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Lender Placed Insurance
Model Act
Effective: July 1, 2023

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Portions Effective
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Upcoming Rate Filing Deadlines

Indiana

Threshold for Credit Coverage
Evert 3 years
Deadline: January 1, 2024

Wisconsin

CLAH SP, MOB OE, MOB CE
Every 3 years by 1/1
Deadline: January 1, 2024

New Mexico

CLAH SP, MOB OE, MOB CE
Prima Facie Rates
Every 2 years by 1/1
Deadline: January 1, 2024

North Carolina

LL SP Full Benefit; IC SP Full
Benefit; IC MOB OE Full
Benefit; IC MOB OE
Limited Benefit
Deadline: January 1, 2025

Virginia

CLAH SP, MOB OE, MOB CE
- Prima Facie Triennial Rates
Every 3 years by 1/1
Deadline: January 1, 2025

Government Affairs Newsletter CREDIT INSURANCE

October 2023

Legislative & Regulatory Updates

The newsletters provide insight into newly introduced and updated legislation during the month. You should review each bill in its entirety to determine the impact and what actions are required, if any, to comply with states laws/regulations. Please note that not all the bills that are being actively pursued are represented in the newsletters.

Alabama HB 58: Lender Placed Insurance

Legislative Update: Referred to the House Insurance Committee.

This bill would provide a specific framework for regulating lender-placed insurance on real property in order to help maintain the separation between lenders and insurers and minimize unfair competitive practices in the sale, placement, solicitation, and negotiation of lender-placed insurance. The bill is based on a model act adopted by the National Association of Insurance Commissioners (NAIC). This bill would further define the term of the lender-placed insurance on real property and would provide for the calculation of coverage and payment of premium. This bill would further provide for prohibited practices in the issuance of lender-placed insurance on real property, would require certain details of the insurance to be set forth in the policy or certificate of insurance, and would require for the filing and approval of the forms and rates to be charged for the insurance. This bill would further provide for the enforcement of the act, penalties for violations of the act, and for judicial review of orders by the Commissioner of Insurance.

California SB 263: Annuities and Life Insurance Policies

Legislative Update: Referred to the Committee on Appropriations.

This bill will impose suitability requirements for life insurance which would include credit life and group life. It would revise and recast those provisions beginning January 1, 2025. This bill would require a life agent, licensed on or after January 1, 2024, who engages in the sale of specified life insurance policies on or after January 1, 2025, to complete specified hours of life insurance training courses before soliciting consumers to sell these life insurance policies. The bill would require any life agent, who engages in the sale of variable life insurance policies, to complete specified hours of training before renewing their license. The bill would apply these training provisions to licenses that are issued or renewed on or after January 1, 2025.

California SB 33: Commercial Financing, Disclosures

Legislative Update: Enrolled/presented to the Governor at 4 p.m. on September 21, 2023.

This bill would require providers to continue to include in the disclosures and alternative disclosures the total cost of financing expressed as an annualized rate, indefinitely. The bill would make conforming changes to the provisions describing the regulations adopted by the commissioner governing these disclosure requirements.

California SB 666: Min. Small Business & Commercial Financing Transactions

Legislative Update: Enrolled/Presented to the Governor at 4 p.m. on September 20, 2023.

This bill would prohibit a covered entity from charging specified fees in connection with a commercial financing transaction with a small business or small business owner including prohibiting the following:

- A fee for accepting or processing a payment required by the terms of the financing contract as an automated clearinghouse transfer debit;
- A fee for providing a small business with documentation prepared by the financing provider that contains a statement of the amount due to satisfy the remaining amount owed, including interest accrued to the date the statement is prepared and a means of calculating per diem interest accruing thereafter;
- A fee in addition to an origination fee that does not have a clear, corresponding service provided for the fee, including a risk assessment, due diligence, or platform fee;
- A fee for monitoring the small business's collateral, unless the underlying financing transaction is delinquent for more than 90 days; and
- A fee for filing or terminating a lien filed in accordance with the provisions of the Uniform Commercial Code against the business's assets that exceeds 150 percent of the cost of the filing or termination.

