

**SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH
INSURANCE
DIVISION 10. RESPONSIBILITIES AND OBLIGATIONS OF INSURANCE
COMPANIES AND THEIR AGENTS AND REPRESENTATIVES
28 TAC §3.6011**

1. INTRODUCTION. The Texas Department of Insurance adopts amendments to Title 28 Texas Administrative Code §3.6011, concerning a revised *Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance* (Consumer Bill of Rights) that insurers must provide to each insured with a new policy or renewal notice. The amendments are adopted with nonsubstantive changes to the proposed text published in the July 6, 2012, issue of the *Texas Register* (37 TexReg 5080).

2. REASONED JUSTIFICATION. The Office of Public Insurance Counsel (OPIC) submitted a petition to the department requesting the adoption of a revised Consumer Bill of Rights to reflect legislative changes in regard to consumers' right to privacy. Insurance Code §501.156 requires OPIC to submit a consumer bill of rights appropriate to each personal line of insurance regulated by the department. The department regulates credit life, credit disability, and credit involuntary unemployment insurance under Insurance Code Chapters 1153 and 3501.

The Consumer Bill of Rights currently in effect was adopted by reference in §3.6011, effective October 1, 1993 (September 24, 1993 issue of the *Texas Register*

(18 TexReg 6546)). The revised Consumer Bill of Rights reflects legislative changes affecting consumer rights, updates contact information, and includes editorial changes for clarity and conciseness.

The Consumer Bill of Rights has been revised in response to comments received on the published proposal. Those changes are discussed in the Summary of Comments and Agency Response section of this adoption order. Additionally, the department made the following editorial revisions to the Consumer Bill of Rights after the proposed rule was published:

All contact information throughout the document was removed and placed in a chart located at the end of the document.

In Right No. 8 which is Right No. 6 in the adopted Consumer Bill of Rights, the phrase "...for credit insurance than what the creditor paid for that insurance when they purchased it from the insurance company" was removed and replaced with, "...more than the premium charged by the insurer or add any fees or interest in relation to the insurance." The revised Right now reads: "A creditor cannot charge you more than the premium charged by the insurer or add any fees or interest in relation to the insurance."

In Right No. 10, which is Right No. 8 in the adopted Consumer Bill of Rights, the phrase "If your rate changes..." was added at the beginning of the sentence. As revised, the Right now reads: "If your rate changes, a creditor must notify you at least 30 days before any unscheduled premium increases are direct drafted from your bank account. Your company must send you notice by U.S. mail and it must include a toll-free number

and mailing address to accept your objection. You must object to the increased draft at least five days before it goes into effect to stop the direct draft.”

In Right No. 13, which is Right No. 11 in the adopted Consumer Bill of Rights, the phrase “If your loan is paid off early...” was added to the beginning of the sentence; and the phrase “...the return of any unused...” was replaced with “...refund or accounting...”. As revised the Right reads: “If your loan is paid off early, you are entitled to a refund or accounting of the unearned premiums, unless the amount is less than \$3.”

Right No. 18, which is Right No. 16 in the adopted Consumer Bill of Rights, replaced the word “related” with “relevant.”

Right No. 19, which is Right No. 17 in the adopted Consumer Bill of Rights, replaced “requires” with “necessary.”

Nonsubstantive changes were made to the proposed text to add §3.6011(e) extending the compliance date to February 11, 2013. The changes in the rule and adopted Consumer Bill of Rights do not materially alter issues raised in the proposal, introduce new subject matter, or affect persons other than those previously on notice.

3. HOW THE SECTION WILL FUNCTION. Amendments to the title of the section and subsections (a) – (c) of §3.6011 change references from “involuntary unemployment insurance” to “credit involuntary unemployment insurance.” This non-substantive change is necessary for clarity.

Amendments to §3.6011(a) and (c) update the name of the office and mail code where the form is available.

Amendments to §3.6011(a) and (c) update the department's website address.

Section 3.6011(e) specifies that the compliance date is February 11, 2013.

Amendments to §3.6011(b) and (d) change references from "10-point type" to "10 point font." This non-substantive change is necessary to conform the text to the department's rule style guidelines.

Finally, §3.6011(a) adopts by reference the revised Consumer Bill of Rights, and §3.6011(c) adopts the Spanish version of the revised Consumer Bill of Rights.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Comment -- Length of Consumer Bill of Rights: A commenter stated that from the insurer's perspective the current three-page Consumer Bill of Rights adequately advises consumers of their rights. The commenter also stated that insurers would prefer a two-page bill of rights that refers consumers to a website for more detailed information. Additionally, the commenter requested that the department authorize the form to be reproduced in a smaller font size to allow the Consumer Bill of Rights to fit on the front and back of one page.

