

The adopted rule includes several provisions. First, credit property insurance rates and forms associated with consumer credit transactions that are retail installment transaction must be approved prior to use by credit insurers and retailers.[80] Coverage resulting from commercial credit transactions remains free from regulatory oversight.[81]

Second, for closed-end transactions (typically, single-premium coverages associated with a fixed-term loan), the premium calculations for coverage may not be based on amounts paid for services, meals, entertainment, finance or service fees, loan interest, delivery charges, or other insurance premiums (e.g., credit life, credit disability,

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[73] 31 Pa. Code § 112.5 (1995).
[74] 31 Pa. Code § 112.6; 31 Pa. Code § 112.8 (1995).
[75] Tex. Fin. Code § 345.201 (a).
[76] Tex. Fin. Code § 345.204 (a).
[77] Tex. Fin. Code § 345.205 (a).
[78] 28 TAC § 5.5002(5)(Q).
[79] Tex.Ins. Code art. 19.12
[80] 28 TAC § 5.5002(5)(Q)(i)
[81] 28 TAC § 5.5002(5)(Q)(ii)

credit property, or credit involuntary unemployment insurance coverage). [82] This limitation on premium calculations to covered interests is critical for ending the sale of phantom coverage to consumers. However, although the proposed rule extended this requirement to open-end transactions (typically, monthly outstanding balance coverages associated with revolving loan credit cards), the final rule does not eliminated this limitation for open-end transactions. The credit insurance industry and retailers argued that it was technically impossible to separate covered from non-covered items on the credit account and the proposed rule would force credit insurers to stop offering credit property insurance in Texas. Others argued that the availability of the product should not be predicated on unfair treatment of consumers.

Consumer Disclosures

The new rule provides for ground-breaking consumer disclosures, particularly for the open-end transactions not subject to the protections against phantom coverage. The following must be included in any offer to extend coverage for open-end transactions:

> 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 toll-free telephone number provided to you, or by writing to the insurer. This coverage costs $(enter amount) per $100 of outstanding balance on your account. The premium charged for this coverage is based on your entire outstanding balance, but the coverage only applies to tangible personal property purchased on an open-end credit account. Services, meals or other consumables, entertainment, finance or service fees, loan interest, delivery charges, or other insurance premiums, which may be part of your outstanding balance, are not covered.[83]

Required consumer disclosures also include written instructions on filing claims under the coverage with the issuance of a certificate of insurance.[84] The instructions shall include the insurer's toll-free telephone number, as well as a list of essential elements for inclusion by the insured to perfect a claim. The policies or certificates provided to insureds must also include the same disclosures required for the offer to extend coverage.

Additional consumer disclosures include the following with not less than semi-annually with the consumer's account statements:

> If you are paying a credit property insurance premium, that premium is based on the entire outstanding balance of this account. You may cancel this coverage at any time by calling the insurer at the toll-free telephone number it has provided to

[82] 28 TAC § 5.5002(5)(Q)(i)(III)
[83] 28 TAC § 5.5002(5)(Q)(i)
[84] 28 TAC § 5.5002(5)(Q)(i)(VI)

> you, or by writing to the insurer. Any premium charged for credit property insurance coverage is based on your entire outstanding balance, but the coverage only applies to tangible personal property purchased on an open-end credit account. Services, meals or other consumables, entertainment, finance or service fees, loan interest, delivery charges, or other insurance premiums, which may be part of your outstanding balance, are not covered.[85]

Finally, the new rule provides the following credit property insurance account information must be provided to consumers for open-end consumer transactions each billing cycle:

- (-a-) the amount of the credit property insurance charge, shown separately from any total insurance charge;
- (-b-) the amount of the insured's indebtedness to which the insurance charge rate was applied;
- (-c-) the date the rate was applied; and
- (-d-) the period covered by such monthly charge.[86]

The new Texas credit property insurance regulation charts new territory in terms of consumer disclosure and credit property insurance account information, apparently to offset the removal of the premium calculation limitation to covered items for open-end transactions. While it is certain that the new Texas rule will be a major improvement simply because credit property insurance rates and forms will now be subject to review and approval, it is unclear whether more consumer disclosures will stop the abuses in the sale of credit property insurance. The effectiveness of consumer disclosures depends upon consumers actually having the opportunity to read and understand the disclosures and not being subject to unfair and deceptive sales practices. Some argue that credit property insurers and retailers can find a way around any type of consumer disclosure requirement and that, instead of helping the consumer, the consumer disclosure simply provides more of a legal shield for credit insurers and retailers who engage in unfair and deceptive practices.

