



Ohio Revised Code

Section 3901.211 Lending of money, extension of credit - prohibited acts.

Effective: April 27, 2005

Legislation: House Bill 425 - 125th General Assembly

(A)(1) No person may require as a condition precedent to the lending of money or the extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation a creditor is to acquire or finance, negotiate any policy or renewal thereof through a particular insurer or group of insurers or agent or group of agents.

(2) No person may reject an insurance policy solely because the policy has been issued or underwritten by a person that is not associated with the person, or an affiliate of the person, rejecting the policy.

(B) No person that lends money or extends credit may do any of the following:

(1) As a condition for extending credit or offering any product or service that is equivalent to an extension of credit, require that a customer obtain insurance from a depository institution or an affiliate of a depository institution, or from a particular insurer, agent, or other person. However, this provision does not prohibit a person from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the person or an affiliate of that person.

(2) Unreasonably reject a policy furnished by the customer or borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied. Such standards may include, but are not limited to, standards relating to the extent of coverage required and the financial soundness and services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the rejection of a policy because it contains coverage in addition to that required in the credit transaction.

(3) Require that any customer, borrower, mortgagor, purchaser, insurer, broker, or agent pay a



separate charge in connection with the handling of any policy required as security for a loan on real estate or pay a separate charge to substitute the policy of one insurer for that of another. Division (B)(3) of this section does not apply to the interest that may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document. Division (B)(3) of this section does not apply to required charges when the person or an affiliate of that person is the licensed agent providing the insurance.

(4) Require any procedures or conditions of duly licensed agents or insurers not customarily required of the agents or insurers affiliated, or in any way connected, with the person that lends money or extends credit;

(5) Use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that the federal government or the state is responsible for the insurance sales activity of, or stands behind the credit of, the person, depository institution, or an affiliate of the person or depository institution;

(6) Use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that the federal government or the state guarantees any return on insurance products or is a source of payment on any insurance obligation of or sold by the person or an affiliate of the person;

(7) Pay or receive any commission, brokerage fee, or other compensation as an agent, unless the person holds a valid agent's license for the applicable class of insurance. However, an unlicensed person may make a referral to a licensed agent, provided that the person does not discuss specific insurance policy terms and conditions. The unlicensed person may be compensated for the referral; however, in the case of a referral of a customer, the unlicensed person may be compensated only if the compensation is a fixed dollar amount for each referral that does not depend on whether the customer purchases the insurance product from the licensed agent. Further, any person that accepts deposits from the public in an area where such transactions are routinely conducted in the depository institution may receive for each customer referral no more than a one-time, nominal fee of a fixed dollar amount that does not depend on whether the referral results in a transaction.

(8) Solicit or sell insurance, other than credit insurance or flood insurance, unless the solicitation or



sale is completed through documents separate from any credit transactions;

(9) Include the expense of insurance premiums, other than credit insurance premiums or flood insurance premiums, in the primary credit transaction without the express written consent of the customer;

(10) As a condition of financing a residential mortgage or providing other financing arrangements for residential property, including a mobile or manufactured home, require a mortgagor or borrower to purchase homeowners insurance coverage or other residential property insurance coverage in an amount that exceeds the replacement value of the dwelling and its contents, regardless of the amount of mortgage or other financing arrangement entered into by the mortgagor or borrower. The fair market value of the land on which the dwelling is located shall not be included in the replacement value of the dwelling and its contents.

(C)(1) If an application for a loan or extension of credit is pending before a person that lends money or extends credit and that also solicits insurance primarily for personal, family, or household purposes in connection with that loan or extension of credit, that person shall disclose to the customer, in writing, that the insurance related to the credit extension may be purchased from an insurer or agent of the customer's choice, subject only to the lender's right to reject a given insurer or agent as provided in division (B)(2) of this section. Further, the disclosure shall inform the customer that the customer's choice of an insurer or agent will not affect the credit decision or credit terms in any way, except that the person lending money or extending credit may impose reasonable requirements as provided in division (B)(2) of this section.

(2) If an application for a loan or extension of credit is pending before a person that lends money or extends credit and that also solicits insurance primarily for personal, family, or household purposes in connection with that loan or extension of credit, that person shall obtain a written acknowledgement of the receipt of the disclosure at the time the customer receives the disclosure or at the time of the initial purchase of the insurance policy. If the solicitation is conducted by telephone, the person shall obtain an oral acknowledgement of receipt of the disclosure, maintain sufficient documentation to show that the acknowledgement was given by the customer, and make reasonable efforts to obtain a written acknowledgement from the customer. If a customer affirmatively consents to receiving the disclosures electronically and the disclosures are provided in



a format that the customer may retain or obtain later, the person may provide the disclosure and obtain acknowledgement of the receipt of the disclosure from the customer using electronic media.

(3) This division does not apply to the offering or sale of limited line credit insurance as defined in section 3905.01 of the Revised Code.

(D)(1) A depository institution that solicits, sells, advertises, or offers insurance, and any person that solicits, sells, advertises, or offers insurance on behalf of a depository institution or on the premises of a depository institution, shall disclose to the customer in writing, where practicable and in a clear and conspicuous manner, prior to a sale, that the insurance:

(a) Is not a deposit;

(b) Is not insured by the federal deposit insurance corporation or any other federal government agency;

(c) Is not guaranteed by the depository institution, and, when applicable, that the insurance is not guaranteed by an affiliate of the depository institution or by any person that is soliciting, selling, advertising, or offering insurance;

(d) Involves investment risk including the possible loss of value, where this disclosure is appropriate.

(2) A depository institution that solicits, sells, advertises, or offers insurance, and any person that solicits, sells, advertises, or offers insurance on behalf of a depository institution or on the premises of a depository institution, shall obtain written acknowledgement of the receipt of the disclosure from the customer at the time the customer receives the disclosure or at the time of the initial purchase of the insurance policy. If the solicitation is conducted by telephone, the person or depository institution shall obtain an oral acknowledgement of receipt of the disclosure, maintain sufficient documentation to show that the acknowledgement was given by the customer, and make reasonable efforts to obtain a written acknowledgement from the customer. If a customer affirmatively consents to receiving the disclosures electronically and the disclosures are provided in a format that the customer may retain or obtain later, the person or depository institution may provide the disclosure and obtain acknowledgement of the receipt of the disclosure from the



customer using electronic media.

(3) For purposes of divisions (D)(1) and (2) of this section, an affiliate of a depository institution is subject to these requirements only to the extent that it sells, solicits, advertises, or offers insurance products or annuities at an office of a depository institution or on behalf of a depository institution. These requirements apply only when an individual purchases, applies to purchase, or is solicited to purchase insurance products or annuities primarily for personal, family, or household purposes and only to the extent that a disclosure would be accurate.

(4) For purposes of division (D)(1) of this section, a person is selling, soliciting, advertising, or offering insurance on behalf of a depository institution, whether at an office of the depository institution or another location, if at least one of the following applies:

(a) The person represents to the customer that the sale, solicitation, advertisement, or offer of insurance is by or on behalf of the depository institution;

(b) The depository institution refers a customer to the person that sells insurance and the depository institution has a contractual arrangement to receive commissions or fees derived from the sale of insurance resulting from the referral;

(c) Documents evidencing the sale, solicitation, advertisement, or offer of insurance identify or refer to the depository institution.

(E) Nothing in this section shall prevent a person that lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(F)(1) A violation of this section is an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

(2) Any person subject to this section shall, upon reasonable notice, make available to the superintendent of insurance all books and records relating to insurance transactions.