Agency Response: The agency did not make changes in response to this comment because §3.6011(b) allows the form to be reproduced using 10-point font and any smaller font would make the document inaccessible to many consumers. The adopted

Consumer Bill of Rights includes three additional rights and is just over three pages in 11-point font. Further, it is concise and well-organized so that consumers may refer back to it as needed to assist them in understanding and asserting their rights.

Comment -- Cost to Insurers. A commenter stated that the department's cost analysis incorrectly calculated the cost to insurers and asserted that insurers will incur significant costs complying with amended §3.6011. The commenter stated that it is expensive to update documents when a platform is used to produce documents and that there will be a loss of any unused stock of the current Consumer Bill of Rights. The commenter requested that the department delay the compliance date to assist in reducing insurers' compliance cost.

Agency Response: The department recognizes that it may cost some insurers more to comply with the rule depending on the type of delivery system utilized. In an effort to mitigate some compliance costs new §3.6011(e) extends compliance to February 11, 2013.

Comment -- Applicability. A commenter stated the use of "current and future policy holders" in the preamble was confusing and asked the department to clarify the insureds to which the amendment applies.

Agency Response: The department did not make changes in response to this comment. The current rule requires each new policy or renewal notice for credit life, credit disability, or credit involuntary unemployment insurance to include a copy of the most current version of the Consumer Bill of Rights, and this amendment does not change the requirement. For example, if a renewal notice is sent to a current policy

holder on February 11, 2013 and that consumer had received the previous Consumer Bill of Rights in 2011, then the 2013 renewal notice must include the newly adopted Consumer Bill of Rights.

Comment -- Fiscal Impact on State Government. A commenter disagreed with the department's finding of no fiscal impact on state government. The commenter stated that adoption of this amendment will force industry to move from credit insurance to debt cancellation, which would not produce premium tax revenue because it is not an insurance product.

Agency Response: The department did not make changes in response to this comment and disagrees that this adoption will have any impact on industry's choice between the two products. The commenter did not provide documentation to support that a downward trend will occur or that this amendment will be a major factor when deciding which product to use. The department also notes that the newly adopted Consumer Bill of Rights is only nine lines longer than the version it is replacing.

Consumer Bill of Rights.

Comment: A commenter suggested using the term "coverage" instead of "policy" because this product could be either a policy or certificate of insurance.

Agency Response: The department agrees and has added a sentence at the end of the first paragraph of the adopted Consumer Bill of Rights stating that the term "policy" includes a certificate of insurance.

Comment: A commenter suggested that “unearned” premium should be used instead of “unused” because that is the term used in most policies.**Agency Response:** The department agrees and has made this change throughout the Consumer Bill of Rights.

Comment: A commenter stated that Right No. 4, which is Right No. 2 in the adopted Consumer Bill of Rights, should reflect that, although a lender may require credit insurance, the lender cannot require the consumer to purchase credit insurance.

Agency Response: The department did not make changes in response to this comment because the text as written exhausts all of the consumer options without being repetitive.

Comment: A commenter stated that the last sentence of Right No. 4, which is Right No. 2 in the adopted Consumer Bill of Rights, is misleading and should be deleted because credit insurance is tied to a particular debt.

Agency Response: The department did not make changes in response to this comment because a consumer may satisfy the need for credit insurance by using an existing policy as provided for by Insurance Code §1153.161. Although this option may not be utilized very often, it is still an option available to some consumers.

Comment: A commenter stated that the inclusion of age and disability in Right No. 7, which is Right No. 5 in the adopted Consumer Bill of Rights, is incorrect because state law allows credit insurance to be limited based on age and disability.

Agency Response: The department agrees and has added language to alert the consumer that there are exceptions based on age, disability, and partial disability.

Comment: A commenter stated that Right No. 9, which is Right No. 7 in the adopted Consumer Bill of Rights, should include a statement that the amount of credit insurance may be less than the amount required to fully extinguish the indebtedness.

Agency Response: The department did not make changes in response to this comment because Right No. 3 states that the application and policy must include the amount of coverage. If the amount of coverage is less than the amount of indebtedness, the consumer should be aware of the difference.

Comment: A commenter stated that Right No. 10, which is Right No. 8 in the adopted Consumer Bill of Rights, should be deleted in its entirety because credit insurance is usually written on a single premium basis and does not involve any increases.

Agency Response: The department has revised Right No. 8 in response to this comment to specify that this right only applies to those circumstances in which the consumer's premium increases.

