

§1443-A. Licensing of financial institutions and related parties

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliate" means any of the following entities:

(1) A subsidiary of a financial institution or credit union authorized to do business in this State or of a financial institution holding company;

(2) An employee, an officer other than a director, or licensed 3rd-party producer of a financial institution or credit union authorized to do business in this State, a financial institution holding company or any institution listed in subparagraph (1);

(3) A person or entity possessing 5% or more of the ownership interests of a financial institution or credit union authorized to do business in this State, or of a financial institution holding company or of any institution listed in subparagraph (1); or

(4) An insurer or insurance producer or consultant utilizing space in the retail area of a financial institution or credit union authorized to do business in this State or of a financial institution holding company or an institution listed in subparagraph (1) in order to engage in the transaction of insurance when payments for use of the space are made to the that institution pursuant to a space-sharing agreement based directly or indirectly upon a percentage of the volume of business conducted by the insurer, insurance agent, broker or consultant. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

B. "Credit union authorized to do business in this State" or "credit union" has the same meaning as defined in Title 9-B, section 131, subsection 12-A. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

C. "Financial institution authorized to do business in this State" or "financial institution" has the same meaning as defined in Title 9-B, section 131, subsection 17-A. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

D. "Financial institution holding company" has the same meaning as defined in Title 9-B, section 1011 and includes a mutual holding company as defined in Title 9-B, section 1052. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

E. "Licensed 3rd-party producer" means a licensed insurance producer or consultant who engages in authorized insurance activities related to insurance products directly on behalf of a specified licensed insurance entity through an independent contractor relationship. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

F. "Ownership interest" includes general partnership shares, limited partnership shares and shares of stock that possess any voting rights. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

G. "Subsidiary" means any corporation, partnership, association or other business entity in which either:

(1) One or more financial institutions or credit unions authorized to do business in this State, financial institution holding companies or any officers, employees, agents or representatives of the financial institutions or credit unions authorized to do business in this State or financial institution holding companies possess directly or indirectly, singly or in the aggregate, an ownership interest of at least 25%; or

(2) It is determined by the superintendent after notice and opportunity for hearing that one or more financial institutions or credit unions authorized to do business in this State, financial institution holding companies or any officers, employees, agents or representatives of financial

institutions or credit unions authorized to do business in this State or financial institution holding companies, singly or in the aggregate, exercise a controlling influence over the management and policies of the entity. [PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

[PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF).]

2. Licensing. A financial institution or credit union authorized to do business in this State, financial institution holding company or the subsidiary or affiliate of any of those entities or an officer, employee, agent or representative of a financial institution, credit union, financial institution holding company or the subsidiary of any of those entities may be licensed as an insurance producer or consultant in this State or may act as an insurance producer or consultant in this State. These organizations are not required to become licensed as insurance producers or consultants with respect to: credit life and credit health insurance to the extent authorized by chapter 37 when the insured is enrolled in the policy; group health insurance to the extent authorized by chapter 35 when the insured is enrolled in the policy; and group life insurance to the extent authorized by chapter 31 when the insured is enrolled in the policy; credit property insurance; credit involuntary unemployment insurance; forced placed property insurance; a vendor's single interest policy; and any other insurance product as determined by the superintendent. In addition, a financial institution, credit union, financial institution holding company or a subsidiary or employee of any such entity may sell annuities, arrange for the sale of annuities or share commissions in connection with the sale of annuities to the extent authorized by Title 9-B, section 443, subsection 11, if the entity has been licensed pursuant to this chapter and if that activity includes the sale of variable annuity contracts, a national association of securities dealers registration form must be submitted to the superintendent as required by the provisions of section 1410, subsection 8.

[PL 2001, c. 259, §37 (AMD).]

3. Rulemaking. The superintendent, the Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection may, pursuant to this subsection, Title 9-A, section 4-407 and Title 9-B, section 448, subsection 5, undertake joint rulemaking to carry out the purpose of this section, including issues regarding signs, the physical location of sales of insurance and identification of producers affiliated with financial institutions, credit unions, financial institution holding companies or supervised lenders. In adopting rules pursuant to this section, the superintendent, the Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection shall consider the possibility of confusion and perception of coercion among the insurance-consuming public, the need for cost-effective delivery of insurance products to insurance consumers and the importance of parity among producers affiliated with federally chartered and state-chartered financial institutions and credit unions. Any rule adopted may not interfere significantly with the ability of a producer to solicit or negotiate the sale of an insurance product, whether or not that producer is affiliated with a financial institution, credit union, financial institution holding company or supervised lender, except when no other reasonable alternative exists to protect the insurance-consuming public. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Nothing in this section is intended to restrict or interfere with the ability of the bureau, the Bureau of Financial Institutions or the Bureau of Consumer Credit Protection to adopt rules with respect to areas in which the respective agencies have independent jurisdiction.

[PL 1997, c. 457, §23 (NEW); PL 1997, c. 457, §55 (AFF); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF); PL 2007, c. 273, Pt. B, §§5, 6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

SECTION HISTORY

PL 1997, c. 457, §23 (NEW). PL 1997, c. 457, §55 (AFF). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2001, c. 259, §37 (AMD). PL 2007, c. 273, Pt. B, §§5, 6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF).

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