12. Improving State Regulation of Credit Property Insurance

We recommend that states improve the regulation of credit property insurance in the following ways. These recommendations are in addition to the general recommendations for credit insurance, described in Section 9 above.

- <u>Provide Effective Consumer Disclosure, Not a Shield for Unfair Practices.</u> Most consumer disclosures are worse than inadequate. Such disclosures are typically included as part of a pile of papers the borrower must review and/or sign when obtaining the underlying loan. As such, the disclosure requirement does not result in consumers being bettered informed, but does provide the creditors with a defense against claims of unfair sales practices. Effective consumer disclosures must include monthly statements to the consumer, printed on the credit card or other billing notice,

[85] 28 TAC § 5.5002(5)(Q)(i)(VII)
[86] 28 TAC § 5.5002(5)(Q)(i)(VIII)

regarding the voluntary nature of the coverage, the cost of the coverage and the average expected loss ratio for the coverage.

- Prohibit the Sale of Duplicative Insurance. Consumers should not only be informed that coverage is not needed if they carry other insurance, but creditors should not be permitted to sell duplicative insurance if the consumer already has the relevant coverage. If consumers already have coverage that insures the property serving as collateral, the lender has protection.

- Limit Credit Property Sales to Purchases Over A Minimum Amount: Prohibiting the sale of sale of credit insurance on loans for purchases under a minimum amount, such as $1,000, will discourage insurance packing and eliminate unnecessary sales of credit insurance for very small loan amounts.

- Establish a 75% Minimum Loss Ratio. By establishing maximum premium rates based upon minimum loss ratio standards of at 75% for credit property insurance, credit property insurance consumers will be assured of reasonable benefits in relation to premium charges.

- Limit Premium Calculation to Durable Personal Property. Phantom coverage must be eliminated by requiring that credit insurance premium calculations be based only on the cost of items actually covered by the insurance. One approach is to define durable personal property and require that premium calculations be based only on purchases of durable personal property. For example, durable personal property could be defined as items designed to be used repeatedly and over an extended time period, not generally consumed in use and specifically excluding wearing apparel, draperies, piece goods and similar items.

- Limit Premium Calculations to the Lesser of Purchase Price or Loan Principal Amount. Premium calculations should be based on the lesser of the purchase price or the original debt amount which is the remaining principal at the time of policy issuance. This will help ensure that the basis for premium calculations is related to the coverage provided and protect consumers from overcharges and phantom coverages.

13. The Failure of the NAIC to Develop Credit Property Insurance Models

The NAIC is a trade association of insurance regulators. State regulators meet and work together to address issues of common concern and also to develop as great a consistency of regulations across states as possible. This is done through regular (quarterly) meetings of insurance commissioners and their staffs from different states and through the development of model laws and regulations. The model laws and regulations often represent a consensus – or as much of a consensus as possible among states – regarding regulatory policy on key insurance issues. Over the years, the NAIC has developed various credit insurance model rules and regulations. While those models have not fully addressed the problems with credit insurance generally, the NAIC has failed to develop any specific models for credit property insurance at all.

An issue paper the NAIC released in 1996 discusses the problems with credit insurance, including reverse competition, low loss ratios and the marketing and claims handling practices of credit insurers. The issue paper states,

> The NAIC, through the (EX) Committee on Credit Insurance, has taken a strong stance favoring tighter regulation of credit insurance rates and marketing practices. The NAIC is dedicated to assisting the states in reducing rates and increasing loss ratios. The (EX) Committee on Credit Insurance also is investigating other measures to improve the fairness of the pricing of credit insurance and correcting market abuses. In 1991, the NAIC adopted enhancements to the credit insurance exhibit filed by insurers to facilitate effective analysis of credit insurance experience and rates.

Through 1994, the NAIC Committee on Credit Insurance was actively working to improve state regulation of credit insurance. In 1993 the Committee adopted a revised model act with improved consumer disclosure requirements for credit life, credit disability and credit unemployment insurance. However, by 1995, the Committee on Credit Insurance has abruptly changed direction. The Committee on Credit Insurance abandoned all work on credit property insurance, even though the Committee had started work in 1993 to both better define credit property insurance and develop model acts and regulations as necessary.

The NAIC should not have abandoned its work on credit property insurance in 1995. The Committee on Credit Insurance, charged with developing the credit property models, came to the strange conclusion in 1995 that there were no significant problems with credit property insurance. Such a conclusion was clearly unreasonable. The NAIC had identified problems and issues with credit life and credit disability that warranted the development of a model law and model regulation. It is difficult to understand how credit property, which has the same problems as these other coverages plus additional problems unique to credit property, would not warrant at least the same effort in developing a model law and model regulation.

