

REGULATION NO. 89-101

GUIDELINES TO BE FOLLOWED WHEN LENDING INSTITUTIONS  
ENTER INTO AGREEMENTS WITH INSURANCE COMPANIES  
TO LEASE SPACE IN RETAIL AREAS

PURPOSE: The purpose of this regulation is to identify prohibited activities, which, when taken in conjunction with another specific existing relationship, such as a lease, between a lending institution and/or insurance companies, agents, agencies or representatives of same, would violate statutory provisions contained in Miss. Code Ann. Sections 83-5-29 through 83-5-51, 83-17-7, as Amended, and 83-17-227 through 83-17-231 (1972).

AUTHORITY: This regulation is issued pursuant to the authority vested in the Commissioner of Insurance of the State of Mississippi under Miss. Code Ann. Sections 83-5-29 through 83-5-51, 83-17-7, as Amended, 83-17-231 and other applicable provisions of the Mississippi Insurance Laws and is being adopted in accordance with the provisions of Miss. Code Ann. Chapter 43, Title 25 and Mississippi Insurance Department Regulation Number 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department.

DEFINITIONS: For the purposes of this regulation, unless the context otherwise requires:

(1) "Agent" means an "insurance agent" as defined in Miss. Code Ann. Sections 83-17-1, 83-17-101 and 83-17-203 (1972).

(2) "Insurance Company" means any company which is subject to the jurisdiction of the Mississippi Insurance Department under Miss. Code Ann. Title 83 (1972).

(3) "Lending Institution" means any bank or savings and loan association as defined in Miss. Code Ann. Section 83-17-227 (1972).

(4) "Insurance" means all kinds of insurance as set forth in Miss. Code Ann. Title 83 (1972), with the exception of credit life and credit health and accident insurance as defined under Miss. Code Ann. Section 83-17-227 (e) (1972).

(5) "Retail Area" means all open space within the financial institution building where the normal business of banking is conducted, but is not limited to loan and discount transaction stations, savings stations, cash debit and credit stations and installment and finance payment stations.

(6) "Leased Area" means that specific location where the agent will conduct business, display advertisements and promote

insurance related activities as identified in the leasing agreement.

RELATIONSHIPS: No insurance company, agent, agency or representative of same, shall enter into any contract, lease or other agreement with a lending institution which results in:

(a) any activity reasonably leading a person to believe that his credit-worthiness, or that extension of credit or renewal thereof, is conditioned upon the purchase of insurance through a particular insurance company, agent, agency or representative of same;

(b) the lending institution or its employees, either directly or indirectly, soliciting insurance for or acting on behalf of an insurance company, agent, agency or representative of same, in the sale or negotiation of insurance.

The dollar amount of rent paid by an insurance company, agent, agency or representative of same, to a lending institution shall be on a strict square footage basis, and shall not be based on a percentage of premium income.

Any compensation, rental fee and/or expense reimbursement paid by the insurance company, agent, agency or representative of same, to the lending institution or its employees must be commercially reasonable considering all material and relevant circumstances and must meet the requirements of all applicable law.

No insurance company, agent, agency or representative of same, may enter into any agreement which requires a lending institution or its employees to provide support services which are prohibited by applicable law. By way of illustration and not limitation, the following support services are specifically prohibited: (a) adjustment and payment of losses; (b) amendment of insurance contracts to keep coverages current; (c) collection of premiums; (d) issuance of policies, certificates and other documents; (e) return of unearned premiums; (f) payment of cash values; and (g) transmittal of applications for insurance contracts.

PHYSICAL FACILITIES: The direct or indirect solicitation or transaction of insurance business by an insurance company, agent, agency or representative of same, shall be restricted to the leased area. Accordingly, any insurance company, agent, agency or representative of same, entering into any contract, lease or other agreement with a lending institution shall abide by the following:

(1) All signs displayed in connection with the operation of the insurance company, agent, agency or representative of same shall have no indication of any relationship with the lending

institution. A sign with the following disclaimer must appear at or directly adjacent to the Leased Area:

"Insurance is offered by (name of Insurance Company, agency or agent). The (name of the Lending Institution) is neither an insurance company nor agency, and the insurance products offered are not FDIC/FSLIC insured."

Other signs may appear in the general banking area directing interested customers to the designated insurance area. The Commissioner of Insurance may order the removal of any signs or other promotional or advertising materials, the location, size, color or content of which violate the provisions of this regulation.

(2) The leased area by an insurance company, agent, agency or representative of same must be situated and individually identified from the other retail area of the lending institution in order to separate customers of the lending institution who are conducting normal banking activities from express or implied intimidation or interference with the customers' free choice regarding the purchase of insurance.

ADVERTISING: Any advertisement, promotional material, sales literature or public announcement of insurance products must be filed with the Mississippi Insurance Department at least thirty (30) days prior to distribution or announcement. If, within thirty (30) days after filing, the Commissioner notifies the insurance company in writing that such filing is disapproved, stating the reason therefor, it will be unlawful for the insurance company to use the filing. Otherwise, the insurance company will be allowed to use any such filing not disapproved within thirty (30) days after filing. Each insurance company shall be responsible for the compliance with this requirement by its agents, agencies and the lending institution which is a party to the lease agreement.

Any use of the name of the lending institution by an insurance company, agent, agency or representative of same in promoting, announcing or advertising its insurance products, other than strictly as an address referencing the location of the insurance company, agent, agency or representative of same, is prohibited. Further, the use of the name of the lending institution in identifying the address of the insurance company, agent, agency or representative of same, cannot be made in such a manner as to indicate any other relationship with the lending institution to the insurance product being advertised. Advertising and sale literature, taken as a whole, shall not be misleading or deceptive such as to cause a reader to reasonably conclude that the insurance product is endorsed or offered by the lending institution.

No insurance company, agent, agency or representative of same shall use a lending institution's logo in any advertisement, promotional material, sales literature or public announcement of insurance products.

SEVERABILITY: If any provision of any section of this regulation or the application thereof to any circumstance or insurance company, agent, agency or representative of same, nor any other 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.

This regulation shall become effective thirty (30) days after its adoption and filing with the Mississippi Secretary of State's Office, as required by law.

  
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George Dale  
Commissioner of Insurance