

## CHAPTER 2761

### DEPARTMENT OF COMMERCE

### CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE

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#### 2761.0100 PURPOSE AND AUTHORITY.

The purpose of this chapter is to implement the authority to sell and effect the regulation of credit involuntary unemployment insurance pursuant to Minnesota Statutes, section 62B.12, and Minnesota Statutes, chapter 62B, as required by Laws 1993, chapter 343.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

#### 2761.0200 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Authorized insurer.** "Authorized insurer" means an insurer authorized to offer coverages specified by Minnesota Statutes, section 60A.06, subdivision 1, clauses (1) and (4).

Subp. 3. **Claims.** "Claims" means benefits payable under an involuntary unemployment policy, excluding adjustment expense or expenses or additions of any kind.

Subp. 4. **Claims incurred.** "Claims incurred" means claims paid appropriately adjusted for changes in claim reserves, including reserves for reported claims in process of settlement and losses incurred but not yet reported.

Subp. 5. **Closed-end credit.** "Closed-end credit" means consumer credit other than "open-end credit" as defined in subpart 8.

Subp. 6. **Compensation.** "Compensation" means compensation as defined by Minnesota Statutes, section 62B.08, subdivision 6.

Subp. 7. **Credit involuntary unemployment insurance.** "Credit involuntary unemployment insurance" means insurance as defined by Minnesota Statutes, section 62B.02, subdivision 3a.

Subp. 8. **Open-end credit.** "Open-end credit" means credit extended by a creditor by an agreement that is a line of credit loan, a revolving charge plan, or any other open-end self-replenishing credit arrangement between the creditor and a customer that may be drawn upon from time to time by the customer without renegotiating the lending agreement. The customer may repay the full outstanding balance at any time, or a specified minimum portion of the indebtedness.

Subp. 9. **Premiums earned.** "Premiums earned" means total gross premiums received by the company reduced by premiums refunded or credited for termination before expiration of the policy term, and appropriately adjusted for changes in policy reserves.

Subp. 10. **Unemployment.** An individual is considered "unemployed" in any week during which the individual performs no services and with respect to which no wages are payable to the individual. "Unemployment" does not mean voluntary separation from employment, termination from employment for misconduct, or termination from employment for commission of criminal acts.

Subp. 11. **Waiting period.** "Waiting period" means the period of time between the effective date of a loan or, in the case of an open-end credit situation, an advance or increase in the amount of the loan, and the effective date of the insurance coverage.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

## **2761.0300 POLICY FORMS AND RELATED MATERIALS.**

Subpart 1. **Filing requirements.** All policy forms, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders to be delivered or issued for delivery in this state, and the schedules of premium rates pertaining to them must be filed with the commissioner as required by Minnesota Statutes, section 62B.07.

Subp. 2. **Loss ratio.** Each insurer filing rates for credit involuntary unemployment insurance benefit plans shall include in its rate filing with the commissioner the appropriate rate formula upon which its rates are based if other than the rates scheduled in this chapter, including provisions for losses, expenses, and profits. The provision for losses included in the rate formula shall not be less than 50 percent of the premium.

Subp. 3. **Eligibility statement.** Each individual policy or certificate of group insurance must, in addition to other requirements of Minnesota Statutes, section 62B.06, include a statement prominently displayed setting forth the following or its equivalent: "Your eligibility for coverage may be dependent upon your being eligible to receive state reemployment insurance benefits. A change in your employment may affect your eligibility for benefits. If you have any questions, contact your insurance company." To be considered prominently displayed, this statement must be in a typeface that is distinctive or more bold than the surrounding typeface, or be contained in a separately blocked portion surrounded by a distinctive border.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925; L 1997 c 66 s 80*

## **2761.0400 STANDARD BENEFIT PLANS.**

Subpart 1. **General standard.** Benefits provided under credit involuntary unemployment insurance policies must be reasonable in relation to premiums charged. Premiums will be considered reasonable if they conform to the prima facie rates shown in part 2761.0700, or if a loss ratio of at least 50 percent is contemplated to be achieved. Loss ratio means incurred claims divided by earned premium.