The following are exempt:

- A provider that is a depository institution;
- A provider that is a lender regulated under the federal Farm Credit Act;
- A commercial financing transaction secured by real property; and
- Any person who makes no more than one commercial financing transaction in California in a 12-month period or any person who makes five or fewer commercial financing transactions in California in a 12-month period that are incidental to the business of the person relying upon the exemption

United States S2730: Protecting Consumers from Unreasonable Credit Rates Act of 2023

Legislative Update: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs on September 6, 2023.

This bill would amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions specifically the legislation would establish a 36% 'all-in' APR for all credit. Senator Durbin has introduced this legislation multiple times over the last decade, but there remains solid opposition to the bill. We are continuing to monitor and educate lawmakers on the impact of this legislation and do not expect it to become law.

United States HR 5674: Fair Debt Collection Practices for Service Members Act

Legislative Update: Referred to the House Committee on Financial Services on September 22, 2023.

This bill will amend the Fair Debt Collection Practices Act to provide enhanced protection against debt collector harassment of members of the Armed Forces, and for other purposes. The bill strengthens protections for servicemembers by prohibiting a debt collector from conveying any threats to a servicemember or commanding officer to have the servicemember's rank reduced or to have the servicemember's security clearance revoked if a debt is not promptly paid.

CFPB and Arbitration Clauses

Consumer advocacy groups have filed a Petition for Rulemaking with the Consumer Financial Protection Bureau (CFPB) to eliminate mandatory pre-dispute arbitration provisions. The petition requested that the CFPB issue a rule to "allow the consumer to make a meaningful choice on whether to use arbitration after a dispute arises." The CFPB is focused on companies that allegedly use fine print to extract extra money, lock people into unwanted business relationships, gain advantages they could not obtain in fair and competitive markets, or circumvent the

rule of law. Media reports indicate that the CFPB will seek public input on the petition, but it has not been confirmed through an official statement by the CFPB.

Wisconsin Prima Facie Premium Rates

The new basic loss ratio that fulfills the presumption that benefits are reasonable to the premiums charged, as required by s.424.209 (1), Wis. Stat. The new basic loss ratio of 45% for credit life insurance and the new prima facie rates for credit life insurance and credit accident and sickness insurance to become effective for the three-year period beginning on January 1, 2024.

Credit Life Insurance Premium Rates

- Single premium straight-line decreasing single life insurance—\$0.43 per annum per \$100 of initial insured indebtedness
- Single premium level life insurance on a single life—\$0.80 per annum per \$100 of initial insured indebtedness
- Monthly premium rate on the outstanding insured balance basis for term insurance on a single life—\$0.662 per month per \$1,000 of outstanding insured indebtedness
- Joint life insurance—167% of the corresponding single life premium rate, which develops corresponding joint life rates of:
 - a. Joint uniformly decreasing term—\$0.72 per annum per \$100 of initial insured indebtedness
 - b. Joint level life—\$1.34 per annum per \$100 of initial insured indebtedness
 - c. Joint monthly outstanding balance—\$1.106 per month per \$1,000 of outstanding insured indebtedness

Credit Accident and Sickness Premium Rates

- 14-Day Retroactive Coverage—Multiply the existing prima facie rates by an adjustment factor of 0.79, rounded to the nearest cent
- 14-Day Nonretroactive Coverage—Multiply the existing prima facie rates by an adjustment factor of 0.79, rounded to the nearest cent
- 30-Day Retroactive Coverage—Multiply the existing prima facie rates by an adjustment factor of 2.02 rounded to the nearest cent
- 30-Day Nonretroactive Coverage—Multiply the existing prima facie rates by an adjustment factor of 2.02 rounded to the nearest cent

Before January 1 of the year the new rates become effective, insurers who use these rates are required to make a rate filing adopting these rates. No documentation is required. Use the NAIC uniform transmittal document to submit both initial rate filings and subsequent rate change filings. It is recommended that rate filings for credit life and disability be submitted no less than 30 days before the requested effective date. (See s. Ins. 3.25 (12), Wis.)

Bankers Life Insurance Company of Louisiana has filed these rates with the Wisconsin Office of the Commissioner of Insurance and will send a bulletin soon with directions on programming these rates.

South Carolina: Annual Prima Facie Approved Rates

South Carolina Department of Insurance has approved the tentative prima facie rates they proposed for 2024.

