

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1638

STATE OF NEW JERSEY

ADOPTED MARCH 3, 1997

Sponsored by Assemblyman FELICE

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."

9

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, or any
22 finance company, mortgage loan company, insurance agency owned by
23 a financial institution or any other institution, association, partnership,
24 company, corporation, individual or individuals whose principal
25 business is the lending of money or the extension of credit.

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

28 (1) credit life, credit accident and health, credit involuntary
29 unemployment insurance, group credit insurance, group mortgage
30 cancellation life insurance, or group mortgage accident and health
31 insurance and annuities;

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

1 (3) private mortgage insurance.

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

6

7 4. Solicitation for the purchase or sale of insurance by a financial
8 institution shall be conducted only by persons whose responsibilities
9 do not include loan transactions or other transactions involving the
10 extension of credit; except that, in the case of a financial institution
11 location having three or less persons with lending authority,
12 solicitation for the sale of insurance may be conducted by a person
13 with responsibilities for loan transactions or other transactions
14 involving the extension of credit so long as the person primarily
15 responsible for making the specific loan or extension of credit is not
16 the same person engaged in the solicitation for the purchase or sale of
17 insurance for that same transaction.

18

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

23

24 6. a. Notwithstanding any other provision of this section to the
25 contrary, no financial institution may directly or indirectly solicit the
26 purchase of insurance from a customer who has applied for a loan or
27 extension of credit from the institution within 30 days after the
28 customer receives written commitment, with loan closing requirements
29 outlining all procedures for the closing, from the financial institution
30 with respect to the loan or extension of credit or, if no written
31 commitment has or will be issued in connection with the loan or
32 extension of credit, within 30 days after the customer receives
33 notification of approval of the loan or extension of credit by the
34 financial institution and the financial institution creates a written
35 record of the approval of the loan or extension of credit.

36 b. No financial institution shall offer any inducement, including but
37 not limited to, multi-level marketing programs, investment programs,
38 memberships, or other programs, designed or represented to waive,
39 reduce, pay, produce or provide funds to pay all or any part of the cost
40 of insurance to any customer to purchase insurance from the
41 institution, other than as plainly expressed in the insurance policy.

42

43 7. a. No person shall use confidential customer financial
44 information for the purpose of selling or soliciting the purchase of
45 insurance or provide this information to a third party for the purpose
46 of another's sale or solicitation of the purchase of insurance, unless it

1 is clearly and conspicuously disclosed that the information may be so
2 used and the customer has provided prior written consent to the use
3 for this purpose. Consent pursuant to this section shall be obtained in
4 a separate document, distinct from any other transaction, and shall not
5 be required as a condition for performance of other services for the
6 customer.

7

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

15

16 9. a. Any financial institution insured by the Federal Deposit
17 Insurance Corporation ("FDIC"), and any person soliciting the
18 purchase of, or selling insurance on the premises of a financial
19 institution insured by the FDIC, shall prominently disclose in writing,
20 in clear and concise language, to customers, including in any
21 advertisement or promotional material, and orally during any customer
22 contact, that insurance offered, recommended, sponsored, or sold:

23 (1) is not a deposit; and

24 (2) is not insured by the Federal Deposit Insurance Corporation;
25 and

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

27 (4) where appropriate, involves investment risk, including
28 potential loss of principal.

29 b. Any person engaged in the making of loans or other extensions
30 of credit and the sale of insurance shall prominently disclose in writing,
31 in clear and concise language, to customers that the insurance product
32 may be purchased from an agent or broker of the customer's choice,
33 and the customer's choice of another insurance provider will not affect
34 the customer's credit relationship with that person. For purposes of
35 this subsection b., loans and extensions of credit shall not include
36 financing in connection with the insurance product offered or sold.

37 c. Any person required under subsections a. or b. of this section
38 to make disclosures to a customer shall obtain a written
39 acknowledgment of receipt by the customer of those disclosures,
40 including the date of receipt and the customer's name, address, and
41 account number, prior to any application for insurance sold by the
42 person, which acknowledgment shall be in a separate document.

43

44 10. The Commissioner of Banking and Insurance shall promulgate
45 regulations pursuant to the "Administrative Procedure Act," P.L.1968,

1 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of
2 this act.

3

4 11. This act shall take effect immediately.

5

6

7

8

9 The "Insurance Sales Consumer Protection Act."