Subp. 2. **Basic prima facie rates for closed-end credit are as reflected in part 2761.0700.** The premiums shown in part 2761.0700, Schedule A, may be used when credit involuntary unemployment insurance is issued in conjunction with any loan which has a specified maturity date whether the premiums are financed or otherwise collected on a monthly basis. To calculate the single premium rate when premiums are financed in a closed-end loan, insurers must multiply the rates shown in part 2761.0700, schedule A, by the term of the coverage in months. The basic plan of insurance to which this prima facie rate applies is as follows:

A. Coverage is provided or offered, with or without underwriting, to all debtors regardless of age or to all debtors not older than a specified age limit, which shall not be less than age 65 at the time the insurance becomes effective or age 66 at the scheduled maturity date of the transaction.

B. Exclusion from qualification for coverage:

- (1) self-employed individuals, including independent contractors;
- (2) workers in seasonal or temporary jobs, defined as jobs designed to last six consecutive months or less;
- (3) individuals working for wages or salary for less than 30 hours a week; or
- (4) debtors who have been notified either orally or in writing of any layoff or of employment termination either by the effective date of coverage or within 90 days after the effective date.

C. Coverage for unemployment for any reason, except that coverage may be excluded for:

- (1) voluntary forfeiture of salary, wage, or other employment income;
- (2) resignation;
- (3) retirement;
- (4) general strike;
- (5) illegal walkout;
- (6) war (declared or undeclared), civil commotion, riot, insurrection, rebellion, or revolution;
- (7) separation from the military;
- (8) willful or criminal misconduct or unlawful behavior;
- (9) disability caused by accident, sickness, disease, or pregnancy;
- (10) nuclear occurrence;
- (11) natural disaster; and
- (12) a controlling stockholder of the employer or any of the dependents of the controlling stockholder. A person is a "controlling stockholder" if the person owns ten percent or more of the outstanding voting stock of the employer.

D. Coverage becomes effective after a waiting period of no more than 60 days after the initiation of the loan or credit agreement, and benefits may be retroactive to the first day of unemployment or after an elimination period of 30 days.

E. Benefits provided for various terms of coverage shall not be less than the schedule below:

TERM OF COVERAGE (MONTHS)	CONSECUTIVE BENEFITS PAYABLE	TOTAL BENEFITS PAYABLE
Under 12	3	3
12-23	3	6
24-35	4	12
36-47	6	12
48-60	6	12
over 60*	6	18

\*includes open-end credit vehicles (e.g. credit cards)

F. The total amount of periodic benefits payable shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness at the time of the loss. The amount of each periodic benefit shall not exceed the original indebtedness divided by the number of periodic installments.

G. If the period of unemployment for which benefits are to be paid is less than 30 days, 1/30th of the scheduled monthly payments for each day of a period within the unemployment period must be paid to the creditor to reduce the debtor's account.

H. In the event of cancellation of the master policy, coverage as provided by the certificates issued under that master policy shall remain in force until expiration, unless sooner canceled according to other terms and conditions.

Subp. 3. **Basic prima facie rates for open-end credit.** The basic prima facie rate for credit involuntary unemployment insurance payable on a monthly outstanding balance basis in connection with open-end credit transactions is reflected in part 2761.0700, Schedule B. The basic plan of insurance to which this prima facie rate applies is as follows:

A. Coverage is provided or offered, with or without underwriting to all debtors, except the plan or policy may have an age restriction providing that no insurance will become effective on debtors on or after the attainment of age 66 and that all insurance will terminate upon attainment by the debtor of age 66.

B. Exclusion from qualification for coverage:

- (1) self-employed individuals including independent contractors;
- (2) workers in seasonal or temporary jobs, defined as jobs designed to last six consecutive months or less;

(3) individuals working for wages or salary for less than 30 hours a week; and

(4) debtors who have been notified either orally or in writing of any layoff or of employment termination either by the effective date of coverage or within 90 days after the effective date.

C. Coverage for unemployment for any reason, except that coverage may be excluded for:

(1) voluntary forfeiture of salary, wage, or other employment income;

(2) resignation;

(3) retirement;

(4) general strike;

(5) illegal walkout;

(6) war (declared or undeclared), civil commotion, riot, insurrection, rebellion, or revolution;

(7) separation from the military;

(8) willful misconduct or criminal misconduct or unlawful behavior;

(9) disability caused by accident, sickness, disease, or pregnancy;

(10) nuclear occurrence;

(11) natural disaster; and

(12) a controlling stockholder of the employer or any of the dependents of the controlling stockholder. A person is a controlling stockholder if the person owns ten percent or more of the outstanding voting stock of the employer.

