

Part 1 Chapter 23: (98-3) Guidelines for Sale of Insurance by Financial Institutions in the State of Mississippi.

Rule 23.01: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by *Miss. Code Ann.* §§ 25-43-1 *et seq.*, 83-5-1 and 83-17-211, and is promulgated in accordance with Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Department of Insurance.

Source: *Miss. Code Ann.* § 25-43-1 *et seq.*; § 83-5-1 and § 83-17-211 (Rev. 2011)

Rule 23.02: Purpose

The purpose of this regulation is to provide guidelines under which financial institutions may sell insurance in the State of Mississippi and to protect the interests of the insurance policyholders of this state.

Source: *Miss. Code Ann.* § 83-5-1 (Rev. 2011)

Rule 23.03: Definitions

- A. "Financial institution" shall mean a bank, savings bank, savings and loan association, trust company, credit union or any depository institution as defined by the Federal Deposit Insurance Act, and any other individual, corporation, partnership or association engaged in the taking or brokering of deposits or in the making or brokering of loans in this state. The term "financial institution" shall also include any person, including an insurance company that is soliciting the sale or purchase of insurance recommended or sponsored by, on the premises of, or in connection with a product offering of, a financial institution, regardless of whether the financial institution is located in the state. Except as otherwise set forth in this Section 3(A), the term "financial institution" does not include an insurance company.
- B. The term "insurance" includes all products defined or regulated as insurance by Title 83, Mississippi Code of 1972, except:
 1. Credit property as defined in *Miss. Code Ann.* § 83-17-1, credit life, accident and health; credit involuntary unemployment insurance, mortgage life; and mortgage accident and health;

2. Insurance placed by a financial institution in connection with collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance;
 3. Private mortgage insurance;
 4. Land Title; and
 5. Travel Accident and Baggage.
- C. The term "loan" means an agreement to lend money or to finance goods or services. The term "loan" does not include the financing of insurance premiums, loans made by broker-dealers registered in accordance with applicable State and Federal securities laws that are wholly collateralized by securities, or a loan from the cash value of an insurance policy.
- D. The terms "agent" and "agency" shall include all persons or entities as defined by Title 83, Mississippi Code of 1972.
- E. The term "person" shall include any natural person, partnership, corporation, association, unincorporated organization, or other form of business enterprise, plural or singular, as the case demands.

Source: Miss. Code Ann. § 83-17-1 (Rev. 2011)

Rule 23.04: Regulatory Authority

All financial institutions that are authorized to engage in the solicitation and sale of insurance products are subject to the insurance laws of the State of Mississippi and all other regulations of the Mississippi Department of Insurance and other applicable provisions of law.

Source: Miss. Code Ann. § 83-5-1; § 83-17-15 (Rev. 2011)

Rule 23.05: Licensure Requirement

Solicitation for the purchase or sale of any insurance products shall be conducted only by persons or entities who have complied with all applicable state insurance licensing, appointment laws and regulations and who have been issued an agent or broker's license pursuant to Miss. Code Ann. § 83-17-1, et seq. However, employees of financial institutions who are not licensed as an agent or broker may make referrals of financial institution customers or prospects to licensed agents and receive a one-time nominal fee per referral of a fixed dollar amount for each customer consistent to referral fees received in other non-deposit investment products. The term "nominal fee" means an amount not to exceed Twenty Dollars (\$20.00). The payment of this

referral fee cannot depend on whether the referral results in the sale or issuance of an insurance product or service.

Source: Miss. Code Ann. § 83-17-19; § 83-17-25 (Rev. 2011)

Rule 23.06: Separate Transactions, Records and Documents

It is strongly recommended that insurance sales activities be conducted through separate divisions or subsidiaries. However, whether the financial institution obtains an agency license or operates through a subsidiary, division or affiliated agency, separate records must be maintained for all insurance transactions distinct from any other activities in connection with a loan or other credit transaction. These records shall be made available to the Mississippi Department of Insurance for inspection. The credit and insurance transactions must be completed separately and through separate documents.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.07: Extensions of Credit

No person shall delay or impede the completion of a loan transaction or other transactions involving the extension of credit for the purpose of influencing a customer to purchase insurance from them or through any affiliated entity.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.08: Insurance and Financial Institution Products

- A. No person may offer banking products or services, or fix or vary the consideration of the offer, on a condition or requirement that the customer obtain insurance from the financial institution or any affiliate of the financial institution.
- B. A financial institution that offers banking products or services in conformity with the provisions of 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972), shall be deemed to be in compliance with the provisions of subsection (A) of this section.
- C. No person shall require that a customer or prospective customer purchase an insurance product from any particular insurance agent as a condition for the lending of money or extension of credit, the establishment or maintenance of a checking, savings, or other

deposit account, the establishment or maintenance of a trust account, or the provision of services related to any such activities.

