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May 21, 2014

Administrative, Executive and Legislative Review (AELR) Committee  
90 State Circle  
Annapolis, MD 21401

Governor's Office  
Attn: Peggy Watson  
State House  
Annapolis, MD 21401

Division of State Documents  
State House  
Annapolis, MD 21401

State Publications Depository and Distribution Program  
Attn: Brigid Sye-Jones  
Enoch Pratt Free Library  
400 Cathedral St.  
Baltimore, MD 21201

Department of Legislative Services Library  
90 State Circle  
Annapolis, MD 21401

RE: Regulatory Review and Evaluation Act Evaluation Report-COMAR 31.13

Dear Sir or Madam:

I am filing the required number of copies of the attached Evaluation Report on behalf of the Maryland Insurance Administration as follows:


- AELR Committee-one copy
- Governor's Office (Peggy Watson)-one copy
- Division of State Documents-one copy
- State Library Resource Center via State Publications Depository and Distribution Program (Brigid Sye-Jones)-sixteen copies

- Department of Legislative Services Library-five copies

If you have any questions, or require additional information, please contact me at the above-referenced telephone number and email address.

Sincerely,

*Signature on original*

A black rectangular redaction box covers the signature area. A small blue mark is visible below the box.

Catherine Grason  
Director of Special Projects, Office of the Commissioner

cc: Therese Goldsmith, Insurance Commissioner  
Karen Stakem Hornig, Deputy Commissioner  
Katrina Lawhorn, Regulatory & Facilities Supervisor  
Brenda Wilson, Associate Commissioner, Life and Health Unit

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification: COMAR 31.13.01

Chapter Name: Standards for Credit Life and Credit Health Insurance

Authority: Insurance Article 2-109, 13-110, 13-111, and 13-112; Commercial Law Article, Title 12, Subtitle 3

Date Originally Adopted or Last Amended: March 1, 2001

Purpose: To establish standards for premium rates for credit life and credit health insurance and to regulate certain other aspects of the credit life and credit health insurance business to assure that the operations of an insurer do not endanger the solvency of the insurer so as to render its transaction of business hazardous to its policyholders or the public, and do not adversely affect other classes of business of the insurer.

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Three stakeholders responded: The Consumer Credit Industry Association (CCIA) submitted comments, and the Center for Economic Justice (CEJ) and the Consumer Federation of America (CFA) submitted joint comments.

NOTE: One consumer provided comments on another chapter within this subtitle, COMAR 31.13.03, that are applicable to this chapter as well. See Summary section below and the Evaluation Report for COMAR 31.13.03 for the MIA's analysis of this comment and recommended changes to this chapter based upon this comment.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments, other than the stakeholder comments described in (B)(1) above, were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

**COMMENT:** The CCIA recommended expanding the definition of "joint life insurance" in COMAR 31.13.01.04B(13). According to the CCIA, as currently defined, "joint life insurance" means insurance issued to a debtor and spouse when both are jointly and severally liable for the loan. CCIA indicated that most states do not limit joint coverage to a "spouse," and recommended a change to permit the coverage to be issued to any parties involved in the credit transaction.

**RESPONSE:** At the time that this regulation was enacted, many lenders were requiring an individual borrower to obtain a co-signature on the borrower's loan so that a lender could sell the borrower joint credit life insurance. This allowed a lender to sell a more expensive coverage, often in cases where there was no other reason to require a co-signature. After this regulation was enacted, there was a significant reduction in consumer complaints about unwarranted lender requirements for co-signatures on loans. In light of the historical context of this important consumer protection, we decline to expand the definition of "joint life insurance" at this time.

(COMMENTS AND RESPONSES CONTINUE ON NEXT PAGE)

**COMMENT:** The CCIA recommended that the MIA amend COMAR 31.13.01.13E(2) to allow for a six month suicide exclusion in credit life insurance policies, consistent with the National Association of Insurance Commissioners (NAIC) Model Credit Regulations. The NAIC Consumer Credit Insurance Model Regulation, Model 370, allows for an exclusion of coverage for death resulting from suicide within six months after the effective date of coverage. See Model 370, Section 6(B)(1)(b). As currently written, COMAR 31.13.01.13E(2) prohibits policy provisions which exclude or restrict liability for death caused in a certain specific manner or occurring while the insured has a specified status. According to the CCIA, the MIA has interpreted this provision to prohibit a suicide exclusion, and “if included the carrier must reduce the ‘life’ rate by 5%.”

