

**Part 2 Chapter 11:** (89-103) Credit Life and Credit Disability Experience Refunds.

**Rule 11.01:** Statutory Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted by Miss. Code Ann., Section 83-53-29 and 83-53-25 (4) as Amended, (1972), and in accordance with the Mississippi Administrative Procedures law.

Source: Miss. Code Ann. §§ 83-53-29; 83-53-25(4)(Rev. 2011)

**Rule 11.02:** Purpose

Miss. Code Ann., Section 83-53-25(3)(c) as Amended, (1972), permits the payment, allocation or accrual of experience refunds by an insurer pursuant to a written experience refund agreement which are paid only with respect to EARNED PREMIUM produced by or attributable to the creditor or licensed agent designated to receive such experience refund. In addition, Section 83-52-25 (4) provides the Commissioner has authority to reduce and/or adjust experience refunds in accordance with the provisions of paragraphs (c) and (d) of subsection (3) of Section 83-53-25. The specific purposes of this Regulation are to regulate the payment of experience refunds and to eliminate devices designed to avoid or render ineffective the provisions of Miss. Code Ann. Section 83-53-1 et seq. (1972); to ensure that amounts paid to a creditor or licensed agent as experience refunds are based upon earned experience written or produced by the agent; and to repeal Mississippi Insurance Department Regulation Number 86-103.

Source: Miss. Code Ann. § 83-53-25 (Rev. 2011)

**Rule 11.03:** Applicability

This Regulation shall apply to all insurers selling credit insurance and their agents.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

**Rule 11.04:** Regulation of Experience Refunds Paid Pursuant to Experience Refund Agreements

Experience Refunds may be paid, allocated or accrued by an insurer pursuant to a written experience refund agreement and may be paid only with respect to earned premiums produced by or attributable to the creditor or licensed agent designated to receive such experience refund; provided however, that:

- A. All such experience refund agreements shall be on a form approved in writing by the Commissioner and shall be filed with the Commissioner prior to use. A sample form recommended by the Commissioner is attached hereto as Exhibit "A".
- B. All such experience refunds shall be calculated using only statutory accounting methods.
- C. All such experience refund calculations shall be made in accordance with the requirements of the form which is attached hereto as Exhibit "B", said form having been prescribed by the Commissioner and which provides for, inter alia, the deduction of claims incurred, premium taxes incurred, compensation paid, and expenses incurred during the preceding calendar year.
- D. All such experience refunds shall be paid annually within thirty (30) days following the filing of the insurer's annual statement with the Department of Insurance.

No experience refund may be paid if the insurer is insolvent or has capital or surplus less than the legal minimum or if the payment of the experience refund would render the insurer insolvent or result in the insurer's capital or surplus being less than the legal minimum.

This Regulation shall supersede and fully replace Insurance Department Regulation Number 86-103.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

**Rule 11.05: Effective Date**

This Regulation shall become effective thirty (30) days after filing with the Office of the Secretary of State.

Source: Miss. Code Ann. § 25-43-3.113 (Rev. 2010)

**Rule 11.06: Experience Refund Agreement- Exhibit A**

The Agent shall be entitled to receive an Experience Refund on the underwriting profit attributable to the credit insurance account covered by the Agency Agreement between the Agent and the Company. The Experience Refund shall be calculated according to the following formula:

At the end of each calendar year for which premiums were received under the Agency Agreement, the earned credit life and credit disability premiums will be determined. Earned premiums are defined as the net written premiums received less the increase in premium reserves. Premium reserves are calculated as follows: (1) for decreasing credit life, the sum of the digits method is used; (2) for level credit life, the pro rata method is used; (3) for credit disability the sum of the digits method is used.

From the earned premiums, the following will be deducted:

- a. Claims incurred during the calendar year. Claims incurred are defined as claims paid plus the increase in: (1) claims due and unpaid; (2) claims in course of settlement; (3) claims incurred but not yet reported; and (4) present value of amounts not yet due on claims.
- b. Premium taxes incurred during the calendar year. Premium taxes incurred are defined as premium taxes paid plus the increase in premium taxes due and unpaid.
- c. Compensation paid during the calendar year. Compensation shall be defined pursuant to Miss. Code Ann., Section 83-53-25, as Amended, (1972).
- d. Expenses Incurred
- e. Any negative amounts as described below arising from prior year calculations.

If the above calculation results in a positive amount, the Company may pay to the Agent \_\_\_\_% of such amount as an Experience Refund. Such payment will be made within 90 days of the end of the calendar year.

If the above calculation results in a negative amount, the negative amount will be carried forward from year to year as long as necessary and will serve as a deduction in calculating the Experience Refund for subsequent calendar years.

All amounts shall be calculated in a manner consistent with instructions to the Annual Statement as required to be filed with the Mississippi Insurance Department.

If this Agreement is terminated by either party, no Experience Refund shall be paid for the year in which termination occurred or in any subsequent year.

If less than \$\_\_\_\_\_ of net written premiums are received during a calendar year, this Agreement shall automatically terminate and no Experience Refund shall be paid for that year.

This agreement is effective \_\_\_\_\_.

\_\_\_\_\_  
Insurance Company

\_\_\_\_\_  
Agent

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

**Rule 11.07:** Experience Refund Agreement- Exhibit B

EXPERIENCE REFUND AGREEMENT

- |     |  |       |
|-----|--|-------|
| 1.  | Net written premiums   | _____ |
| 2.  | Premium Reserves - beginning of period                                     | _____ |
| 3.  | Premium Reserves - end of period   | _____ |
| 4.  | Earned premiums [1+2-3]  | _____ |
| 5.  | Claims paid  | _____ |
| 6.  | Claims due and unpaid and in course of settlement -<br>Beginning of period | _____ |
| 7.  | Claims due and unpaid and in course of settlement -<br>End of period       | _____ |
| 8.  | Claims incurred but not reported - beginning of period                     | _____ |
| 9.  | Claims incurred but not reported - end of period                           | _____ |
| 10. | Present value of claims not yet due - beginning of period                  | _____ |
| 11. | Present value of claims not yet due - end of period                        | _____ |

12. Incurred claims [5-6+7-8+9-10+11] \_\_\_\_\_
13. Premium taxes paid \_\_\_\_\_
14. Premium taxes due and unpaid - beginning of period \_\_\_\_\_
15. Premium taxes due and unpaid - end of period \_\_\_\_\_
16. Incurred premium taxes [13-14+15] \_\_\_\_\_
17. Compensation paid during period \_\_\_\_\_
18. Expenses Incurred \_\_\_\_\_
19. Experience refund receivable from prior year \_\_\_\_\_
20. UNDERWRITING PROFIT DUE [4-12-16-17-18-19] \_\_\_\_\_
21. Percentage due Agent \_\_\_\_\_
22. EXPERIENCE REFUND DUE [20x11] \_\_\_\_\_

Source: Miss. Code Ann. §83-53-29 (Rev. 2011)