

STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS



BULLETIN

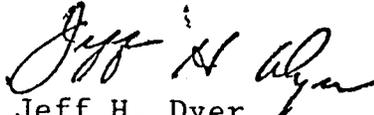
NO. B-89-3

May 19, 1989

This office has determined that further consideration is warranted on the issue of disposition of credit life insurance income. Comments are solicited on the policy statement issued May 5, 1989, in BULLETIN NO. B-89-2.

A revised statement will be forthcoming after I have reconsidered the issues.

Written comments should be directed to the attention of Assistant Commissioner Louise Johnson. The comment period will be considered closed on June 30, 1989.


Jeff H. Dyer
Commissioner

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(c) A bank may acquire a group credit life insurance policy and provide coverage thereunder to loan customers. A bank that makes credit life insurance coverage available by means of a group policy may receive experience refunds, dividends or retrospective rate credits as provided in the policy.

(d) As compensation for the use of its premises, personnel and good will, a bank may contract with an employee, officer, director or principal shareholder to receive income payable to said individual from the sale of credit life insurance: *Provided*, That said individual is obligated in the contract to pay over to the bank all of the income received.

(e) A bank may accept reimbursement from an insurance company for services rendered by the bank in selling credit life insurance, maintaining an account to receive premiums, disbursing premiums to the underwriter, and issuing a statement of account on a periodic basis.

(f) A bank may provide credit life insurance coverage to borrowers at its own expense.

(g) A bank may refund to its loan customers who purchase credit life insurance all commissions, experience refunds or other income received from the underwriter.

§ 2.7 Reserved Authority.

The Comptroller reserves the right to give written approval to a bank's request to modify the applicability of this part to that bank because of that bank's particular circumstances. Modifications will be granted only where assurance is provided that the overall purposes of the regulation will be achieved within a short time after its effective date. Applications for modification should be addressed to the Comptroller of the Currency, Washington, D.C. 20219, in the form of a letter approved by the board of directors and accompanied by an indication of the number of dissenting directors and a summary of their views. A copy of such application should simultaneously be provided to the appropriate Regional Administrator. All applications and their disposition by the Comptroller will be available for public inspection at the Washington, D.C., office.

pany Act or to a trust for the benefit of all shareholders; *Provided* That the bank receives reasonable compensation in recognition of the role played by its personnel, premises and good will in credit life insurance sales. It is suggested that "reasonable compensation" means an amount equivalent to at least 20 percent of the affiliate's net income attributable to the bank's credit life insurance sales.

(c) Nothing in this section shall be construed to prohibit a bank employee, officer, director, or principal shareholder who holds an insurance agent's license from agreeing to compensate the bank for the use of its premises, employees and good will; *Provided*, That all income received by said employee, officer, director, or principal shareholder from this activity is turned over to the bank as compensation.

[47 Fed. Reg. 31378, July 20, 1982.]

§ 2.5 Responsibilities of Directors.

Directors shall observe the rules in § 2.4 and shall be mindful of their duty under both the common law and 12 U.S.C. 73 to promote and advance the interests of the bank over their own personal interests.

[47 Fed. Reg. 31378, July 20, 1982.]

§ 2.6 Methods of Selling Credit Life Insurance.

Pursuant to 12 U.S.C. 24(7), a bank may furnish credit life insurance to its loan customers by any of the methods listed below. Where state insurance laws or other legal considerations appear to preclude the use of a particular method, a bank may select an alternative that complies with § 2.4 of this regulation. The list below is not intended to be exclusive.

(a) A bank may act as agent for the sale of credit life insurance and receive income in the form of commissions.

(b) An employee, officer, director, or principal shareholder may be licensed as an insurance agent for the sale of credit life insurance to loan customers, provided the rules in § 2.4 are observed.

(3) Ownership through a corporation, partnership, association, joint venture or proprietorship controlled by a director, officer, employee or principal shareholder of the bank.

(c) "Principal shareholder" means any shareholder who directly or indirectly owns or controls an interest of more than 5 percent in the bank's outstanding shares.

(d) The terms "officer," "director," "employee" and "principal shareholder" shall include the spouse and minor children of such officer, director, employee or principal shareholder.

(e) The term "credit life insurance" means credit life, health and accident insurance, sometimes referred to as credit life and disability insurance; and mortgage life and disability insurance.

[47 Fed. Reg. 31378, July 20, 1982.]

§ 2.4 Distribution of Credit Life Insurance Income.

(a) No bank employee, officer, director or principal shareholder may retain commissions or other income from the sale of credit life insurance in connection with any loan made by the bank. Except as provided in paragraph (b) of this section, retention of credit life insurance income by such persons or by corporations, partnerships, associations or other entities in which such persons have an interest of more than 5 percent is an unsafe and unsound banking practice. Notwithstanding this prohibition, bank employees and officers may participate in a bonus or incentive plan under which payments based on credit life insurance sales are made in cash or in kind out of the bank's funds not more frequently than quarterly and in an amount not exceeding in any one year 5 percent of the recipient's annual salary. Alternatively, bonuses paid to any one individual during the year for credit life sales may not exceed 5 percent of the average salary of all loan officers participating in the plan and may not be paid more frequently than quarterly.

(b) As an accounting and operations matter, income derived from credit life insurance sales to loan customers shall be credited to the income accounts of the bank and not to the bank's individual employees, officers, directors, principal shareholders, their interests or other affiliates. However, such income may be credited to an affiliate operating under the Bank Holding Com-

**Regulation 2—DISPOSITION OF CREDIT
LIFE INSURANCE INCOME**

AUTHORITY: 12 U.S.C. 1 et seq., 24 (Seventh), 60, 73, 92, 93a, and 12 U.S.C. § 1818(n).

SOURCE: 42 Fed. Reg. 48518, Sept. 23, 1977, unless otherwise noted.

§ 2.1 Authority.

This part is issued by the Comptroller of the Currency under the general authority of the national banking laws, 12 U.S.C. 1 et seq., and under the specific authority of 12 U.S.C. 24 (Seventh), 60, 73, 92, 93a and 1818(n).

[47 Fed. Reg. 31378, July 20, 1982.]

§ 2.2 Scope and Purpose.

(a) This part applies to sales of credit life, health and accident insurance ("credit life insurance") by employees, officers, directors and principal shareholders of a national bank and by corporations, partnerships, associations or other entities in which such persons have an interest of more than 5 percent.

(b) The purposes of this part are (1) to prohibit employees, officers, directors and principal shareholders of national banks from benefitting personally on the sale of credit life insurance to loan customers and (2) to encourage marketing of credit life insurance through the use of bank facilities only under arrangements which assure that employees, officers, directors and principal shareholders do not receive benefits not shared with all stockholders of the bank.

§ 2.3 Definitions.

(a) "Bank" means a national banking association or a bank located in the District of Columbia and subject to the supervision of the Comptroller of the Currency.

(b) "Interest" shall include:

- (1) Ownership through a spouse or minor children;
- (2) Ownership through a broker, nominee or other agent;