

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 90

**IMPLEMENTATION OF THE FINANCIAL INSTITUTION INSURANCE
SALES ACT**

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Section 1 Statutory Authority

This regulation (the "Regulation") is promulgated by the Department of Business Regulation (the "Department"), Insurance Division ("Division") pursuant to R.I. Gen. Laws §§ 27-58-4 and 42-14-17 to implement the Financial Institution Insurance Sales Act which was enacted on August 7, 1996 (the "Act"), and to ensure the soundness of the banking and insurance businesses. Unless otherwise specified, all statutory references herein are to the Rhode Island General Laws, as they may be amended from time to time.

Section 2 Definitions

Unless otherwise defined in the Act, for purposes of the Act and this Regulation, the following terms shall have the following meanings:

- (a) "Affiliate" shall mean any Company that controls, is controlled by, or is under common control with another Company.
- (b) "Commissioner" shall mean the Insurance Commissioner of the State of Rhode Island.
- (c) "Company" shall include any corporation, partnership, business trust, association or similar organization or entity, however formed.

- (d) A Company has "control" if (1) the Company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote twenty-five percent (25%) or more of any class of voting securities of another entity, (2) the Company controls in any manner the election of a majority of the directors or trustees of another entity; or (3) the Department determines, after notice and opportunity for hearing, that the Company directly or indirectly exercises a controlling influence over the management or policies of another entity.
- (e) "Department" shall mean the Department of Business Regulation.
- (f) "Financial Institution" shall have the meaning given to it in R.I. Gen. Laws § 27-58-3, and shall also include the meaning given to it in R.I. Gen. Laws § 19-1-1.
- (g) "Insurance" shall have the meaning given to it in R.I. Gen. Laws § 27-58-3, except that for purposes of the Act and this Regulation it shall not include insurance on property, which insurance is offered as security for a loan or extension of credit, the benefit of which may be used to pay the outstanding balance of such loan or extension of credit in the event such property is damaged or destroyed, commonly known as "credit property insurances."
- (h) "Insurance Producer" shall have the meaning given to it in R.I. Gen. Laws § 27-2.3-2(5).
- (i) "Insurance Transaction" shall mean a contractual relationship wherein a Financial Institution delivers or renews an Insurance policy on behalf of an insurance company for which the Financial Institution is authorized to act as an Insurance Producer. The term does not include a transaction in which the act of the Financial Institution is an incidental component of the transaction, such as when the Financial Institution is named as a "loss payee" or "mortgagee" or in which the Financial Institution requires insurance as collateral for a loan or extension of credit.
- (j) "Physical Separation" shall mean any distinctive manner of separation from the deposit gathering or lending area of a Financial Institution (including, for example, but not limited to a separate building or walls, doors or dividers within an area of the same building) which provides a separation which will minimize the likelihood of confusion on the part of the customers of the Financial Institution and would cause a reasonable customer to believe that the business being conducted at that physically separate location is a different business activity. In locations with only a single multi-purpose meeting room, the Financial Institution may satisfy the intent of the Act by clearly communicating to the customer the purpose

for which the room is being used. In no circumstances shall the room be used for the taking of federally-insured deposits.

- (k) "Solicit" shall mean the act of Solicitation.
- (l) "Solicitation" shall mean a negotiation, effectuation, procurement, delivery, renewal, continuation or binding of or otherwise offering Insurance. The term does not include a referral to another employee of the Financial Institution or a reference to written materials such as pamphlets, brochures or business cards. The term also excludes discussions relating to Insurance made by an employee of the trust department of a Financial Institution while engaged in the business of providing estate planning or trust services.
- (m) "Subsidiary" shall mean, with respect to a Company, (1) any Company twenty-five percent (25%) or more of whose voting shares is directly or indirectly owned or controlled by such Company, or is held by it with power to vote; (2) any Company the election of a majority of whose directors is controlled in any manner by such Company; or (3) any Company with respect to the management or policies of which such Company has the power, directly or indirectly, to exercise a controlling influence, as determined by the Department, after notice and opportunity for hearing.

