

CHAPTER 44**SERVICES AND INCIDENTAL ACTIVITIES****§441. Applicability of chapter**

The provisions of this chapter govern the services and incidental activities offered by financial institutions. [PL 1997, c. 398, Pt. I, §27 (AMD).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §127 (AMD).

§441-A. General powers

Unless otherwise prohibited or limited by this Title or rules adopted by the superintendent, a financial institution has and may exercise all powers necessary or convenient to effect the purposes for which the financial institution is organized or to further the businesses in which the financial institution is lawfully engaged. [PL 1997, c. 398, Pt. I, §28 (NEW).]

SECTION HISTORY

PL 1997, c. 398, §128 (NEW).

§442. Trustee, self-employment retirement plans

1. Authorization; limitation. Financial institutions may act as trustee under a retirement plan established pursuant to the Act of Congress entitled "Self-employed Individuals Retirement Act of 1962," as amended; an individual retirement arrangement pursuant to the "Employee Retirement Income Security Act of 1974," as amended; a simplified employee pension plan pursuant to the "Revenue Act of 1978," as amended; or any similar qualified retirement plan pursuant to federal law. This section in no way limits the authority granted to trust departments of financial institutions. [PL 1997, c. 398, Pt. I, §29 (AMD).]

2. Loss of status as qualified plan. In the event that any such retirement plan, which in the judgment of the institution constitutes a qualified plan under either said Self-employed Individuals Retirement Act of 1962; the Employee Retirement Income Security Act of 1974; a simplified employee pension plan pursuant to the "Revenue Act of 1978," as amended; or any similar qualified retirement plan pursuant to federal law, and the regulations promulgated thereunder at the time the trust or account was established and accepted by the institution, is determined subsequently not to be such a qualified plan or ceases subsequently to be such a qualified plan, in whole or in part, the institution may nevertheless continue to act as trustee of any deposit theretofore made under such plan and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. [PL 1985, c. 588, §2 (AMD).]

3. Segregation not required. No institution, with respect to the deposits made under this section, shall be required to segregate such deposits from its other deposits except as may be required under federal law establishing such plans; provided that the institution shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section. [PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1977, c. 39 (AMD). PL 1985, c. 588, §§1,2 (AMD). PL 1997, c. 398, §129 (AMD).

§443. Services for customers

In addition to all customer services financial in nature or incidental to, reasonably related to or convenient and useful to the powers granted in its organizational documents, a financial institution authorized to do business in this State may offer the services set forth below to its customers, depositors or members. [PL 1997, c. 398, Pt. I, §30 (AMD).]

1. Checks, money orders and travelers' checks.

[PL 1997, c. 398, Pt. I, §31 (RP).]

2. Safe deposit boxes.

[PL 1997, c. 398, Pt. I, §31 (RP).]

3. Safekeeping.

[PL 1997, c. 398, Pt. I, §31 (RP).]

4. Consumer financial counseling.

[PL 1997, c. 398, Pt. I, §31 (RP).]

5. Public collection agency.

[PL 1997, c. 398, Pt. I, §31 (RP).]

6. Participation in public lotteries.

[PL 1997, c. 398, Pt. I, §31 (RP).]

7. Authorized insurance. A financial institution, while acting as a creditor may make insurance available to the extent authorized by Titles 9-A and 24-A. In so doing, a financial institution which makes life insurance available pursuant to Title 24-A, section 2604-A, where the indebtedness is secured to the creditor by a mortgage on real estate and where a separate charge is made to the debtor for that insurance, shall make the insurance available jointly to the debtor and not more than one comaker of the indebtedness, provided that both are individually and jointly liable to repay the indebtedness. The foregoing shall not be deemed to restrict the insurer's right to require all debtors to meet the requirements of the applicable policy in order to become insured. Nothing in this subsection shall prohibit the insurance on the life of one debtor only, if desired by the debtor.

[PL 1981, c. 175, §1 (AMD).]

8. Clearing corporation.

[PL 1997, c. 398, Pt. I, §32 (RP); PL 1997, c. 683, Pt. B, §2 (RP).]

