

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1638

STATE OF NEW JERSEY

ADOPTED MARCH 3, 1997

Sponsored by Assemblyman FELICE, Assemblywoman Buono,
Assemblyman LeFevre, Assemblywoman Weinberg
and Assemblyman Barnes

1 AN ACT concerning consumer protections applicable to insurance
2 sales by financial institutions.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Insurance
8 Sales Consumer Protection Act."

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10 2. As used in this act:

11 "Confidential customer financial information" means information
12 derived from a financial institution record regarding a person with an
13 investment, security, deposit, trust or credit relationship with the
14 financial institution, including information concerning the terms and
15 conditions of insurance coverage, insurance expirations, insurance
16 claims, or insurance history of the person; but shall not include the
17 name, address or telephone number of the person.

18 "Customer" means a person with an investment, security, deposit,
19 trust or credit relationship with a financial institution.

20 "Financial institution" means any federally or state chartered bank,
21 savings bank, savings and loan association or credit union, ¹[or any]¹
22 finance company, mortgage loan company, ¹[insurance agency owned
23 by a financial institution or any other institution, association,
24 partnership, company, corporation, individual or individuals] or other
25 entity¹ whose principal business is the lending of money or the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 19, 1997.

1 extension of credit¹, or subsidiary thereof¹.

2 "Insurance" means all products regulated as insurance by the
3 Department of Banking and Insurance except:

4 (1) credit life, credit accident and health, credit involuntary
5 unemployment insurance, group credit insurance, group mortgage
6 cancellation life insurance, or group mortgage accident and health
7 insurance and annuities;

8 (2) insurance placed by a financial institution in connection with
9 collateral pledged as security for a loan when the debtor breaches the
10 contractual obligation to provide that insurance; and

11 (3) private mortgage insurance.

12

13 3. The solicitation, negotiation or effectuation of insurance by, or
14 on the premises of, any financial institution shall be conducted only by
15 a person or entity licensed as an insurance producer pursuant to
16 P.L.1987, c.293 (C.17:22A-1 et seq.).

17

18 4. Solicitation for the purchase or sale of insurance by a financial
19 institution shall be conducted only by persons whose responsibilities
20 do not include loan transactions or other transactions involving the
21 extension of credit; except that, in the case of a financial institution
22 location having three or less persons with lending authority,
23 solicitation for the sale of insurance may be conducted by a person
24 with responsibilities for loan transactions or other transactions
25 involving the extension of credit so long as the person primarily
26 responsible for making the specific loan or extension of credit is not
27 the same person engaged in the solicitation for the purchase or sale of
28 insurance for that same transaction.

29

30 5. No person shall require or imply that the purchase of insurance
31 by a customer or prospective customer of a financial institution is
32 required as a condition of, or is in any way related to, receiving any
33 other product or service offered by the financial institution.

34

35 6. a. Notwithstanding any other provision of this section to the
36 contrary, no financial institution may directly or indirectly solicit the
37 purchase of insurance from a customer who has applied for a loan or
38 extension of credit from the institution ¹[within 30 days after] unless¹
39 the customer ¹[receives] has received¹ written commitment, with loan
40 closing requirements outlining all procedures for the closing, from the
41 financial institution with respect to the loan or extension of credit or,
42 if no written commitment has or will be issued in connection with the
43 loan or extension of credit, ¹[within 30 days]¹ after the customer
44 ¹[receives] has received¹ notification of approval of the loan or
45 extension of credit by the financial institution and the financial
46 institution creates a written record of the approval of the loan or

1 extension of credit.

2 b. No financial institution shall offer any inducement, including but
3 not limited to, multi-level marketing programs, investment programs,
4 memberships, or other programs, designed or represented to waive,
5 reduce, pay, produce or provide funds to pay all or any part of the cost
6 of insurance to any customer to purchase insurance from the
7 institution, other than as plainly expressed in the insurance policy.

8

9 7. a. No person shall use confidential customer financial
10 information for the purpose of selling or soliciting the purchase of
11 insurance or provide this information to a third party for the purpose
12 of another's sale or solicitation of the purchase of insurance, unless it
13 is clearly and conspicuously disclosed that the information may be so
14 used and the customer has provided prior written consent to the use
15 for this purpose. Consent pursuant to this section shall be obtained in
16 a separate document, distinct from any other transaction, and shall not
17 be required as a condition for performance of other services for the
18 customer.

19

20 8. If the solicitation, negotiation or effectuation of any insurance
21 policy is conducted on the premises of a financial institution, the area
22 utilized by the licensed producer for that transaction shall be in a
23 location physically distinct from other areas of the financial institution
24 where retail deposits are taken and where the financial institution
25 conducts its lending services. Signs or other means shall be used to
26 distinguish such areas.

27

28 9. a. Any financial institution insured by the Federal Deposit
29 Insurance Corporation ("FDIC"), and any person soliciting the
30 purchase of, or selling insurance on the premises of a financial
31 institution insured by the FDIC, shall prominently disclose in writing,
32 in clear and concise language, to customers, including in any
33 advertisement or promotional material, and orally during any customer
34 contact, that insurance offered, recommended, sponsored, or sold:

35 (1) is not a deposit; and

36 (2) is not insured by the Federal Deposit Insurance Corporation;

37 and

38 (3) is not guaranteed by any insured depository institution; and

39 (4) where appropriate, involves investment risk, including
40 potential loss of principal.

41 b. Any person engaged in the making of loans or other extensions
42 of credit and the sale of insurance shall prominently disclose in writing,
43 in clear and concise language, to customers that the insurance product
44 may be purchased from an agent or broker of the customer's choice,
45 and the customer's choice of another insurance provider will not affect
46 the customer's credit relationship with that person. For purposes of

1 this subsection b., loans and extensions of credit shall not include
2 financing in connection with the insurance product offered or sold.

3 c. Any person required under subsections a. or b. of this section
4 to make disclosures to a customer shall obtain a written
5 acknowledgment of receipt by the customer of those disclosures,
6 including the date of receipt and the customer's name, address, and
7 account number, prior to any application for insurance sold by the
8 person, which acknowledgment shall be in a separate document.

9

10 10. The Commissioner of Banking and Insurance shall promulgate
11 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
12 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of
13 this act.

14

15 11. This act shall take effect immediately.

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20 The "Insurance Sales Consumer Protection Act."