Even if one were to accept the improbable conclusion from 1995, there is now abundant information that serious problems with the regulation and market practices of credit property insurance exist. There is a substantial need for NAIC activity to provide assistance and recommendations to states on improved consumer protection for credit property insurance.

14. Conclusion

State legislatures and state insurance regulators, with the assistance of the NAIC, must do a far better job protecting credit insurance consumers than they have done to date. The situation has worsened for credit insurance consumers as credit insurance loss ratios have fallen and overcharges have grown. State regulation has generally not protected credit insurance consumers for the traditional coverages, even as new coverages are introduced that raise new consumer concerns.

The poorest consumers in America are often the target for sales of overpriced credit insurance. The $2 billion a year in credit insurance overcharges fall disproportionately on those consumers least able to afford the excessive premiums. Surely the time has long since come to bring greater fairness to credit insurance markets.

Appendix A: Credit Insurance Experience By State and By Coverage, 1995-1997

See Attached Charts

Appendix B: Example of Net Indebtedness Credit Insurance Premium Calculation

Month	Payment	Interest	Principal	Remaining Principal	Life Premium $0.92 per 1000	Disability Premium $1.91 per 1000
0				$15,000.00	$13.80	$26.36
1	$318.71	$125.00	$193.71	$14,806.29	$13.62	$26.02
2	$318.71	$123.39	$195.32	$14,610.97	$13.44	$25.67
3	$318.71	$121.76	$196.95	$14,414.03	$13.26	$25.33
4	$318.71	$120.12	$198.59	$14,215.44	$13.08	$24.98
5	$318.71	$118.46	$200.24	$14,015.19	$12.89	$24.63
6	$318.71	$116.79	$201.91	$13,813.28	$12.71	$24.27
7	$318.71	$115.11	$203.59	$13,609.69	$12.52	$23.91
8	$318.71	$113.41	$205.29	$13,404.40	$12.33	$23.55
9	$318.71	$111.70	$207.00	$13,197.39	$12.14	$23.19
10	$318.71	$109.98	$208.73	$12,988.67	$11.95	$22.82
11	$318.71	$108.24	$210.47	$12,778.20	$11.76	$22.45
12	$318.71	$106.48	$212.22	$12,565.98	$11.56	$22.08
13	$318.71	$104.72	$213.99	$12,351.99	$11.36	$21.70
14	$318.71	$102.93	$215.77	$12,136.22	$11.17	$21.33
15	$318.71	$101.14	$217.57	$11,918.65	$10.97	$20.94
16	$318.71	$99.32	$219.38	$11,699.26	$10.76	$20.56
17	$318.71	$97.49	$221.21	$11,478.05	$10.56	$20.17
18	$318.71	$95.65	$223.06	$11,255.00	$10.35	$19.78
19	$318.71	$93.79	$224.91	$11,030.08	$10.15	$19.38
20	$318.71	$91.92	$226.79	$10,803.29	$9.94	$18.98
21	$318.71	$90.03	$228.68	$10,574.61	$9.73	$18.58
22	$318.71	$88.12	$230.58	$10,344.03	$9.52	$18.18
23	$318.71	$86.20	$232.51	$10,111.53	$9.30	$17.77
24	$318.71	$84.26	$234.44	$9,877.08	$9.09	$17.36
25	$318.71	$82.31	$236.40	$9,640.69	$8.87	$16.94
26	$318.71	$80.34	$238.37	$9,402.32	$8.65	$16.52
27	$318.71	$78.35	$240.35	$9,161.97	$8.43	$16.10
28	$318.71	$76.35	$242.36	$8,919.61	$8.21	$15.67
29	$318.71	$74.33	$244.38	$8,675.23	$7.98	$15.24
30	$318.71	$72.29	$246.41	$8,428.82	$7.75	$14.81
31	$318.71	$70.24	$248.47	$8,180.36	$7.53	$14.37
32	$318.71	$68.17	$250.54	$7,929.82	$7.30	$13.93
33	$318.71	$66.08	$252.62	$7,677.20	$7.06	$13.49
34	$318.71	$63.98	$254.73	$7,422.47	$6.83	$13.04
35	$318.71	$61.85	$256.85	$7,165.62	$6.59	$12.59
36	$318.71	$59.71	$258.99	$6,906.62	$6.35	$12.14
37	$318.71	$57.56	$261.15	$6,645.47	$6.11	$11.68
38	$318.71	$55.38	$263.33	$6,382.15	$5.87	$11.21
39	$318.71	$53.18	$265.52	$6,116.63	$5.63	$10.75
40	$318.71	$50.97	$267.73	$5,848.89	$5.38	$10.28
41	$318.71	$48.74	$269.96	$5,578.93	$5.13	$9.80
42	$318.71	$46.49	$272.21	$5,306.71	$4.88	$9.32
43	$318.71	$44.22	$274.48	$5,032.23	$4.63	$8.84
44	$318.71	$41.94	$276.77	$4,755.46	$4.38	$8.36
45	$318.71	$39.63	$279.08	$4,476.38	$4.12	$7.87
46	$318.71	$37.30	$281.40	$4,194.98	$3.86	$7.37
47	$318.71	$34.96	$283.75	$3,911.23	$3.60	$6.87
48	$318.71	$32.59	$286.11	$3,625.12	$3.34	$6.37
49	$318.71	$30.21	$288.50	$3,336.62	$3.07	$5.86
50	$318.71	$27.81	$290.90	$3,045.72	$2.80	$5.35
51	$318.71	$25.38	$293.32	$2,752.40	$2.53	$4.84
52	$318.71	$22.94	$295.77	$2,456.63	$2.26	$4.32
53	$318.71	$20.47	$298.23	$2,158.40	$1.99	$3.79
54	$318.71	$17.99	$300.72	$1,857.68	$1.71	$3.26
55	$318.71	$15.48	$303.23	$1,554.45	$1.43	$2.73
56	$318.71	$12.95	$305.75	$1,248.70	$1.15	$2.19
57	$318.71	$10.41	$308.30	$940.40	$0.87	$1.65
58	$318.71	$7.84	$310.87	$629.53	$0.58	$1.11
59	$318.71	$5.25	$313.46	$316.07	$0.29	$0.56
60	$318.71	$2.63	$316.07	$0.00		
				Life	**Disabilty**	**Total**
			Premium	**$455.11**	**$869.25**	**$1,324.36**

