§ 3442. Credit card, debit card, or checking account group policies.

(a) For purposes of this section, unless the context requires otherwise:

(1) "Account group member" means a person:

(A) to whom a credit card account or debit card account is issued by a sponsor or who has agreed with the sponsor to pay obligations arising from the use of a credit card or debit card issued to another person; or

(B) who may access by check an account maintained by the sponsor.

(2) "Account group policy" means a group policy, including certificates issued to the group members, where the group policyholders, and each additional group policyholder, if any, is:

(A) a sponsor and the policy's group members are its account group members or other authorized users of the account group member's payment medium; or

(B) an interchange organization, or the trustee or trustees of a trust established, or participated in, by one or more interchange organizations or one or more sponsors who are members of the interchange organization, where the policy's group members are the authorized users of the payment medium administered by the interchange organization or by its member sponsors.

(3) "Authorized user" means a group member or any other person designated by the group member as an authorized user of the account group member's payment medium.

(4) "Beneficiary" means an authorized user of a payment medium or any other person who is a recipient of the benefits of the payment medium who is designated as an additional insured under an account group policy.

(5) "Certificate" or "certificate of insurance" means any policy, contract, or other evidence of insurance, or rider or endorsement thereto, issued to a group member under an account group policy.

(6) "Check" means a check, draft, credit union share draft, negotiable order of withdrawal, or other written, electronic or telephonic order but does not include a traveler's check.

(7) "Commercial creditor" means a corporation, partnership, association or other organization that, as part of its vocation, extends credit by making loans, issuing credit cards, or otherwise, including:

(A) a bank, trust company, savings bank, savings and loan association, or credit union, as those terms are defined in section two of the

banking law;

(B) a national bank, federal savings bank, federal savings and loan association, or federal credit union, as those terms are defined in title twelve of the United States Code;

(C) a foreign banking corporation licensed to maintain a branch or agency in New York under article five of the banking law or title twelve of the United States Code;

(D) a creditor, as defined in section one thousand six hundred two of title fifteen of the United States Code;

(E) an issuer of a credit card, within the meaning of article twenty-nine-A of the general business law;

(F) a transmitter of money, within the meaning of article thirteen-A of the banking law; or

(G) a retailer.

(8) "Conditional renewal" means change of limits, change in type of coverage, reduction or elimination of coverage, increased deductible or addition of exclusion, or increased premiums in excess of ten percent (exclusive of any premium increase generated as a result of increased exposure units or as a result of experience rating, loss rating, retrospective rating, or audit).

(9) "Credit card" means a payment medium that takes the form of a credit card, credit plate, charge plate, courtesy card, or other identification card or device, issued by a sponsor to an account group member (or a check drawn by an authorized user against the credit card account), which an authorized user may use to obtain a loan, credit, or cash advance, or to purchase, hire, rent or lease property or services.

(10) "Debit card" means a payment medium that takes the form of a card, plate, or other identification card or device, issued by an issuer to an account group member who is an owner of a deposit account maintained by the issuer, which an authorized user drawing upon the deposit account may use to purchase, hire, rent or lease property or services. "Debit card" does not include a credit card or a check.

(11) "Group member" means an account group member who is insured under the account group policy.

(12) "Interchange organization" means a person that administers a payment medium for the benefit of one or more sponsors and the sponsor's account group members.

(13) "Motor vehicle" means a motor vehicle as defined in section three hundred eleven of the vehicle and traffic law, whether or not used on a public highway, and includes a snowmobile as defined in section two thousand two hundred twenty-one of the vehicle and traffic law.

(14) "Payment medium" means a credit card, debit card or check.

(15) "Person" includes an individual, corporation, partnership, association, or other legal entity.

(16) "Sponsor" means:

(A) a commercial creditor that issues a credit card or debit card to its account group members;

(B) a commercial creditor that maintains an account which may be accessed by check by the commercial creditor's account group members; or

(C) the trustee or trustees of a trust established, or participated in, by one or more commercial creditors for the benefit of the commercial creditor's account group members.

(b) An account group policy or certificate may be issued or issued for delivery in this state only in compliance with the provisions of this section.

(c) Coverage under an account group policy shall extend only to beneficiaries and shall be associated with the direct use or employment of a payment medium by an authorized user to purchase, hire, lease or rent property or services.

