

LOUISIANA REVISED STATUTES
TITLE 22. INSURANCE
CHAPTER 6. FINANCIAL INSTITUTION SALES

§ 3051. Short title

This Chapter may be cited as the "Financial Institution Insurance Sales Law".

§ 3052. Purpose

The legislature hereby declares that the purpose of this Chapter is to regulate the business of insurance in Louisiana and to protect the interests of insurance policyholders in this state.

§ 3053. Definitions

A. For the purposes of this Chapter:

(1) "Financial institution" means a state or national bank or branch thereof which accepts federally insured deposits or makes loans from a place of business located in the state of Louisiana or any subsidiary or employee thereof, or a bank holding company or subsidiary or employee thereof, only if the bank holding company owns or controls a state or national bank or branch thereof which accepts federally insured deposits or makes loans from a place of business located in the state of Louisiana. The term financial institution does not include a bank which was engaged as an insurance agent on January 1, 1984, or an insurance company.

(2) The term "insurance" includes all products defined or regulated as insurance except:

(a) Any credit insurance, a specialized form of insurance designed to protect the bank's or borrower's interests in loan transactions, including but not limited to credit life insurance, credit dismemberment insurance, credit health and accident insurance, mortgage life and disability insurance, involuntary unemployment insurance, collateral protection insurance, vendor's single interest insurance, travel accident and baggage insurance, and debt cancellation insurance, but credit insurance shall not include vehicle liability and fire and extended coverage as defined in R.S. 22:6 when marketed to borrowers or others.

(b) Insurance placed by a financial institution in connection with collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance.

(c) Private mortgage insurance.

(d) Annuities.

(3) "Insurance company" means a company that possesses a certificate of authority to transact insurance business in this state.

(4) "Person" means any natural person, partnership, corporation, association, business, trust, unincorporated organization, or other form of business enterprise, plural or singular, as the case demands.

§ 3054. Authorization for implementing regulations

The commissioner of insurance shall have the authority to promulgate rules and regulations in accordance with the authority granted by the Administrative Procedure Act [FN1] as may be necessary to effectuate the provisions of this Chapter. However, the commissioner of insurance shall not impose any additional requirement on any insurance agent or broker who is associated with a financial institution that is not imposed on any insurance agent who is not associated with such institution unless such requirement is set forth in this Chapter.

[FN1] Administrative Procedure Act, see R.S. 49:950 et seq.

§ 3055. Licensure requirement

Any solicitation for the purchase or sale of any insurance product by any person, including a financial institution, its employees or agents, shall be conducted only by persons who have complied with all applicable state insurance licensing and appointment laws and regulations.

§ 3056. Sales force

The solicitation of a customer of a financial institution for the purchase or sale of insurance shall not be conducted by any natural person directly responsible for making a specific loan or extension of credit to that customer before such time as the final decision regarding the acceptance or denial of that specific loan or extension of credit is made and communicated in writing to the customer. For the purposes of this Chapter, solicitation does not include referral of the customer to a licensed insurance agent not directly responsible for making the specific loan or extension of credit, informing the customer that the required insurance is available from the financial institution, or providing the customer with any disclosures which are required by R.S. 22:3059.

§ 3057. Referrals

A. Any person who is not licensed to sell insurance may refer a customer to a person, or the telephone number of a person, who sells or provides opinions or advice on any insurance product.

B. Any compensation received by the person making a referral provided for in Subsection A of this Section shall not be in the form of a sales commission and shall not be based on the application by the customer or purchase of insurance.

C. No person directly responsible for making a specific loan or extension of credit shall receive any compensation for referral of a customer who is required to provide insurance in connection with that loan or extension of credit.

§ 3058. Insurance as a condition to service

A. A financial institution shall not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer shall obtain insurance from the financial institution. In accordance with the foregoing, the financial institution shall not represent that the purchase of an insurance product from a financial institution by a customer or prospective customer of the institution is required as a condition of, or is any way related to, the lending of money or extension of credit, the establishment or maintenance of a trust account, the establishment or maintenance of a checking, savings, or deposit account, or the provision

of services related to any such activities.

B. No financial institution shall offer an insurance product in combination with banking products unless the insurance products and banking products are available separately from the institution.

C. The following activities conducted in accordance with the provisions of this Chapter shall not violate the provisions of this Section:

(1) A financial institution may cross-sell or cross-market its products and services by informing customers that insurance is available from the financial institution.