- D. No person may offer an insurance product in combination with banking products unless the insurance products and banking products are available separately.
- E. No person may include the expense of insurance premiums in the primary credit transaction without the express written consent of the customer.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.09: Rebating and Discounting

- A. No person may offer a rebate on an insurance product in violation of *Miss. Code Ann. § 83-3-121 (Rev. 1991)*.
- B. No person may offer a discount on a loan or extension of credit for the purpose of inducing the customer to purchase insurance required in connection with the loan or extension of credit.

Source: Miss. Code Ann. § 83-3-121 (Rev. 2011)

Rule 23.10: Discrimination

No financial institution may:

- A. Require as a condition of providing any product or service or renewal of any contract for providing a product or service to any customer, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer or insurance agent.
- B. In connection with a loan or extension of credit that requires a borrower to obtain insurance, reject an insurance policy solely because the policy has been issued or underwritten by any person who is not associated with a particular entity;
- C. Impose any requirement or additional charge for any insurance purchased from an agent who is not associated with a financial institution that is not imposed on any insurance agent who is associated with the financial institution.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.11: Disclosure

- A. A financial institution shall prominently disclose in writing, in clear and concise language, to customers, including in any advertisement or promotional material, and orally during any customer contact, that the insurance product offered, recommended, sponsored, or sold:
1. Is not a deposit;
 2. Is not insured by the Federal Deposit Insurance Corporation, or in the case of a credit union, by the National Credit Union Share Insurance Fund;
 3. Is not guaranteed by the insured financial institution or an affiliated insured depository institution; and
 4. Where appropriate, involves investment risk, including potential loss of principal.
- B. Any financial institution that requires a customer to obtain insurance in connection with a loan or other extension of credit and that offers insurance either directly or through an affiliate shall clearly disclose to the customer their choice of insurance provider will not affect the decision of the financial institution in extending credit to the customer.
- C. Any person required under subsections (A) or (B) of this section to make disclosures to a customer shall obtain a written acknowledgement of receipt by the customer of such disclosures, including the date of receipt and the customer's name and address, prior to or at the time of the execution of any application for insurance sold by the person. Such acknowledgement shall be in a separately executed document or in a separately signed section of the application for insurance. The acknowledgement required by this paragraph shall not be required if an executed application for insurance or other document by which the customer applies for insurance is not submitted in writing or is not executed by the customer.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.12: Misleading Advertising

No person may employ any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the State of Mississippi or the federal government is responsible for the insurance sales activities of the financial institution or stands behind the financial institution's credit, or that the financial institution, the State of Mississippi, or the federal government guarantees any returns on insurance products or is a source of payment of any insurance obligation of or sold by the financial institution.

Source: Miss. Code Ann. § 83-49-19 (Rev. 2011)

Rule 23.13: Commissions and Compensation

No person shall pay directly or indirectly, any commission, service fee, brokerage or other valuable consideration to any person for services as an insurance agent, unless the person performing the service holds a valid license for the class of insurance as to which the service is rendered. No person or agency shall accept any commission, service fee, brokerage or other valuable consideration for such services unless properly licensed in accordance with the Mississippi Department of Insurance. However, referral fees as provided in Section 5 are authorized.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.14: Confidential Customer Information

- A. A financial institution may not release a customer's insurance information to any person other than an officer, director, employee, agent, or affiliate of the financial institution without the written consent of the customer. For the purposes of this Section, "insurance information" means information concerning the premiums, terms and conditions of insurance coverage, insurance claims, and the insurance history of a customer contained in the financial institution's records.
- B. Subsection (A) of this section shall not apply to:
 - 1. Names, addresses and telephone numbers derived in any manner from the financial institution's records; or
 - 2. The release of insurance information as otherwise authorized or prohibited by State or federal law.
- C. A financial institution shall not require premium information when requiring evidence of insurance in connection with a loan or extension of credit and shall not use such premium information for the purpose of soliciting insurance without the written consent of the customer.
- D. A financial institution may not use health information obtained from a customer's insurance records for any purpose other than for its own activities pursuant to this Code.

Source: Miss. Code Ann. § 83-6-29 (Rev. 2011)

Rule 23.15: Severability

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

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 23.16: Effective Date

This regulation shall become effective March 31, 1999.

Source: Miss. Code Ann. § 25-43-3.106 (Rev. 2010)