(d) An account group policy may provide only one or more of the following property/casualty insurance coverages, subject to the following limitations:

(1) Loss of or damage to personal property, other than loss of use or loss resulting from a defect in materials or workmanship, where:

(A) the article of personal property is owned by;

(i) an authorized user; or

(ii) a beneficiary other than an authorized user, if coverage is provided under the account group policy to the beneficiary as an additional insured;

(B) the article of personal property is purchased using the account group member's payment medium;

(C) the amount of coverage is limited to the amount charged, debited, or drawn, unless the insurer repairs or replaces the article of personal property, but in no event shall the coverage exceed ten thousand dollars

per article and fifty thousand dollars in the aggregate per group member per policy year;

(D) the period of coverage for each article of personal property does not exceed ninety days from date of purchase; and

(E) the coverage is excess over any other valid and collectible insurance covering the same article of personal property, except that the coverage need not be excess over insurance issued pursuant to this paragraph.

(2) Obligation to a person engaged in the business of renting or leasing motor vehicles, for loss of or damage to a motor vehicle rented or leased from that person, where:

(A) the obligation is incurred by:

(i) an authorized user; or

(ii) another person driving the motor vehicle with the authorized user's permission, if coverage under the account group policy is provided to such beneficiary as an additional insured;

(B) the rental or lease of the motor vehicle is paid wholly by means of the account group member's payment medium;

(C) the period of the rental or lease coverage does not exceed:

(i) forty-five consecutive days where the payment medium used for the rental or lease was a credit card issued to an account group member that is an employee of a person that has contracted with a sponsor to provide credit cards to the person's employees primarily for business use; or

(ii) thirty-one consecutive days for all other authorized users;

(D) the coverage is excess over any other valid and collectible insurance covering the same motor vehicle, except that the coverage may be primary for motor vehicle rentals or leases:

(i) when the motor vehicle is used outside the United States, its territories and possessions; or

(ii) where the payment medium used for the rental or lease was a credit card issued to an account group member that is an employee of a person that has contracted with a sponsor to provide credit cards to the person's employees primarily for business use; or

(E) the motor vehicle is rented or leased without a driver.

(3) Loss of, damage to, or loss of use of baggage and its contents, where:

(A) (i) the authorized user owns or uses the baggage and its contents,

and the loss, damage, or loss of use occurs in connection with the authorized user being in transit; or

(ii) a beneficiary other than an authorized user owns or uses the baggage and its contents, and the loss, damage, or loss of use occurs while in connection with that beneficiary being in transit, if coverage under the policy is provided in regard to the beneficiary as an additional insured;

(B) the account group member's payment medium is used to obtain transportation or accommodations for the owner of the baggage and its contents, in connection with that owner being in transit; and

(C) the amount of coverage does not exceed two thousand dollars per bag, including contents, and ten thousand dollars in the aggregate for all insureds per trip.

(4) Loss of, damage to, or loss of use of personal property resulting from a defect in materials or workmanship in that property, where:

(A) the article of personal property is owned by:

(i) an authorized user; or

(ii) a beneficiary other than an authorized user, if coverage is provided under the account group policy to the beneficiary as an additional insured;

(B) the article of personal property is purchased by means of the account group member's payment medium;

(C) the amount of coverage is limited to the amount charged, debited, or drawn, but in no event shall exceed ten thousand dollars; and

(D) the article of personal property has one or more warranties issued by a manufacturer, distributor or seller.

(5) Loss of, damage to, or loss of use of personal property occurring in connection with the use of rented or leased motor vehicles where:

(A) the article of personal property is owned by:

(i) an authorized user; or

(ii) a beneficiary other than an authorized user if coverage is provided under the account group policy to the beneficiary as an additional insured;

(B) the rental or lease of the motor vehicle is paid for wholly by means of the account group member's payment medium;

(C) the period of coverage does not exceed the lesser of:

(i) the rental or lease period; or

(ii) forty-five consecutive days where the payment medium used for the rental or lease was a credit card issued to an account group member that is an employee of an entity that has contracted with a sponsor to provide credit cards to the entity's employees primarily for business use; or thirty-one consecutive days for all other authorized users;

(D) the motor vehicle is rented or leased without a driver; and

(E) the amount of the coverage does not exceed five thousand dollars.

(6) Losses incurred in connection with the unauthorized use of a payment medium, where:

(A) one or more individuals are designated authorized users of a payment medium by virtue of their status as employees of a group member in accordance with procedures established by such group member for authorized use of the payment medium;

(B) the group member that employs such authorized users has agreed with another group member to pay obligations arising from the use of such payment medium by such authorized users;

(C) an authorized user uses such payment medium in a manner that is unauthorized by the group member that employs the authorized user;

(D) the obligation of the group member that employs the authorized users to such other group member, pursuant to the agreement described in subparagraph (B) of this paragraph for a loss incurred in connection with use in an unauthorized manner, is discharged by payment of the insurance benefit to such other group member;

(E) the amount of coverage shall be limited to the amount of the loss, but in no event shall exceed fifteen thousand dollars; and

(F) for purposes of this paragraph only, the term "group member" shall include (i) those entities specified in subparagraphs (A) through (F) of paragraph seven of subsection (a) of this section which are insureds under the insurance described in subparagraph (D) of this paragraph, and (ii) employers of account group members who are designated authorized users of a payment medium by virtue of their employee status.

(7) Loss resulting from an inability to use a ticket to an event where:

(A) the ticket was purchased with the account group member's payment medium;

(B) the event does not fully reimburse the person for the expenses disbursed or to be disbursed for the ticket, including any fees, or

provide a ticket of equal value or a rain check;

(C) the amount of coverage is limited to the amount charged, debited, or drawn, but shall not exceed seven hundred fifty dollars per ticket; and

(D) the coverage is excess over any other reimbursement.

(8) Loss due to cancellation of a catered affair where:

(A) the expenses were paid by means of the account group member's payment medium;

(B) the amount of coverage is limited to the amount charged, debited, or drawn, but shall not exceed thirty thousand dollars in any twelve month period; and

(C) the coverage is excess over any other reimbursement.

(9) Loss of tuition and other educational expenses due to a student's dismissal or withdrawal from an educational institution where:

(A) expenses were paid by means of the account group member's payment medium;

(B) the amount of coverage is limited to the amount charged, debited, or drawn, but shall not exceed sixty thousand dollars in any twelve month period; and

(C) the coverage is excess over any other reimbursement.

(10) Loss resulting from the cancellation or interruption of a trip, where:

(A) coverage is limited to a specific trip;

(B) the trip was paid by means of the account group member's payment medium;

(C) the amount of coverage is limited to the amount charged, debited, or drawn, but shall not exceed fifteen thousand dollars per trip; and

(D) the coverage is excess over any other reimbursement.

(11) Loss of or damage to personal property, where:

(A) (i) the authorized user owns or uses the personal property, and the loss or damage occurs in connection with a specific trip; or

(ii) a beneficiary other than an authorized user owns or uses the personal property, and the loss or damage occurs in connection with a specific trip, if coverage is provided under the account group policy to the beneficiary as an additional insured;

(B) the trip was paid by means of the account group member's payment medium;

(C) the amount of coverage does not exceed one thousand dollars per article of personal property, and five thousand dollars in the aggregate for all insureds per trip; and

(D) the coverage is excess over any other valid and collectible insurance covering the same article of personal property.

(12) Loss of or damage to wireless communications equipment or loss of use resulting from a defect in materials or workmanship to wireless communication equipment, where:

(A) the wireless communications equipment is owned or leased by;

(i) an authorized user; or

(ii) a beneficiary other than an authorized user, if coverage is provided under the account group policy to the beneficiary as an additional insured;

(B) the account group member's payment medium is used to obtain the wireless services related to the wireless communication equipment;

(C) the amount of coverage does not exceed ten thousand dollars per wireless communications equipment, but in no event shall the coverage exceed fifty thousand dollars in the aggregate per group member per policy year;

(D) the period of coverage for the wireless communication equipment does not exceed 60 days from each date wireless services are charged, debited, or drawn; and

(E) For purposes of this paragraph, the term "wireless communications equipment" shall mean wireless handsets, pagers, personal digital assistants, wireless telephones or wireless telephone batteries and other wireless devices and accessories related to such devices that are used to access wireless communications services and includes wireless services.

(13) Coverages which, in the opinion of the superintendent, are determined to be substantially similar to one of the foregoing coverages specified in paragraphs one through twelve of this subsection, or such other coverages that the superintendent determines are limited in scope, and not duplicative or a substitute for other more comprehensive coverages, and thereupon for purposes of this section shall be deemed to be permissible pursuant to regulations promulgated by the superintendent.

(e) (1) An account group policy shall not cover a motor vehicle,

except in regard to coverage under paragraph two of subsection (c) of this section.

(2) An account group policy shall not be considered a motor vehicle policy for purposes of this chapter.

(f) The premium for the account group policy, including certificates, may be paid by the group policyholder from funds contributed:

(1) wholly by the group policyholder;

(2) wholly by the group members; or

(3) jointly by the group policyholder and group members.

(g) (1) Any policy dividend, retrospective premium credit, or retrospective premium refund in respect of premiums paid by the group policyholder may:

(A) be applied to reduce the premium contribution of the group policyholder, but not in excess of the proportion to its contribution; or

(B) be retained by the group policyholder.

(2) Any policy dividend, retrospective premium credit, or retrospective premium refund not distributed under paragraph one of this subsection shall be:

(A) applied to reduce future premiums and, accordingly, future contributions, of existing or future group members, or both; or

(B) paid or refunded to those group members insured on the date the payment or refund is made to the group policyholder, if distributed by the group policyholder, or on the date of mailing, if distributed directly by the insurer, subject to the following requirements:

(i) the insurer shall be responsible for determining the allocation of the payment or refund to the group members;

(ii) if the group policyholder distributes the payment or refund, the insurer shall be responsible for audit to ascertain that the payment or refund is actually made in accordance with the allocation procedure; and

(iii) if the group policyholder fails to make the payment or refund, the insurer shall make the payment or refund directly or use the method provided in subparagraph (A) of this paragraph.

(3) Notwithstanding paragraphs one and two of this subsection, if a dividend accrues upon termination of coverage under an account group policy, the premium for which was paid out of funds contributed by group members specifically for the coverage, the dividend shall be paid or

refunded by the group policyholder to the group members insured on the date the payment or refund is made to the group policyholder, net of reasonable expenses incurred by the group policyholder in paying or refunding the dividend to such group members.

(4) For the purposes of this subsection, "dividend" means a return by an insurer to a group policyholder of excess premiums paid by that group policyholder in light of favorable loss experience, including retrospective premium credits or retrospective premium refunds. The term "dividend" does not include reimbursements or fees received by a group policyholder in connection with the operation or administration of an account group policy, including administrative reimbursements, fees for services provided by the group policyholder, or transactional service fees.

(h) The insurer must treat in like manner all eligible account group members of the same class and account status.

(i) The group shall consist of at least one thousand members.

(j) An account group policy or certificate shall not be eligible for placement by an excess line broker licensed pursuant to article twenty-one of this chapter.

(k) Coverage provided under an account group policy or certificate issued pursuant to paragraph four of subsection (d) of this section shall be deemed miscellaneous property insurance, as enumerated in paragraph five of subsection (a) of section one thousand one hundred thirteen of this chapter.

(l) (1) The insurer shall be responsible for the mailing or delivery of a certificate of insurance to each group member insured under the account group policy. The insurer shall also be responsible for the mailing or delivery to each group member of an amended certificate of insurance, or endorsement to the certificate, whenever there is a change of limits; change in type of coverage; addition, reduction, or elimination of coverage; or addition of exclusion, under the account group policy or certificate.

(2) The certificate shall contain in substance all material terms and conditions of coverage afforded to the group member, unless the account group policy is incorporated by reference and a copy of the group policy accompanies the certificate.

(3) If coverage afforded to the group member is excess of other

applicable insurance coverage, the certificate shall contain a notice advising the group member that, if the member has other insurance coverage, specified coverages under the account group policy will be excess over the other insurance.

(m) A group policyholder shall comply with the provisions of section two thousand one hundred twenty-two of this chapter, in the same manner as an agent or broker, in any advertisement, sign, pamphlet, circular, card, or other public announcement referring to coverage under an account group policy or certificate.

(n) An account group policy or certificate shall not be subject to section three thousand four hundred twenty-five or section three thousand four hundred twenty-six of this article. The following requirements shall apply in regard to termination of coverage:

(1) (A) An account group policy or certificate may be cancelled by an insurer only if cancellation is based on one or more of the reasons set forth in subparagraphs (A) through (D) or (F) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article; provided, however, that an act or omission by a group member which would constitute the basis for cancellation of an individual certificate shall not constitute the basis for cancellation of the account group policy.

