

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 2070

4
5 By: Representatives Newman and Miller

For An Act To Be Entitled

9 "AN ACT TO BE KNOWN AS THE INSURANCE SALES CONSUMER
10 PROTECTION ACT ; AND FOR OTHER PURPOSES."

Subtitle

13 "AN ACT TO BE KNOWN AS THE INSURANCE
14 SALES CONSUMER PROTECTION ACT ."

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Short Title.

19 This act may be cited as the Insurance Sales Consumer Protection Act.

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21 SECTION 2. Purpose.

22 The purpose of this act is to regulate the business of insurance and
23 protect the interests of insurance consumers.

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25 SECTION 3. Definitions. For the purpose of this act:

26 (a) The terms "lending institution, subsidiary and affiliate" shall
27 have the meanings ascribed to them in Arkansas Code 23-64-203(b)(4).

28 (b) Insurance means all products defined or regulated as insurance
29 pursuant to Arkansas Code 23-60-101, et seq., except:

30 (i) credit life, credit accident and health credit property,
31 credit casualty, credit involuntary unemployment, mortgagors decreasing term
32 life, and mortgagors accident and health and sickness insurance;

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

36 (iii) private mortgage insurance.

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SECTION 4. Insurance in connection with a loan.

(a) The following shall apply when insurance is required as a condition of obtaining a loan or extension of credit.

(1) Solicitation for the purchase or sale of insurance shall be conducted only by individuals who are not primarily responsible for making a loan or extension of credit when such insurance solicitation is in connection with such specific loan or extension of credit;

(2) The loan or extension of credit and related insurance transactions shall be completed independently and through separate documentation; and

(3) A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.

(b) Nothing in this act or Arkansas Code 23-60-101, et seq., shall be construed to prohibit lending institution personnel from informing customers that insurance is required in order to obtain a loan or extension of credit or that loan or extension of credit approval is contingent upon the customer obtaining acceptable insurance. Lending institution personnel may also inform customers that insurance is available from the lending institution, its subsidiary, an affiliate, or particular unaffiliated third parties, and indicate how to obtain additional information.

SECTION 5. Lending institution sales practices.

(a) The following requirements shall apply to insurance sales activities conducted by lending institutions, their employees, subsidiaries, affiliates, and unaffiliated third-parties conducting such insurance sales activities (i) on behalf of a lending institution which involves the use of a lending institution brand name or (ii) on lending institution premises:

(1)(A) Disclosures. The following disclosures are required with respect to the solicitation of life insurance and annuities and shall be made during the initial customer contact, including communication by telephone or other electronic means:

(i) That an insurance product is not FDIC insured;

(ii) That an insurance product is not a deposit or obligation of the lending institution;

(iii) Where appropriate, that certain insurance

1 products involve investment risks, including the possible loss of principal.

2 (B) For related credit and insurance transactions, the
 3 following disclosures shall be made in writing and signed by the customer, at
 4 or prior to the closing of the insurance sale, acknowledging that the customer
 5 has received, has read, and understands that:

6 (i) The customer need not purchase insurance from the
 7 lending institution, its subsidiary, an affiliate, or any particular
 8 unaffiliated third party;

9 (ii) The insurance is available through other
 10 licensed brokers or agents; and

11 (2) Physical location of insurance activities. Insurance sales
 12 activities on lending institution premises shall be conducted in a manner so
 13 as to minimize customer confusion by:

14 (A) Conducting such activities to the extent practicable in
 15 a location separate and distinct from the area where retail deposit, loan
 16 making or extension of credit activities occur; and

17 (B) Identifying the area where insurance activities are
 18 conducted with appropriate signage as to be easily distinguishable by the
 19 public as separate and distinct from deposit and lending activities of the
 20 lending institution.

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22 SECTION 6. Customer privacy.

23 (1) No person shall utilize nonpublic customer information in
 24 connection with the solicitation or sale of insurance products to individuals,
 25 unless it is clearly disclosed to the individual that the nonpublic customer
 26 information may be so utilized. Provided, however, when such disclosure is
 27 made to an individual, the individual must also be instructed how and given
 28 the opportunity to indicate that he or she does not want such nonpublic
 29 customer information disclosed or utilized for the marketing of insurance.

30 (2) For purposes of this subsection, "nonpublic customer information"
 31 means information regarding an individual that has been derived from the
 32 record of a lending institution relating to its operation other than insurance
 33 activities; provided, however, that "nonpublic customer information" shall not
 34 include information regarding an individual that may be obtained by lending
 35 institutions or shared with their affiliates or unaffiliated third parties
 36 subject to the provisions of the Fair Credit Reporting Act.

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SECTION 7. Exemption.

The provisions of Section 5 of this act shall not apply to or affect in any way a broker-dealer licensed by the State of Arkansas when such broker-dealer is conducting insurance sales activities on premises other than lending institution premises.

SECTION 8. Authorization to promulgate regulations.

The Commissioner may promulgate regulations to effectuate the purposes of this act.

SECTION 9. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 12. EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that this act is necessary to regulate the business of insurance and to protect the interests of insurance consumers; and that for the effective administration of the law this act should become effective on July 1, 1997. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.