

IC 27-1-38

Chapter 38. Regulation of Depository Institutions

IC 27-1-38-1

"Affiliate" defined

Sec. 1. As used in this chapter, "affiliate" means a company that controls, is controlled by, or is under common control with another company.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-2

"Customer" defined

Sec. 2. As used in this section, "customer" means an individual who purchases, applies to purchase, or is solicited to purchase insurance primarily for personal, family, or household purposes.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-3

"Depository institution" defined

Sec. 3. As used in this chapter, "depository institution" means a depository financial institution (as defined in IC 28-9-2-6).

As added by P.L.130-2002, SEC.2.

IC 27-1-38-4

"Insurance producer" defined

Sec. 4. As used in this section, "insurance producer" has the meaning set forth in IC 27-1-15.6-2.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-5

"Person that sells, solicits, advertises, or offers insurance on behalf of a depository institution" defined

Sec. 5. As used in this chapter, "person that sells, solicits, advertises, or offers insurance on behalf of a depository institution" means a person to which one (1) of the following applies:

- (1) The person represents to a customer that the sale, solicitation, advertisement, or offer of insurance is by or on behalf of the depository institution.
- (2) The depository institution:
 - (A) refers a customer to the person; and
 - (B) has a contractual arrangement with the person to receive commissions or fees on sales of insurance that result from referrals to the person.
- (3) Documents that provide evidence of the sale, solicitation, advertisement, or offer of insurance identify or refer to the depository institution.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-6

Application of chapter

Sec. 6. This chapter does not apply to credit insurance.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-7

Prohibited activities of a depository institution of an affiliate of a depository institution

Sec. 7. A depository institution or an affiliate of a depository institution may not do the following:

(1) As a condition precedent to a loan of money, an extension of credit, or the renewal of a loan of money or an extension of credit, require a customer to:

(A) purchase; or

(B) renew;

insurance through a particular insurer, insurance producer, broker, or group of insurers or insurance producers.

(2) When insurance is required in connection with a loan of money or an extension of credit, reject an insurance policy solely because the insurance policy was issued by an insurer that is not associated with the depository institution or an affiliate of the depository institution.

(3) As a condition precedent to an extension of credit or an offer of a product or service that is equivalent to an extension of credit, require a customer to obtain insurance from a particular depository institution, affiliate of a depository institution, insurance producer, or insurer. This subdivision does not prohibit a depository institution or an affiliate of a depository institution from informing a customer or prospective customer that:

(A) insurance is required for a loan of money or an extension of credit;

(B) approval for a loan of money or an extension of credit is contingent upon the purchase of insurance; or

(C) insurance is available through the depository institution or affiliate.

(4) Unreasonably reject an insurance policy that is furnished by a customer for the protection of property that secures a loan of money or an extension of credit to the customer. For purposes of this subdivision, a rejection is not unreasonable if the rejection is based on uniformly applied reasonable standards that:

(A) relate to the extent of insurance required;

(B) relate to the financial soundness and services of the insurer issuing the insurance policy;

(C) do not discriminate against a particular kind of insurer; and

(D) do not require rejection of an insurance policy because

the insurance policy provides coverage in addition to the coverage required for the loan of money or extension of credit.

(5) Require a person to pay a separate charge:

(A) in connection with the issuance of insurance that is required as surety for a loan of money for real estate; or

(B) to substitute insurance issued by one (1) insurer for an insurance policy issued by another insurer.

For purposes of this subdivision, a separate charge does not include interest charged on loans of money or advancements for premiums under the terms of a loan agreement or credit agreement. This subdivision does not apply to charges that apply when the insurance producer that provides the insurance is the depository institution or the affiliate of a depository institution.

(6) Require of an:

(A) insurance producer; or

(B) insurer;

a condition that is not customarily required of an insurance producer or insurer that is connected with the depository institution or the affiliate of a depository institution.

(7) Use advertising or insurance promotional material that would cause a reasonable person to incorrectly believe that the federal or state government:

(A) is responsible for the insurance sales activity; or

(B) guarantees the credit;

of the depository institution or the affiliate of a depository institution.

(8) Use advertising or insurance promotional material that would cause a reasonable person to incorrectly believe that the federal or state government:

(A) guarantees a return on an insurance product sold by; or

(B) is a source of payment on an insurance obligation of;

the depository institution or the affiliate of a depository institution.

(9) Act as an insurance producer, unless the depository institution or the affiliate of a depository institution is licensed under IC 27-1-15.6.

(10) Solicit or sell insurance, other than credit insurance or flood insurance, unless the solicitation or sale is completed through documents separate from a loan of money or an extension of credit.

(11) Include the expense of an insurance premium, other than a credit insurance premium or a flood insurance premium, in a primary loan of money or extension of credit without the express written consent of the customer.