Appendix C: Methodology and Technical Notes

The NAIC Credit Insurance Experience Exhibit is the source for the loss ratio and compensation ratio analyses in this report. The loss ratio is calculated by dividing incurred claims (line 2F) by actual earned premiums (line 1F). The compensation ratio is calculated by dividing total commissions and other compensation (line 3C) by actual earned premiums (line 1F).

Credit life figures are taken from Part 1B, Column 2, Total SP + MOB.

Credit disability figures are taken from Part 2D, Column 2, Total – Parts 2A, 2B, 2C and 2D.

Credit involuntary unemployment figures are taken from Part 3B, Column 3, Total.

Credit property figures are taken from Part 4. The credit property page (Part 4) includes four categories (or columns): fire and extended coverage; auto physical damage; forced placement; and other. Credit property insurance, as referred to in this report, is captured in both the "fire and extended coverage" and "other" credit property categories. Insurers who report experience in the "other" credit property insurance category are asked to describe the experience. Descriptions of "other" credit property include:

- for accidental loss to personal property charged to cardholders account;
- non-standard fire and EC on credit card purchases;
- inland marine;
- personal property;
- other property insurance;
- purchases made on revolving charge accounts
- non-filing

The "other" property experience of First Colonial Insurance Company was excluded because this experience was identified as 100% non-filing insurance, which was not considered credit property insurance for the purpose of this report. Credit non-filing insurance insures against the failure of a lender to make certain legal filings. The "other" credit property experience of American Security Insurance Company (47% non-filing, 53% personal property) and of Standard Guaranty Insurance Company (25.3% non-filing, 74.7% personal property) was included. No description of the "other" property insurance entries was available for North American Fire and Casualty Insurance Company, Peninsula Insurance Company, Independent Fire Insurance Company, Independent Reciprocal Exchange, Thomas Jefferson Insurance Company and Household Insurance Company. The "other" credit property experience of these insurers was included in the compilations.

We have verified that the "other" credit property experience described by some insurers as inland marine is credit property insurance by comparing information reported to the Texas Department of Insurance with the data reported in the credit insurance experience exhibit. The Texas Department of Insurance requested information from a number of credit insurers in January 1996:

> *The Department seeks to better understand the credit property insurance product sold in Texas. Although we are unable to precisely define credit property, we can identify coverages that are not credit property – credit life, credit accident and health and credit involuntary unemployment. For the purposes of this request, we are also* <u>not</u> *referring to forced-placed (or creditor-placed) insurance. As example of creditor-placed insurance would be automobile vendors single interest – coverage placed by a creditor for an automobile loan in the event the debtor fails to secure physical damage insurance on his or her own.*

The request for information sought copies of the credit property insurance master policy and certificates used in Texas, a description of the rates for the coverage and a report of earned premium, incurred losses and paid losses by year for Texas and countrywide. An examination of the responses to the Texas call for information confirms that "other" credit property insurance, reported as inland marine, is credit property insurance.