Credit Accident and Health Insurance

The 2024 single premium rates, per \$100 of initial indebtedness for Credit Accident and Health Insurance are as follows:

<u>Period</u>	<u>14-Day Retro</u>	<u>30-Day Retro</u>
12 Months	\$1.24	\$1.17
24 Months	1.67	1.60
36 Months	2.12	2.04
48 Months	2.48	2.40
60 Months	2.84	2.77
72 Months	3.13	3.06
84 Months	3.43	3.36
96 Months	3.65	3.57
108 Months	3.86	3.79
120 Months	4.09	4.01
132 Months	4.30	4.23
144 Months	4.45	4.37
156 Months	4.59	4.52
168 Months	4.74	4.66
180 Months	4.89	4.82

Life of the South will be filing these rates with the South Carolina Department of Insurance and will send a bulletin soon with directions on programming these rates.

Privacy & Fraud

New Hampshire HB 314: Data Protection

Legislative Update: Referred to the House Judiciary Committee. Executive Sessions scheduled for October 10, November 8, and November 15, 2023.

This bill regulates the collection, retention, and use of personal information and establishes a cause of action for violations of an individual's expectation of privacy in personal information.

United States HR 5535: Data Protection

Legislative Update: Referred to the House Financial Services Committee and the Subcommittee on Commodity Markets, Digital Assets, and Rural Development on September 6, 2023.

Insurance Data Protection Act- To prohibit the Federal Insurance Office (“FIO”) of the Department of the Treasury and other financial regulators from collecting data directly from an insurance company. The bill would require the FIO to coordinate any of its data collection efforts with state insurance regulators and consult publicly available sources of the data being sought. These provisions are designed to limit unnecessary data inquiries and prevent duplication of efforts across the federal and state regulatory landscapes, particularly in the context of work typically undertaken by the National Association of Insurance Commissioners (NAIC).

NAIC Insurance Consumer Privacy Protection Model Law #674 Update

The purpose of this Act is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with

insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

Licensing Renewal Deadlines

Alabama: Renewal is due in December/Terminations processed by December 1, 2023
Georgia: Renewal is due in December/Terminations processed by December 1, 2023
Illinois: Renewal is due in December/Terminations processed by November 1, 2023
Kansas: Renewal is due in January/Terminations processed by December 20, 2023
Kentucky: Renewal is due in March/ Terminations processed by November 15, 2023
Louisiana: Renewal is due in January/Terminations processed by November 23, 2023
Michigan: Renewal is due in January/Terminations processed by December 31, 2023
Wisconsin: Renewal is due in January/Terminations processed by December 31, 2023

Notice of Effective Dates

Florida HB 793: Lender Placed Insurance Model Act

Effective Date: HB 793 approved by the Governor on June 9, 2023 and effective on July 1, 2023.

This bill enacts the model act for Lender Placed Insurance by defining terms specifying requirements for collateral protection insurance policy terms, providing for the calculation of collateral protection insurance coverages and premiums, specifying prohibited practices by insurers and insurance agents relating to collateral protection insurance and specifying requirements for the filing of policy forms and rates.

Missouri SB 101/HB 655: Model Act

Effective Date: August 28, 2023

This bill enacts the model act for Lender Placed Insurance modifying provisions relating to property and casualty insurance and specifies the following:

- When lender-placed insurance shall become effective and terminate, and when mortgagors may be charged for the policies.
- Coverage amounts and premium amounts shall be based upon the replacement cost value of the property, to be determined as laid out in the act.
- In the event of a covered loss, any replacement cost coverage in excess of the unpaid principal balance on the mortgage shall be paid to the mortgagor.
- No insurer shall write lender-placed insurance for which the premium rate differs from that determined by the rate schedules on file with the Department of Commerce and Insurance as of the effective date of the policy.
- Prohibits insurers and insurance producers from issuing lender-placed insurance if they or one of their affiliates owns, performs servicing for, or owns the servicing right to, the mortgaged property.
- Prohibits insurers and insurance producers from compensating lenders, insurers, investors, or servicers for lender-placed insurance policies issued by the insurer, and from sharing premiums or risk with the lender, investor, or servicer.
- Prohibits payments dependent on profitability or loss ratios from being made in connection with lender-placed insurance, specifies that insurers shall not provide free or below-cost services or outsource its own functions at an above-cost basis.

- No insurer or insurance producer shall make any payments for the purpose of securing lender-placed insurance business or related services.

Colorado HB 1229: Amending Terms Consumer Lending Laws

Effective Date: June 5, 2023 Portions, July 1, 2024 Portions January 1, 2024

This bill makes changes to consumer lending laws to limit charges to consumers credit transactions as detailed below.

Consumer credit transactions made or renewed on or after January 1, 2024, requirements for alternative charges for loans not exceeding \$1,000 as follows:

- Reduces the permissible acquisition charge on the original loan from 10% to 8% of the amount financed and increases the permissible acquisition charge on any refinanced loan from 7.5% to 8%;
- Reduces the permissible amount for a monthly installment account handling charge as detailed below:
 - a) Amount financed between \$100.00 - \$300.00 monthly charge decreases from \$12.50 to \$8.50
 - b) Amount financed between \$301.00 - \$500.00 monthly charge decreases from \$15.00 to \$11.50
 - c) Amount financed between \$501.00 - \$750.00 monthly charge decreases from \$17.50 to \$14.50
 - d) Amount financed between \$751.00 - \$1000.00 monthly charge decreases from \$20.00 to \$17.50
- Increases the minimum loan term from 90 days to 6 months;
- Eliminates delinquency charges for the loan;
- Amends the conditions upon which an acquisition charge must be refunded to the consumer by eliminating the 60-day deadline for prepaying in full, refinancing, or consolidating a loan and changes how the unearned portions of the acquisition charge and monthly installment handling charges are calculated;
- Details the requirements for an application for the loan and specifies how the loan application requirements impact a determination of unconscionability of the loan; and
- Decreases the number of times a lender may refinance a consumer loan from 3 times in a year to once in a year.

Consumer credit transactions made or renewed on or after July 1, 2024, the Act:

- Opts Colorado out of the amendments to the "Federal Deposit Insurance Act", the federal "National Housing Act", and the "Federal Credit Union Act" and specifies that rates established in the Colorado "Uniform Consumer Credit Act" apply to consumer credit transactions in this state; and
- Repeals provisions specifying that the law exempts general purpose credit cards from the state's existing rate cap.

Legislative Session Status

States In Regular Session:

District of Columbia; Massachusetts; Michigan; North Carolina; Ohio; Pennsylvania

States In Recess:

New Jersey

States Upcoming Session Dates:

November 15: Massachusetts - Adjourn

November 16: Wisconsin - Adjourn

December 21: Michigan - Adjourn

December 31: Ohio – Adjourn

In Special Session

Oklahoma, Texas, Wisconsin

Federal Government Update

Last week, the House Republican conference nominated House Judiciary Committee Chair Jim Jordan for Speaker of the House, although 55 House Republicans said they would not vote for him. Jordan spent the weekend trying to shore up the remaining holdouts and gained momentum throughout the day on Monday, as several anti-Jordan Republicans reversed course and announced their support of the lawmaker.

On Tuesday, Oct. 17, the House took its first vote for Speaker with Jordan falling short by 17 votes after 20 Republicans did not give him their vote. On Wednesday, Oct. 18, Jordan again failed to receive enough votes to become Speaker after 22 Republicans did not vote in his favor. The lack of progress has reignited talk of assigning more powers to Speaker Pro Tempe Patrick McHenry to allow for work on aid packages and funding the government beyond Nov. 17.

The absence of a speaker in the House will have implications on future aid to Israel amid its war on Hamas. Lawmakers on both sides of the aisle are pushing for this funding, although Democrats have floated tying aid for Israel and Ukraine together, while some House Republicans have opposed this notion. On Friday, several top lawmakers, including House Appropriations Ranking Member Rosa DeLauro, Speaker Pro Tempe Patrick McHenry, House Foreign Affairs Chair Michael McCaul, and Ranking Member Greg Meeks, went to the White House to discuss an emergency funding package for Israel. According to the White House, it expects to make a funding request this week for both Ukraine and Israel. National Security Advisor Jake Sullivan remarked, “You can expect intensive engagement with Congress this very week as we work on such a package and seek to secure bipartisan support for it.” However, it is unclear how much the House can do without a Speaker. Administration officials previously said the request would aim to address concerns related to the strain that providing additional military support for Israel, Ukraine, and Taiwan would place on the Defense Department’s stockpiles.