(12) Solicit or sell insurance, unless the area in which insurance sales activities of the depository institution or affiliate occur is,

to the extent practicable, physically separate from the area where retail deposits are routinely accepted by the depository institution or affiliate.

(13) Solicit or sell insurance, unless the depository institution or the affiliate of a depository institution maintains separate books and records that relate to insurance transactions, including files related to consumer complaints.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-8

Required disclosure concerning insurance related to a loan or a credit extension

Sec. 8. (a) A depository institution or the affiliate of a depository institution that:

- (1) lends money or extends credit; and
- (2) solicits insurance primarily for personal, family, or household purposes;

shall disclose in writing to a customer that the insurance related to the loan or credit extension may be purchased from an insurer or insurance producer chosen by the customer, subject only to the ability of the depository institution or affiliate to reasonably reject an insurer or insurance producer as described in section 7(4) of this chapter.

(b) A disclosure under subsection (a) must inform the customer that the customer's choice of insurer or insurance producer does not affect:

- (1) the decision of the depository institution or the affiliate of a depository institution regarding the loan or credit extension;
- or
- (2) the terms of the loan or credit extension;

except that the depository institution or the affiliate of a depository institution may impose reasonable requirements concerning the creditworthiness of the insurer and the scope of insurance coverage chosen, as described in section 7(4) of this chapter.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-9

Required disclosures before sale of insurance

Sec. 9. (a) This section applies as follows:

- (1) To an affiliate of a depository institution only to the extent that the affiliate sells, solicits, advertises, or offers insurance at the office of a depository institution or on behalf of a depository institution.
- (2) To the:
 - (A) sale of;
 - (B) solicitation for; or
 - (C) application for;

insurance by an individual primarily for personal, family, or

household purposes and only to the extent that a disclosure is accurate.

(b) A depository institution or an affiliate of a depository institution that solicits, sells, advertises, or offers insurance, and a person that sells, solicits, advertises, or offers insurance on behalf of a depository institution, shall disclose to a customer, in writing where practicable, in a clear and conspicuous manner, and before a sale of insurance, that the insurance:

- (1) is not a deposit;
- (2) is not insured by the Federal Deposit Insurance Corporation or another federal government agency;
- (3) is not guaranteed by the depository institution, the affiliate of a depository institution, or the person that sells, solicits, advertises, or offers insurance on behalf of a depository institution; and
- (4) involves investment risk including possible loss of value, if appropriate.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-10

Acknowledgment of receipt of required disclosure

Sec. 10. (a) A depository institution that solicits, sells, advertises, or offers insurance, a depository institution's affiliate that solicits, sells, advertises, or offers insurance, or a person that sells, solicits, advertises, or offers insurance on behalf of a depository institution shall obtain from a customer to whom a disclosure is made under section 9 of this chapter a written acknowledgment of receipt of the disclosure:

- (1) when the customer receives the disclosure; or
- (2) at the time of the initial purchase of the insurance.

(b) If a solicitation for insurance is conducted by telephone, the depository institution, the affiliate of a depository institution, or the person that sells, solicits, advertises, or offers insurance on behalf of a depository institution shall:

- (1) obtain an oral acknowledgment of receipt of the disclosure;
- (2) maintain documentation to show that the acknowledgment was given by the customer; and
- (3) make reasonable efforts to obtain a written acknowledgment from the customer.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-11

Requirements for electronic disclosure

Sec. 11. If:

- (1) a customer consents to receive the disclosure required under section 8 of this chapter electronically; and
- (2) the disclosure is provided to the customer in a format that the customer may retain or obtain at a later time;

the depository institution, the affiliate of a depository institution, or the person that sells, solicits, advertises, or offers insurance on behalf of a depository institution may provide the disclosure electronically and may obtain from the customer acknowledgment of receipt of the disclosure electronically.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-12

Commissioner examination and investigation

Sec. 12. (a) The commissioner may examine and investigate the insurance activities of a person that the commissioner believes to be in violation of this chapter. A person examined or investigated under this section shall, upon reasonable notice from the commissioner, make the insurance related books and records of the person available to the commissioner.

(b) In the case of an examination or investigation of a depository institution under subsection (a), the commissioner shall, before performing the examination or investigation:

- (1) notify the federal or state banking agency that regulates the depository institution that the commissioner intends to examine or investigate the depository institution; and
- (2) advise the federal or state banking agency of the depository institution's suspected violation of this section.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-13

Allowed activities

Sec. 13. This chapter does not prevent a depository institution or an affiliate of a depository institution that lends money or extends credit from placing insurance on real or personal property if a customer fails to provide insurance that is required under terms of a loan agreement or credit agreement.

As added by P.L.130-2002, SEC.2.

IC 27-1-38-14

Violation of chapter

Sec. 14. A person that violates this chapter commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

As added by P.L.130-2002, SEC.2.