**RESPONSE:** The MIA agrees that COMAR 31.13.01.13E(2) should be amended to expressly allow for an exclusion of coverage for death resulting from suicide within six months after the effective date of coverage in credit life insurance contracts, consistent with the NAIC model.

**COMMENT:** The Center for Economic Justice (CEJ) and the Consumer Federation of America (CFA) submitted joint comments requesting that the prima facie rates for credit life and credit disability be reduced by 12.8% and 24.8%, respectively to reflect the low loss ratios at prima facie rates relative to the 55% loss ratio standard found in COMAR 31.13.01.05. In support of this request, CEJ and CFA provided data from the *NAIC Credit Life Insurance and Credit Accident and Health Insurance Experience, 2008-2012*.

**RESPONSE:** COMAR 31.13.01 calls for premium rates to be established for large groups (“cases”) by periodic review of reported loss ratios, and provides procedures and formulas for use in adjusting rates. Maryland law also calls for biennial review of prima facie premium rates to apply to non-case groups, based on reported loss ratios. See §13-111(e)(3) of the Insurance Article, Annotated Code of Maryland. The MIA follows the procedures provided in the regulations for promulgation of Maryland-specific premium rates, and as required by statute, the MIA will be conducting its biennial review of prima facie rates based upon Maryland-specific experience in 2014. Please note that the MIA is required to consider Maryland-specific experience in its review, and not national experience such as the data cited by the CEJ and CFA in the above-referenced report entitled, *NAIC Credit Life Insurance and Credit Accident and Health Insurance Experience, 2008-2012*. If the MIA’s Maryland-specific review demonstrates a need to reduce prima facie premium rates in Maryland, the MIA will adjust the rates at that time. For these reasons, the MIA declines to adjust prima facie rates for credit life and credit disability at this time.

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

(6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Maryland's Credit Life and Credit Health Insurance regulations generally follow the NAIC Consumer Credit Insurance Model Regulation (Model 370), which has been substantially adopted by 47 states. As discussed in B(4) above, one notable difference in the current Maryland regulations is the express prohibition of credit life insurance contract provisions which exclude or restrict liability for death caused in a certain specific manner or occurring while the insured has a specified status (COMAR 31.13.01.13E(2)). The MIA will propose amendments to this regulation to expressly allow for an exclusion of coverage for death resulting from suicide within six months after the effective date of coverage, consistent with the NAIC model.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

The MIA currently interprets COMAR 31.13.01E(2) to mean that prima facie premium rates assume that there is no suicide exclusion in a credit life insurance contract; however, the MIA does not interpret this regulation to mean that a suicide exclusion is prohibited in credit life insurance contracts, provided that prima facie rates are adjusted consistent with actuarial principles to reflect such an exclusion. To make clear that the MIA does not intend to prohibit suicide exclusions in credit life insurance contracts and to make Maryland's regulation consistent with the NAIC model, the MIA will propose amendments to this regulation to expressly allow for an exclusion of coverage for death resulting from suicide within six months after the effective date of coverage.

There is no recent legislation pertaining to credit life or credit health insurance requirements requiring promulgation of regulations or amendments to COMAR 31.13.01.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

As suggested by the CCIA, the MIA will propose amendments to COMAR 31.13.01.13E(2) to expressly allow for an exclusion of coverage for death resulting from suicide within six months after the effective date of coverage in credit life insurance contracts, consistent with the NAIC model.

Additionally, a comment was received on COMAR 31.13.03 regarding the need for a consumer notice advising of the taxability of credit disability insurance (see enclosed Evaluation Report for COMAR 31.13.03 for analysis of the full comment and the MIA's response). According to the Internal Revenue Service Publication 17 (2013) entitled "Your Federal Income Tax For Individuals," disability and unemployment insurance benefits are taxable in most cases. The MIA agrees with the consumer who commented that a notice regarding taxability should be included in all applications and in all certificates of credit disability and credit involuntary unemployment insurance. The MIA will propose amendments to COMAR 31.13.01 containing requirements for this consumer notice as applied to credit disability insurance. The MIA will likewise propose amendments to COMAR 31.13.03 for applicability to credit involuntary unemployment insurance.

