



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

1200 West Third Street
Little Rock, AR 72201-1904
501-371-2820
FAX 501-371-2629

Bulletin 16-89

INTERPRETIVE BULLETIN, RULE AND REGULATION 12,
CREDIT LIFE AND DISABILITY INSURANCE
COMPENSATION TO AGENTS

July 21, 1989

Act 950 of 1985 (A.C.A. Section 23-87-117) as amended by Act 177 of 1989, and Section 14 of Rule and Regulation 12 ("Regulation 12") were designed to assure that premium rates charged for credit life and credit disability insurance are reasonable in relation to benefits. In order to accomplish this objective, it was necessary to establish the maximum compensation payable to credit life insurance agents. In issuing Regulation 12, in order that no agent receives compensation in excess of 40% of the premium for business produced by him, the term "compensation" was broadly defined to include virtually anything of value including both indirect and direct profits through stock ownership of insurance companies or reinsurance companies. Thus, the term "compensation" was intended to include not only dividends or other distributions resulting through stock ownership by an agent, but also enhancement or appreciation in the value of such stock through the production of credit life insurance and reinsurance of such production into the reinsurance company in which the agent is a stockholder. In summary, the amount of compensation payable to and/or received by an agent on business produced by the agent and reinsured into a reinsurance company in which an agent has an interest was to be absolutely limited to 40% of the premium.

It has come to my attention that notwithstanding the clear intent of Regulation 12, one or more credit life situations have recently been structured whereby the producing agent may not only receive the maximum 40% commission permitted by the Regulation, but also additional compensation through the ownership of stock in a credit life reinsurer. Although it is not unlawful to own such stock, it is a violation of Regulation 12 if any combination of direct commission paid, dividends or distribution received or enhancement or appreciation in the value of such stock will exceed 40% of the premium produced by the agent. The sanctions provided by the Regulation, in addition to suspension or revocation of a company's certificate of authority and other sanctions provided by law for the violation of the Department's Rules and Regulations, is the reduction of the premium by four cents for every one cent of compensation paid in excess of 40% and the refund of such excess payments for the proceeding 12 months. See Section 14.5(a) of Regulation 12.

ARKANSAS BULLETINS

It is my intention to enforce Regulation 12.

Accordingly, each company engaged in the credit life insurance business in Arkansas which directly or indirectly violates or cooperates or participates in any agreement or transaction or arrangement which results in the violation of Regulation 12 will be required to reduce its rates in the ratio shown above and make appropriate refunds.

An example of a violation of Regulation 12 through the subterfuge of stock ownership in a reinsurance company is as follows:

Agent A is licensed to sell credit life insurance by Company B. Agent A is also a stockholder of Company C, a reinsurance company. Company B pays Agent A a 40% commission for business produced by Agent A for Company B. Company B reinsures credit life insurance produced by Agent A into Company C. If Agent A receives a commission of 40% from Company B plus any additional compensation from Company C, Company B has violated Regulation 12 and will be required to reduce its premium and make full refunds as outlined above. In addition, Company B is also subject to the revocation or suspension of its license as provided in Section 18 of Regulation 12.

With respect to Agent A in the example given in the preceding paragraph, it would appear that Agent A entered into such arrangement in flagrant violation of Regulation 12 and accordingly may be subject to revocation or suspension of his license as provided by Section 18 of Regulation 12.

In order to determine the extent of any reinsurance arrangements made since the adoption of Regulation 12 each credit life insurance company doing business in this state is required to file the attached "Certificate of Credit Life Insurance Company," on or before April 1, 1990. Reference is made to Section 14.9 of Regulation 12 relative to annual filings.

In addition, each credit life insurance company is required to furnish a copy of the enclosed "Certificate of Credit Life Insurance Agent" to each credit life insurance agent licensed by it together with a copy of this Bulletin. Each agent is required to file such Certificate on or before April 1, 1990. This requirement does not apply to Section 14.3(b) accounts which, pursuant to Act 177 of 1989, were in existence as of January 17, 1989, which were previously registered with the Commissioner.

BULLETIN 16-89

The attached affidavits' are to be used in substitution of the affidavits presently attached to Regulation 12. The Company should maintain copies of all affidavits in its home office subject to examination by the Department's examiners.

Please direct your inquires to the Legal Division of this Department at (501) 371-1811.

Purpose: This Bulletin is intended to clarify the amount of compensation payable to credit life and disability insurance agents permitted by Section 14 of Rule and Regulation 12. The affidavits attached as Exhibit B and C to such Regulation are replaced by the affidavits attached to this Bulletin.'

Ron Taylor
INSURANCE COMMISSIONER

' Not reproduced herein. Exhibit B and C have been replaced.