D. Coverage becomes effective after a waiting period of no more than 60 days after the initiation and use of each loan or credit agreement, and benefits may be retroactive to the first day of unemployment or after an elimination period of 30 days.

**Subp. 4. Reeligibility.** A credit involuntary unemployment insurance policy may impose conditions under which an insured debtor becomes reeligible for credit unemployment benefits after a period of receiving benefits. If reeligibility conditions are required for full benefits for a subsequent period of unemployment, the conditions may not be more stringent than the initial eligibility conditions and in no event shall require that the insured be actively at work for more than six consecutive months. If an insured debtor has not satisfied the reeligibility requirement at the time of a subsequent unemployment, the unemployment shall be considered a continuation of the prior unemployment with no waiting period, and with a maximum benefit period equal to the unused portion of the maximum benefit period for the prior unemployment.

**Subp. 5. Joint coverage rates.** Joint coverage rates for credit involuntary unemployment insurance shall be 185 percent of the specified single rate of coverage.

**Subp. 6. Presumption of reasonableness.** Policy forms providing benefits as set forth in this part at the prima facie rates then in effect will be conclusively presumed to be reasonable in relation to the premium charged.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

## 2761.0500 REFUNDS OF PREMIUM.

A. The refund of an unearned amount paid by or charged to the debtor for credit involuntary unemployment insurance on which the charges to the debtor are payable by other than a single advance premium shall not be less than the pro rata gross unearned amount charged.

B. The refund of an unearned amount paid by or charged to the debtor for credit involuntary unemployment insurance on which the insurance charges to the debtor are paid in a single advance premium shall not be less than the amount computed by the mean of the "sum of the digits" (rule of 78ths) method and the pro rata method.

C. A premium refund or credit need not be made if the amount is less than \$5.

D. A refund of premium upon termination for any reason must be made for any portion of premium covering a period beyond any one of the following:

- (1) the date on which termination became effective;
- (2) in the case of monthly installment, the installment due date nearest the date of termination;
- (3) the date based on the procedure in law used for determining any unearned interest on the loan or advance of credit; or
- (4) the date based on any other procedure filed by the insurer and approved by the commissioner.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

### 2761.0600 PROHIBITED PRACTICES.

Subpart 1. **Generally.** No insurer, or a parent, subsidiary, officer, agent, solicitor, or representative of the insurer, shall engage in any of the following practices:

A. deposit of premiums to the account of the insurer in the financial institution for which the insurer provides the credit insurance, when the account is either non-interest-bearing or at a rate of interest less than usual or the account is controlled by the institution;

B. allowing the remittance of premiums to the insurer after the expiry of date due on a regular basis so that the arrearage period is constant;

C. the retention of premiums by an agent or broker to whom the creditor remits premiums for a period of time that is not reasonably related to the time normally expected to be needed for the agent or broker to remit the premiums to the insurer, if such delay is a continuing feature of the premium paying process;

D. any other practice which unduly delays receipt of premiums by the insurer on a regular basis; or

E. any other practices which involve use of the resources of the insurer for the benefit of the creditor.

Subp. 2. **Limitation on compensation.** An insurer, subsidiary, or parent of the insurer shall not pay compensation to a creditor or a group policyholder offering credit involuntary unemployment insurance in excess of 30 percent of the net written premium.

Subp. 3. **Application.** The criteria in subpart 2 apply regardless of whether premiums are due the insurer on a single premium advance system or any outstanding balance system.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

### 2761.0700 PREMIUM RATES.

No policies of credit involuntary unemployment insurance issued after January 9, 1996, shall be at a rate in excess of that set forth in this part except that benefit plans different from these basic benefit plans are subject to prior approval pursuant to part 2761.1100.

#### Schedule A – Single Premium Advance System

#### Monthly Rates per \$10 of Monthly Benefit Provided

Benefits	Nonretroactive Benefits for a 30-Day Elimination Period		Retroactive Benefits for a 30-Day Elimination Period	
	30-Day Waiting Period	60-Day Waiting Period	30-Day Waiting Period	60-Day Waiting Period
Period in months				
3	\$0.19	\$0.18	\$0.29	\$0.26
4	0.22	0.21	0.33	0.30
6	0.25	0.23	0.36	0.34
9	0.27	0.25	0.38	0.37
12	0.28	0.27	0.40	0.38

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Single premium rates are determined by multiplying the above rates by the term of the loan in months.

Schedule B – Outstanding Balance System				
Monthly Rates per \$10 of Monthly Benefit Provided				
Benefits	Nonretroactive Benefits for a 30–Day Elimination Period		Retroactive Benefits for a 30–Day Elimination Period	
	30–Day Waiting Period	60–Day Waiting Period	30–Day Waiting Period	60–Day Waiting Period
Period in months				
3	\$0.23	\$0.21	\$0.33	\$0.31
4	0.26	0.24	0.38	0.35
6	0.29	0.27	0.42	0.40
9	0.31	0.30	0.45	0.43
12	0.33	0.31	0.47	0.45

Rates stated as \$0.xx per \$100 outstanding balance per month should be consistent with the above rates. For example, if a credit card required a minimum payment of five percent of the balance, a rate of 40 cents per \$10 of monthly benefit could also be stated as 20 cents per \$100 of outstanding balance because \$10 is five percent of \$200. As another example, if the minimum required payment is three percent of the outstanding balance, the 40 cents per \$10 of monthly benefit rate translates to 12 cents per \$100 of outstanding balance. For purposes of this part, the following formula may be used:

$$r_m = r_t \times 10p$$

Where:  $r_m$  = monthly rate per \$100 of outstanding balance  
 $r_t$  = rate per \$10 of payment of term “t”  
 $p$  = percent of outstanding balance required as  
monthly payment expressed as a decimal

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

### 2761.0800 STANDARD PREMIUM RATE CHANGES; UNEMPLOYMENT RATE VARIABLE.

Premium rates in part 2761.0700, Schedules A and B, may be adjusted from time to time based on the application of the factors to be applied from variations in the state unemployment rate. Prima facie rates in part 2761.0700, Schedules A and B are based on a state unemployment rate in the 3.5 percent to 4.4 percent band. To the extent that the state unemployment rate falls in bands outside the 3.5 percent to 4.4 percent band, the following table shall be used to adjust part 2761.0700, Schedules A and B rates accordingly:

State Unemployment Rate	Factor to be Applied to Prima Facie Rates
Less than 3.5 percent	0.85
3.5 to 4.4 percent	1.00
4.5 to 5.4 percent	1.25
5.5 to 6.4 percent	1.50
6.5 to 7.4 percent	1.75
7.5 to 8.4 percent	2.00
More than 8.4%	2.50

The source for the official state unemployment rate is the seasonally adjusted rate as published monthly in the United States Department of Labor, Bureau of Labor Statistics, Employment and Earnings, Table C-2, "Labor Force Status by State Seasonally Adjusted."

Rates must be modified by companies within 90 days after the publication date of Table C-2 containing the third consecutive month of changed unemployment in a different one of the above unemployment bands, although companies can choose not to increase rates even when permissible.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

#### **2761.0900 COORDINATION AND PUBLICATION OF CURRENT STANDARD BENEFIT PLAN PRIMA FACIE RATES.**

The rates in part 2761.0700, Schedules A and B, will be determined from time to time by the commissioner under the conditions in and published before the end of the 90-day period in part 2761.0800. The publication will be in the State Register and by Commerce Department Bulletin provided to the companies with policies on file and approved for Credit Involuntary Unemployment Insurance.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

#### **2761.1000 RATE MAKING METHODOLOGY AND DETERMINATION OF PREMIUM RATES.**

Standard rates in part 2761.0700, Schedules A and B, are given in or derived from the information provided in the statement of need and reasonableness available in connection with this chapter.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

#### **2761.1100 USE OF BENEFIT PLANS DIFFERENT FROM STANDARD BENEFIT PLANS.**

An insurer may file for approval of and use benefit plans that differ from the basic benefit plans in part 2761.0700. Rates for these plans that differ must be actuarially consistent with the prima facie rates then in force and must be filed with a supporting actuarial memorandum as required by part 2761.0300. Different benefit plans and the rates filed with those plans shall not be used until those forms and rates are approved by the commissioner. A benefit plan that permits part-time employees who work up to 30 hours per week to be considered "unemployed" but still charges premiums at prima facie rates shall not be considered to differ from the basic benefit plans in part 2761.0700.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*

#### **2761.1200 APPLICATION.**

Certificates, notices of proposed insurance, and premium rates in connection with existing group policies shall conform to the requirements of this chapter no later than the anniversary date of the group policy next following January 9, 1996.

**Statutory Authority:** *MS s 45.023; 62B.12*

**History:** *20 SR 1925*