(B) Where the premium is derived wholly from funds contributed by the group policyholder, an individual certificate may be cancelled by the insurer only if cancellation is based on one or more of the reasons set forth in subparagraph (B), (C) or (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article.

(2) (A) An insurer's cancellation of an account group policy, including all certificates, shall not become effective until fifteen days after the insurer mails or delivers written notice of cancellation to the group policyholder at the mailing address shown in the policy.

(i) Where all or part of the premium is derived from funds contributed by a group member specifically for the coverage, written notice of cancellation of the account group policy shall also be mailed or delivered by the insurer to the group member at the group member's mailing address.

(ii) Where none of the premium is derived from funds contributed by a group member specifically for the coverage, the group policyholder shall

mail or deliver written notice to the group member advising the group member of the cancellation of the account group policy and the effective date of cancellation. The written notice shall be mailed or delivered by the group policyholder within ninety days after receiving notice of cancellation from the insurer.

(B) An insurer's cancellation of an individual certificate shall not become effective until fifteen days after the insurer mails or delivers written notice of cancellation to the group member at the group member's mailing address and to the group policyholder at the mailing address shown in the account group policy.

(C) (i) A group policyholder may cancel an account group policy, including all certificates, or any individual certificate, for any reason upon thirty days written notice to the insurer and each group member; and

(ii) The group policyholder shall mail or deliver written notice to each affected group member of the group policyholder's cancellation of the account group policy or certificate and the effective date of cancellation. Such written notice shall be mailed or delivered to the group member's mailing address at least thirty days prior to the effective date of the cancellation.

(3) (A) Unless an account group policy provides for a longer policy period, the policy and all certificates shall be issued or renewed for a one-year policy period.

(B) The group policyholder shall be entitled to renew the account group policy and all certificates upon timely payment of the premium billed to the group policyholder for the renewal, unless:

(i) the insurer mails or delivers to the group policyholder and all group members written notice of nonrenewal, or conditional renewal; and

(ii) the written notice is mailed or delivered at least thirty, but not more than one hundred twenty days prior to the expiration date specified in the policy or, if no date is specified, the next anniversary date of the policy.

(C) Notwithstanding subparagraph (A) of this paragraph, an account group policy insuring an experimental program that is test marketed for a period of one hundred twenty days or less may be issued for that policy period. The provisions of subparagraph (B) of this paragraph shall not apply if the group members were previously notified of the

expiration date of the account group policy.

(4) (A) Where the account group policy is nonrenewed by the group policyholder, the group policyholder shall mail or deliver written notice to each group member advising the group member of nonrenewal of the account group policy and the effective date of nonrenewal. The written notice shall be mailed or delivered by the group policyholder at least thirty days prior to the nonrenewal.

(B) The provisions of subparagraph (A) of this paragraph shall not apply in the case of a sponsor's nonrenewal in connection with an account group policy insuring an experimental program test marketed for a period of one hundred twenty days or less, if the group members were previously notified of the expiration date of the account group policy.

(5) Every notice of cancellation, nonrenewal, or conditional renewal shall contain the specific reason or reasons for cancellation, nonrenewal, or conditional renewal.

(6) (A) An insurer shall not be required under this subsection to give notice to a group member if the insurer has been advised by either the group policyholder or another insurer that substantially similar coverage has been obtained from the other insurer without lapse of coverage.

(B) A group policyholder shall not be required under this subsection to give notice to a group member if substantially similar coverage has been obtained from another insurer without lapse of coverage.

(7) (A) If, prior to the effective date of cancellation, nonrenewal, or conditional renewal of the account group policy, or a certificate, whether initiated by the insurer, group policyholder or by the group member in regard to the group member's certificate, coverage attaches pursuant to the terms of an account group policy providing insurance of one or more of the types enumerated in this section, then the coverage shall be effective until expiration of the applicable period of coverage provided in the account group policy notwithstanding the cancellation, nonrenewal or conditional nonrenewal of the account group policy.

(B) Notwithstanding subparagraph (A) of this paragraph, an insurer may terminate coverage under an individual certificate on the effective date of cancellation, if the certificate is cancelled in accordance with the provisions of subparagraph (B) of paragraph one of this subsection.

(o) The superintendent may, pursuant to regulation, adjust the

monetary limitations set forth in subsection (d) of this section for inflation.