Certificate of Credit Life Insurance Agent

(Notarized Affidavit)

(To be filed with the State Insurance Commissioner, Arkansas Insurance Department, by each licensed credit life and disability insurance agent who received any compensation for acting as an agent, on or before April 1, 1990, and on the same date of each year thereafter.)

The undersigned credit insurance agent ("Agent") for _____ Insurance Company, after first being duly sworn, does hereby state on oath that for the year ending December 31, 19____, Agent has not received or agreed to receive, directly or indirectly, any compensation for the sale of credit life and disability insurance in excess of the amount permitted by Rule and Regulation 12 ("Regulation 12") of the Arkansas Insurance Department as defined therein.

The presumed reasonable compensation of forty percent (40%) of the net written credit life insurance premiums and of the net written credit disability insurance premiums permitted by Regulation 12 is defined as follows:

"Compensation" shall include, but not be limited to, the receipt directly or indirectly or reciprocally of commissions, service fees, policy fees, expense allowances or reimbursements, dividends or other distribution of earnings based solely upon the profits derived from issuing or reinsuring any policy of credit life or credit disability insurance procured, issued, or delivered by such creditor, agent or limited insurance representative, gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, scripts, or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volume of sales obtained. Experience refunds, retrospective rate credits, and dividends are treated as compensation for the sole purpose of determining presumptively reasonable compensation allowances under this section. Compensation shall also include any amounts of money, property or things of value received from or paid by any person other than an insurer in consideration of the sale or retention of credit life and disability insurance.

An example of indirect compensation which could violate Regulation 12 is as follows:

Agent A is licensed to sell credit life insurance for Company B. Agent A is also a stockholder of Company C, a reinsurance company. Agent A produces credit life insurance business for Company B, which Company B reinsures into Company C. If Agent A receives commission of 40% from Company B and receives any additional compensation from Company C such as a dividend, other distribution, enhancement or appreciation in value of his stock in Company C, Agent A has received compensation in excess of the amount permitted by Regulation 12 and both Agent A and Company B have violated Regulation 12.

Agent also certifies that he is not a stockholder either of record or beneficially of any insurance company or reinsurance company wherein any credit life or disability insurance originally produced by him is insured or reinsured except as follows:

Certificate of Credit Life Insurance Company

(Notarized Affidavit)

(To be filed with the State Insurance Commissioner, Arkansas Insurance Department by each company underwriting credit life and disability insurance in this state, on or before April 1, 1990, and on the same date of each year thereafter.)

I, the undersigned authorized officer of the insurance company named below ("Company"), do hereby certify that, except as set forth below, such Company has not directly or indirectly paid compensation to any credit life insurance agent licensed by it in excess of 40% as permitted by Rule and Regulation 12 ("Regulation 12") of the Arkansas Insurance Department nor has it, directly or indirectly, cooperated with any person, been a party to, or participated in any agreement, transaction or arrangement whereby any of its credit life insurance agents, through stock ownership of a reinsurance company or otherwise, could or will receive compensation in excess of 40% permitted by said Regulation 12.

The presumed reasonable compensation of forty percent (40%) of the net written credit life insurance premiums and of the net written credit disability insurance premiums permitted by Regulation 12 is defined as follows:

"Compensation" shall include, but not be limited to, the receipt directly or indirectly or reciprocally of commissions, service fees, policy fees, expense allowances or reimbursements, dividends or other distribution of earnings based solely upon the profits derived from issuing or reinsuring any policy of credit life or credit disability insurance procured, issued, or delivered by such creditor, agent or limited insurance representative, gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, scripts, or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volume of sales obtained. Experience refunds, retrospective rate credits, and dividends are treated as compensation for the sole purpose of determining presumptively reasonable compensation allowances under this section. Compensation shall also include any amounts of money, property or things of value received from or paid by any person other than an insurer in consideration of the sale or retention of credit life and disability insurance.

An example of an arrangement or transaction whereby such a credit life insurance agent could or will receive compensation in excess of 40% as permitted by Regulation 12 is as follows:

Agent A is licensed to sell credit life insurance for Company B. Agent A is also a stockholder of Company C, a reinsurance company. Agent A produces credit life insurance business for Company B, which Company B reinsures into Company C. If Agent A receives commission of 40% from Company B and receives any additional compensation from Company C such as a dividend, other distribution, enhancement or appreciation in value of his stock in Company C, Agent A and Company B have violated Regulation 12.

The name and address of each credit life agent licensed by the Company to whom the Company has paid a commission pursuant to Regulation 12 at any time during the calendar year preceding the filing of this certificate and who is also a stockholder of the Company or of a credit life insurance company to which the Company reinsures business produced by the agent is as follows:

