

304.9-135 Requirements for financial institutions engaging in insurance agency activities -- Administrative regulations -- Activities of officers or employees of financial institution.

- (1) As used in this section:
 - (a) "Financial institution" means a bank or bank holding company as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. sec. 1841, a savings bank, savings and loan association, trust company, or any depository institution as defined by the Federal Deposit Insurance Act in 12 U.S.C. sec. 1813(c)(1), and any other individual, corporation, partnership, or association authorized to take deposits and make loans in the Commonwealth, and any affiliate or subsidiary of any of the above;
 - (b) "Insurance agency activities" means any activity relating to insurance other than title insurance, for which a license as agent, reinsurance intermediary broker or manager, specialty credit producer or managing employee, surplus lines broker, or consultant is required under this chapter; and
 - (c) "Insurance information" means any information concerning premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and claims maintained in the records of the financial institution or affiliate.
- (2) A financial institution authorized by law to engage in insurance agency activities in this state shall, in addition to any other applicable requirements, comply with the following requirements:
 - (a) The financial institution or officer, agent, representative, or employee thereof shall qualify for licensure under all applicable provisions of this chapter and abide by all applicable provisions of this chapter and applicable administrative regulations;
 - (b) A financial institution shall provide a written statement to a consumer regarding the consumer's free choice of agent and insurer according to KRS 304.12-150, when the consumer's application for a loan or other extension of credit from the financial institution is pending and when insurance is offered to the consumer, sold to the consumer, or required in connection with the loan or extension of credit by the financial institution or affiliate;
 - (c) A financial institution shall not release a consumer's insurance information to any person or entity for the solicitation or selling of insurance, other than an officer, director, employee, agent, or affiliate of a financial institution, without prior disclosure to the consumer and the opportunity for the consumer to prevent the disclosure;
 - (d) A financial institution shall not release or use health information obtained from the insurance records of a consumer for any purpose, other than activities of a licensed agent, administrator, reinsurance intermediary broker or manager, specialty credit producer or managing employee, surplus lines broker, or consultant, without the written consent of the consumer;
 - (e) A financial institution licensed by the department to engage in insurance agency activities shall:

1. Not violate the anti-tying provisions of the Bank Holding Company Act, 12 U.S.C. secs. 1971 et seq., in effect as of December 31, 1997; and
 2. Notify the department in writing within ten (10) days of any final judgment or any final administrative action, by a federal agency authorized to enforce the anti-tying provision, that finds that the financial institution or any of its employees committed a violation of the Bank Holding Company Act. Any such final and unappealable judgment or final and unappealable administrative action shall be deemed a violation of this chapter;
- (f) Prior to the sale of any policy of insurance to a consumer, a financial institution shall, when practicable, provide to the consumer a written statement that:
1. The insurance offered by the financial institution is not a deposit;
 2. The insurance offered by the financial institution is not insured by the Federal Deposit Insurance Corporation or other government agency that insures deposits;
 3. The insurance offered by the financial institution is not guaranteed by the financial institution or any affiliate;
 4. The insurance may involve investment risk, including potential loss of principal; and
- (g) The commissioner shall promulgate administrative regulations in accordance with KRS Chapter 13A that specify the disclosure forms required by subsections (b), (c), and (f) of this section.
- (3) An officer or employee of a financial institution shall not directly or indirectly delay or impede the completion of a loan transaction or any other transaction with a financial institution for the purpose of influencing a consumer's selection or purchase of any insurance.
- (4) A financial institution shall not use any advertisement or promotional material causing a reasonable person to mistakenly believe that:
- (a) The federal government or any state guarantees the insurance sales activities of financial institutions or guarantees the credit of the financial institution; or
 - (b) Any state or federal government guarantees any return on insurance products or is a source of payment on any insurance product sold by the financial institution.
- (5) A financial institution shall use separate documentation for all credit and insurance transactions when a consumer obtains insurance and credit, other than credit insurance, from a financial institution or any individual or business entity soliciting or selling insurance on the premises of a financial institution.
- (6) A financial institution shall not include an expense of insurance premiums in a credit transaction when a consumer obtains insurance and credit, other than credit insurance, from a financial institution or any individual or business entity soliciting or selling insurance on the premises of a financial institution, without the written consent of the consumer.

- (7) A financial institution shall maintain separate and distinct books and records relating to insurance transactions conducted through the financial institution, including files relating to consumer complaints. The books, records, and files shall be made available to the commissioner for inspection in accordance with KRS 304.2-220.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1052, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 273, sec. 17, effective July 15, 2002. -- Created 1998 Ky. Acts ch. 312, sec. 2, effective July 15, 1998.