Section 3 Examination of Financial Institutions

The Department shall have the authority under R.I. Gen. Laws § 27-13.1-1 *et seq* to examine the Insurance activities of a Financial Institution with respect to its compliance with this Regulation, the Act and the other provisions of Title 27. The provisions of R.I. Gen. Laws § 27-13.1-1 *et seq* shall govern the procedures for such examinations and the collection of fees therefor.

Section 4 Anti-Tying Provisions

- (a) In addition to those restrictions contained in R.I. Gen. Laws § 27-58-6, no Financial Institution may offer a banking product or service, or fly or vary the conditions of such offer on any of the following conditions:
 - (1) That the customer purchase Insurance from any particular Insurance Producer;
 - (2) That the customer obtain Insurance from the Financial Institution; or
 - (3) That the customer shall not obtain Insurance from a competitor of the Financial Institution other than a condition or requirement that

the Financial Institution shall reasonably impose in a credit transaction to assure the soundness of the credit.

- (b) A Solicitation may not be made while an application for or the underwriting of a loan or credit to the customer or prospective customer is pending, except that the following activities shall not be considered a violation of this Section 4:
 - (1) A Solicitation made in the ordinary course of a mass mailing by a Financial Institution; or
 - (2) A Solicitation made by an employee of the Financial Institution when the employee has no knowledge after reasonable inquiry that an application for or the underwriting of a loan or credit to the customer or prospective customer is pending; provided, however, that for purposes of this subsection 4(b)(2) only, the term "Solicitation" shall not include (i) a negotiation, effectuation, procurement, delivery, renewal, continuation or binding of or otherwise offering Insurance as a result of an inquiry of or contact with the Financial Institution for such a purpose initiated by the customer or prospective customer of the Financial Institution, or (ii) the renewal or continuation of an existing policy of Insurance between the Financial Institution and the customer.

Section 5 Disclosures

In addition to the requirements in R.I. Gen. Laws § 27-58-7, the disclosures required by the Act shall meet the following requirements:

- (a) The disclosures required by the Act shall be made to each customer or prospective customer no later than the beginning of a Solicitation;
- (b) A Financial Institution, for any loan for which Insurance is required, shall disclose in writing and on a separate document acknowledged by the customer, prior to the signing of a loan or mortgage application, that by law the purchase of Insurance from that Financial Institution cannot be required as a condition of loan or mortgage approval. The requirements of the proceeding sentence shall apply only to the lines of Insurance which the Financial Institution is licensed to sell. For all other Insurance Transactions, each customer purchasing Insurance shall acknowledge in writing and on a separate document their receipt of the disclosures required by the Act and this Regulation prior to the completion of such Insurance Transaction;

- (c) A Financial Institution which does not accept federally-insured deposits in the State of Rhode Island shall not be required to comply with the requirements of R.I. Gen. Laws § 27-58-7(i) and (ii); and
- (d) A Financial Institution may make a written request for a waiver to the Director or the Director's designee if compliance with R.I. Gen. Laws § 27-58-7 would cause a reasonable customer to believe that compliance would be contrary to the intent of the Act and this Regulation.

Section 6 **Non-Public Customer Information**

Pursuant to R.I. Gen. Laws § 27-58-10, Non-public Customer Information shall:

- (a) not be used by a Financial Institution to Solicit;
- (b) not include information available to the Financial Institution through other sources even if the information could have been derived from the records of the Financial Institution; and
- (c) not include information whose use has been agreed or consented to by the Financial Institution's customer after prominent written disclosure on a separate document of the provisions of such agreement or consent to the customer.

Section 7 **Severability**

If any section, term or provision of this Regulation shall be adjudged invalid for any reason, that judgment shall not affect, impair, or invalidate any remaining section, term or provision, which shall remain in full force and effect.

EFFECTIVE DATE:	May 13, 1997
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