Finally, the MIA will propose technical amendments to COMAR 31.13.01.09A, 31.13.01.13A--C, and 31.13.01.17A--C to remove any cross-references to COMAR 31.13.01.12 and 31.13.01.16, as these regulations have been repealed from this chapter.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.



- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A. There were no comments received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

This regulation does not appear to be based on a National Association of Insurance Commissioners (NAIC) model regulation; however, it is necessary to administer Insurance Article §13-116, Annotated Code of Maryland.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to credit life and credit health reinsurance being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to credit life and credit health reinsurance requiring promulgation of regulations or amendments to COMAR 31.13.02.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. The MIA declines to make any revisions to this chapter at this time.

Person performing review: Catherine Grason

Title: Director of Special  
Projects, Office of the  
Commissioner

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

COMAR 31.13.03

Chapter Name:

Standards for Credit Involuntary Unemployment Benefit Insurance

Authority:

Insurance Article §2-109 and Title 13, Annotated Code of Maryland

Date Originally Adopted or Last Amended:

January 1, 2003

Purpose:

The purpose of this chapter is to promote the public welfare by regulating credit involuntary unemployment benefit insurance and to establish standards for premium rates.

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Three stakeholders submitted comments: One consumer submitted comments, and the Center for Economic Justice (CEJ) and the Consumer Federation of America (CFA) submitted joint comments.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments described in section B(1) of this report, no additional comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

**COMMENT:** A consumer provided comments suggesting that the MIA require insurers and producers to provide a prominent disclosure to potential subscribers for credit involuntary unemployment benefit insurance (IUI) and credit disability insurance products indicating that any benefits provided under such policies are taxable as earned income. The consumer also suggested that insurers and producers paying benefits on these products should have to offer a pre-payment deduction option to insureds receiving benefits under these policies to account for accruing taxes.

**RESPONSE:** According to the Internal Revenue Service Publication 17 (2013) entitled "Your Federal Income Tax For Individuals," disability and unemployment insurance benefits are taxable in most cases. Therefore, the MIA agrees that a notice regarding taxability should be included in all applications and in all certificates of credit disability and credit involuntary unemployment insurance, and will be proposing amendments to this chapter and to COMAR 31.13.01 accordingly. The MIA does not believe that requiring a pre-payment deduction option for insureds receiving benefits under these policies is within the scope of these regulations; therefore the MIA declines to adopt this suggestion at this time.

**COMMENT:** The Center for Economic Justice (CEJ) and the Consumer Federation of America (CFA) submitted joint comments recommending that the MIA retain the current regulation for credit IUI insurance, and monitor any 2013 experience for any significant decline in loss ratio experience. They noted that actual loss ratios have stabilized near the 55% loss ratio standard in 2011 and 2012 as the unemployment rate has declined, and long-term unemployed borrowers have exhausted their credit unemployment benefits.

**RESPONSE:** COMAR 31.13.01.13 provides for insurer reporting of credit involuntary unemployment insurance experience and for period adjustment of premium rates. As required by this regulation and as suggested in this comment, the MIA will monitor 2013 experience.

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

(6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

There is no National Association of Insurance Commissioners (NAIC) model regulation for credit involuntary unemployment insurance. In an effort to be stylistically and technically consistent, the MIA structured COMAR 31.13.03 after COMAR 31.13.01 (“Standards for Credit Life and Credit Health Insurance”).

(8) Provide a summary of any other relevant information gathered.

Pursuant to the consumer comment received about the taxability of involuntary unemployment insurance and disability insurance, the MIA reviewed Internal Revenue Service Publication 17 (2013) entitled “Your Federal Income Tax For Individuals,” which states that these insurance benefits are taxable in most cases.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to credit involuntary unemployment benefit insurance requirements being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to credit involuntary unemployment benefit insurance requiring promulgation of regulations or amendments to COMAR 31.13.03.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA agrees with the consumer who commented that a notice regarding taxability should be included in all applications and in all certificates of credit disability and credit involuntary unemployment insurance. The MIA will propose amendments to COMAR 31.13.03 containing requirements for this consumer notice as applied to credit involuntary unemployment insurance. The MIA will likewise propose amendments to COMAR 31.13.01 for applicability to credit disability insurance.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner