



AMERICAN NATIONAL INSURANCE COMPANY

GARETH W. TOLMAN, SENIOR VICE PRESIDENT-CORPORATE AFFAIRS
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December 20, 2004

Gene C. Jarmon
General Counsel and Chief Clerk
Mail Code 113-2A
Texas Department of Insurance
333 Guadalupe
Austin, Texas 78714-9104

Re: Docket No. 2608
Proposed Amendments to 28 TAC 3.5001, et seq.

Dear Mr. Jarmon:

American National Insurance Company ("American National") has been actively engaged in the credit life and credit accident and health insurance market for over 40 years. During 2003 the Credit Insurance Division of American National produced over \$90,000,000 of net written credit life and credit accident and health insurance premiums nationwide, and approximately one-third of those premiums were written in Texas. It is from this perspective that we offer the following comments concerning the proposed reductions in the current presumptively acceptable rates for credit life and credit accident and health insurance.

American National is a member of both the Texas Association of Life and Health Insurers ("TALHI") and the Consumer Credit Insurance Association ("CCIA"), and we support the comments and suggestions which have been submitted by those organizations. Although there are several aspects of the proposal with which we disagree, the single most objectionable recommendation is the Alternative 1 proposal which would establish separate presumptively acceptable rates for Class E. One of the reasons credit life and credit accident and health insurance have been so popular with both borrowers and creditors is the simplicity of the products and their administration, and one of the key elements of that administrative simplicity is the rate structure. Establishing rates by class of business represents a first step toward a rate structure that is more complex and thus, more expensive to administer. Moreover, establishing rates that vary dependent on where the product is purchased is actually discriminatory. It makes absolutely no sense for the purchaser of a new automobile to pay one rate for credit life insurance if he or she purchases the insurance at the automobile dealer, but a different rate if the insurance is purchased at a bank where the automobile is to be financed. The experience data collected by the department's credit data calls do now provide any reason for the difference in experience by class of creditor. However, it is safe to assume that the type of creditor from which credit insurance is purchased does not affect the level of mortality or morbidity risk presented by the purchaser of coverage. We therefore urge

that Alternative 1 be rejected and that the current presumptively acceptable rates, which are applicable to all classes of creditors, be retained.

The second most objectionable feature of the proposal is the continuation of a 25% allowance for commissions. As American National was not a party to the contested case proceeding that resulted in the Commissioner's Order adopting the current rate structure, the company's views on the appropriateness of the various rate components, specifically including commissions, were not part of the record of those proceedings. However, we felt the 25% allowance was inadequate then, and believe the continuation of that allowance would be equally inappropriate. Sec. 1153.103 gives the Commissioner the authority to adopt by rule presumptively acceptable premium rates, and subsection (d) enumerates various types of data which the Commissioner must consider. Subsection (e) prohibits the Commissioner from setting or limiting the compensation paid to agents by insurers, but authorizes the Commissioner to obtain relevant data from insurers regarding compensation paid for the sale of credit insurance. In preparing the recommended presumptively acceptable rates, it is noted that the claims cost component was based upon the data submitted by insurers through the department's credit data calls, and the general expense component was also based upon data submitted by insurers through the data calls. However, in developing the compensation component, the commission data submitted by insurers as part of those same data calls was ignored, despite the fact that the statute requires the Commissioner to consider any relevant data, which should logically include the data requested from insurers relating to compensation paid for the sale of credit insurance. We would respectfully submit that ignoring the compensation data provided by insurers violates the Commissioner's statutory obligation to consider all relevant data and further, violates the statutory prohibition against attempting to set or limit commissions. The data requested from and provided by insurers regarding commissions indicates that, on average, commission levels are in the neighborhood of 40% for both credit life insurance and credit accident and health insurance. Using data requested from and supplied by insurers to develop certain rate components, and then totally ignoring industry data on compensation and substituting an allowance that is substantially lower than the commissions actually being paid violates the Commissioner's statutory obligation to consider all relevant data and also constitutes a de facto attempt to set or limit commissions in violation of the Texas Insurance Code by limiting the commission component in the presumptively acceptable premium rates. We therefore strongly recommend that the commission component be modified to be consistent with the data requested from and supplied by insurers.

An additional shortcoming in the current schedule of presumptively acceptable premium rates, and one that is not addressed in the proposal under consideration, is the absence of a minimum premium charge and a realistic minimum refund. A very high percentage of the policies or certificates issued by independent community banks and by furniture dealers in Texas have credit life insurance single premiums of less than \$10. Unfortunately, it costs the creditor and the insurer just as much to write, process and administer a credit life insurance certificate with a \$10 premium as it does to write, process and administer a certificate with a \$100 premium. While our community bank and furniture store dealers wish to offer credit insurance products as a service to their

customers, they want to at least break even on their credit insurance programs, and credit insurers would like to minimize the amount of money they lose by accepting policies or certificates with extremely small premiums. We therefore urge that the current proposal be expanded to provide for a minimum credit life insurance premium of \$10, and a minimum refund of \$5. This change will not unduly burden consumers, and will reduce the amount of money insurers are currently losing by accepting these policies and certificates with small premiums.

In closing, we urge that the recommendations of TALHI and CCLA, together with the specific changes we have recommended in the preceding pages, be carefully studied and implemented.

Sincerely,

A handwritten signature in black ink, appearing to read "Gareth W. Tolman". The signature is fluid and cursive, with a prominent initial "G".

Gareth W. Tolman

cc: Bill Bingham
Deputy for Regulatory Matters
Life, Health and Licensing Program

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Fax

To: Gene Jarmon **From:** Jennifer Wesley

Fax: 512-475-2025 **Pages:** 4 including cover

Phone: **Date:** 12/20/04

Re: **CC:**

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