(2) A financial institution that requires a customer to obtain insurance coverage in connection with a loan or other extension of credit may provide the insurance.

§ 3059. Disclosures; required

A. At the time a written application for insurance is made, the financial institution shall obtain a separate written statement, signed by the customer, acknowledging that the customer has received and understands the following disclosures:

(1) The insurance policy is not insured by the Federal Deposit Insurance Corporation or other federal agency.

(2) The insurance policy is not a deposit or other obligation of, or guaranteed by, the financial institution.

(3) The financial institution does not guarantee performance by the insurer issuing the policy.

(4) The customer is not required to purchase insurance through the financial institution, and the customer's choice of another insurance provider will not affect the financial institution's credit decision or credit terms in any way.

B. The financial institution shall give the customer the disclosures provided in Subsection A of this Section when it first informs the customer that required insurance is available from the financial institution if:

(1) Insurance is required in order to obtain a loan.

(2) Loan approval is contingent on the customer's obtaining acceptable insurance.

(3) The customer obtained insurance required in connection with the loan from another insurance provider and the financial institution is soliciting the sale of insurance to replace the customer's existing coverage.

C. All advertisements, sales literature, and other materials which relate to the marketing of insurance sold through the financial institution shall clearly state that the insurance is not insured by a federal agency or guaranteed by the financial institution, shall indicate whether the insurance agent is employed by the financial institution or by a third party, and shall indicate that an insurance company, not the financial institution, is underwriting the insurance product.

§ 3060. Physical location of loan and insurance activities

If the financial institution solicits the purchase of insurance from a customer who is applying for a loan or extension of credit, the insurance solicitation shall be conducted in an area physically separate and distinct from the loan transaction, unless the size of the facility is too small to make the physical separation possible.

§ 3061. Insurance in connection with a loan

A. If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents.

B. A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.

C. This Section shall not apply to a premium finance loan that is not made in connection with another loan or extension of credit.

§ 3062. No discrimination against non-affiliated agents

No financial institution may:

(1) Offer a banking product or service, or fix or vary the conditions of such offer, on a condition or requirement that the customer obtain insurance from any particular agent or broker.

(2) In connection with a loan or extension of credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not associated with such institution.

(3) Impose any unreasonable requirement on any insurance agent or broker who is not associated with the financial institution that is not imposed on any insurance agent who is associated with such institution.

§ 3063. Customer privacy; protections

A. As used in this Section, unless the context requires otherwise:

(1) "Customer" means a person with an investment security, deposit, trust, or credit relationship with a financial institution.

(2) "Nonpublic customer information" means information maintained by a financial institution relating to insurance coverage purchased by a customer from an insurer, insurance agency, or insurance agent that is not affiliated with the financial institution. "Nonpublic customer information" does not include customer names, addresses and telephone numbers, or any information relating to deposit or investment accounts, loans, or other extensions of credit, or the credit history or financial condition of a customer. Nonpublic customer information includes information concerning insurance escrow accounts, insurance premiums, the terms and conditions of insurance coverage, insurance expirations, insurance claims, and insurance history of an individual, when such information relates to insurance coverage purchased by a customer from an insurer, insurance agency, or insurance agent that is not affiliated with that financial institution.

B. No person shall use any nonpublic customer information for the purpose of selling or soliciting the purchase of insurance or provide nonpublic customer information to a third party for the purpose of another's sale or solicitation of the purchase of insurance, unless it is clearly and conspicuously disclosed that the information may be so used, and the customer has provided prior written consent to the use for this purpose.

C. The consent under Subsection B of this Section shall be obtained in a separate document and shall not be required as a condition for performance of other services for the customer.

§ 3064. Insurance records; maintenance

Books and records relating to the insurance transactions of any person licensed to sell insurance, including all files relating to and reflecting customer complaints, shall be kept separate and apart from all records relating to other business transactions of such person, and shall be made available to the Department of Insurance for inspection upon reasonable notice.

§ 3065. Unfair trade practice

Failure to comply with any of the provisions of this Chapter shall be an unfair method of competition and an unfair or deceptive act or practice subject to regulation by the commissioner of insurance as provided by law, including R.S. 22:1115 and 1215 through 1219.

Added by Acts 1997, No. 1475, § 2, eff. July 15, 1997.