Comment: A commenter suggested that "if any" should be inserted after "decrease" in Right No. 11, which is Right No. 9 in the adopted Consumer Bill of Rights, for clarity.

Agency Response: The department agrees and has made this change for clarity.

Comment: A commenter stated that the reference to arson should be deleted in Right No. 19, which is Right No. 17 in the adopted Consumer Bill of Rights, because it typically does not apply to credit insurance claims.

Agency Response: The department did not make changes in response to this comment because Insurance Code §542.056(b) provides all insurers additional time to

provide notice of acceptance or rejection of a claim when there is a reasonable basis to believe the loss occurred due to arson.

Comment: A commenter suggested that Right No. 24, which is Right No. 22 in the adopted Consumer Bill of Rights, should state “unpaid claim amount” instead of “claim amount” because, if a lawsuit were instigated, the amount claimed would be the unpaid portion of the claim amount.

Agency Response: The department did not make changes in response to this comment because there are other laws and rules that control civil litigation and the amount a plaintiff may claim and recover.

Comment: A commenter stated that Rights Nos. 24 and 26, which are Rights Nos. 22 and 24 in the adopted Consumer Bill of Rights, are duplicative.

Agency Response: The department did not make changes in response to this comment because Right No. 22 only addresses the consumer’s right to sue if the insurance company violates certain provisions of the Unfair Claim Settlement Practices Act provided in Insurance Code Chapter 542. Alternatively, Right No. 24 addresses the consumer’s right generally to sue an insurer under any legitimate cause of action.

5. NAMES OF THOSE COMMENTING FOR AND AGAINST THE PROPOSAL.

For, with changes: American National Insurance Company.

6. STATUTORY AUTHORITY. The amendments are adopted pursuant to Insurance Code §501.156 and §36.001. Section 501.156 requires OPIC to submit to a consumer

bill of rights appropriate to each personal line of insurance regulated by the department to be distributed on issuance of a policy by an insurer to each policyholder. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

7. TEXT.

§3.6011. Responsibility and Obligation of Insurers to Provide Copies of Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance to Each Insured.

(a) The commissioner adopts by reference the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance form. All insurers writing credit life, credit disability, and credit involuntary unemployment insurance policies must provide with each new policy and certificate of credit life, credit disability, and credit involuntary unemployment insurance a copy of the Texas Department of Insurance Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance. This form is filed with the Office of the Secretary of State, Texas Register Section. The form can be obtained from the Texas Department of Insurance, Rate and Form Review Office, MC 106-1A, P.O. Box 149104, Austin, Texas 78714-9104. The form can also be obtained from the department's internet website at <http://www.tdi.texas.gov>. The Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance shall accompany

each renewal notice for credit life, credit disability, and credit involuntary unemployment insurance unless the current version of the form has been previously provided to the insured by the insurer.

(b) Insurers may reproduce the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance for the distribution required by subsection (a) of this section. Alternatively, insurers may generate it on their own equipment. If the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance is generated by the insurers, it must appear in no less than 10-point font and be on separate pages with no other text on those pages.

(c) The commissioner adopts by reference the Spanish language version of the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance form. The department has promulgated a Spanish language version of this form that has been filed with the Secretary of State's Office. The Spanish language version of the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance must be provided to any consumer who requests it from the company. The form can be obtained from the Texas Department of Insurance, Rate and Form Review Office, MC 106-1A, P.O. Box 149104, Austin, Texas 78714-9104. The form can also be obtained from the department's internet website at <http://www.tdi.texas.gov>.

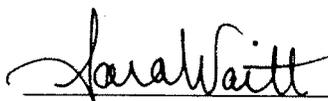
(d) Insurers may reproduce the Spanish language version of the Consumer Bill of Rights for the distribution required by subsection (c) of this section. Alternatively, insurers may generate the form on their own equipment. If the form is generated by the

insurers, it must appear in no less than 10 point font and be on separate pages with no other text on those pages.

(e) This section applies to all credit life, credit disability, and credit involuntary unemployment insurance policies offered, issued, renewed, or delivered after February 11, 2013. All policies offered, issued, renewed or delivered prior to February 11, 2013 are not subject to this amended rule.

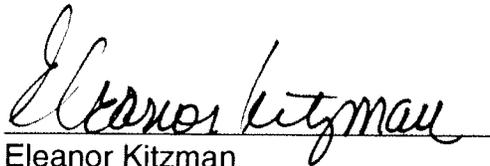
CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on November 2, 2012.



Sara Waitt, General Counsel
Texas Department of Insurance

The commissioner adopts amendments to §3.6011.



Eleanor Kitzman
Commissioner of Insurance

Commissioner's Order No. 12-0861

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