9. Acting as agent.

[PL 1997, c. 398, Pt. I, §32 (RP).]

10. Bills or drafts.

[PL 1997, c. 398, Pt. I, §32 (RP).]

11. Annuities. A financial institution, credit union or financial institution holding company, or a subsidiary or employee of such an entity, authorized to do business in the State may sell, or arrange for the sale of, through a licensed 3rd party, annuities purchased from a licensed insurance company and may share commissions in connection with the sale of annuities pursuant to the provisions of Title 24-A. A financial institution, a credit union or a financial institution holding company, or an employee or subsidiary of such an entity, must be licensed in accordance with Title 24-A, section 1411 or 1416 before engaging in any of the activities concerning the sale of annuities authorized by this subsection.

A financial institution, credit union or financial institution holding company that sells or arranges for the sale of annuities on the premises of that entity:

A. Shall post conspicuously a notice that is clearly visible to all customers that may purchase annuities. The notice must state in clearly understandable language that the annuities are not insured by the Federal Deposit Insurance Corporation; [PL 1997, c. 683, Pt. B, §3 (RPR).]

B. Shall orally inform a prospective purchaser of annuities that the annuities are not insured by the Federal Deposit Insurance Corporation; and [PL 1997, c. 683, Pt. B, §3 (RPR).]

C. Before a sale of annuities is completed, shall obtain a written statement signed by the purchaser of the annuities stating that the purchaser received the oral notice required by paragraph B. [PL 1997, c. 683, Pt. B, §3 (RPR).]

[PL 1997, c. 683, Pt. B, §3 (RPR).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1979, c. 667, §1 (AMD). PL 1981, c. 175, §1 (AMD). PL 1987, c. 405, §1 (AMD). PL 1993, c. 322, §1 (AMD). PL 1997, c. 315, §16 (AMD). PL 1997, c. 398, §§130-32 (AMD). PL 1997, c. 429, §C1 (AMD). PL 1997, c. 457, §3 (AMD). PL 1997, c. 683, §§B2,3 (AMD).

§444. Credit cards

(REPEALED)

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §133 (RP).

§445. Service corporations

1. Authorization. A financial institution may establish, acquire or invest in the equity interest, obligations or other securities of a service corporation, as defined in section 131, or otherwise participate in or utilize the service of such a corporation. A service corporation may be owned by one or more institutions engaged in the business of banking.

[PL 2005, c. 82, §10 (AMD).]

2. Limitations. The stock of a service corporation formed pursuant to this section may be owned only by institutions engaged in the business of banking. The maximum amount of investment in any one such service corporation may not exceed 20% of the institution's total capital and reserves or its total surplus account. The aggregate investment of a financial institution in all service corporations may not exceed 50% of its total capital and reserves or its total surplus account. For purposes of applying the legal lending limit prescribed in this Title, a financial institution's investment in a service corporation, if majority owned, must be consolidated with the financial institution on a line-for-line basis proportionate to the financial institution's ownership interest in the service corporation.

[PL 1997, c. 22, §13 (AMD).]

3. Records. The books and accounts of a service corporation involving any financial institution shall be kept in such manner and form as the superintendent may prescribe; and any agreement between a financial institution and such corporation shall provide that such books and accounts may be examined by the superintendent or his designee.

[PL 1975, c. 500, §1 (NEW).]

4. Ownership.

[PL 1997, c. 22, §14 (RP).]

5. Exception for debt-acquired real property.

[PL 1997, c. 22, §15 (RP).]

6. Notice required. A financial institution seeking to invest in one or more service corporations shall notify the superintendent in writing at least 30 days prior to such investment.

A. [PL 2017, c. 143, §3 (RP).]

B. [PL 2017, c. 143, §3 (RP).]
[PL 2017, c. 143, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §§20,21 (AMD). PL 1983, c. 63, §§3-4 (AMD). PL 1991, c. 386, §§12-15 (AMD). PL 1997, c. 22, §12 (AMD). PL 1997, c. 22, §13 (AMD). PL 1997, c. 22, §14 (AMD). PL 1997, c. 22, §15 (AMD). PL 1997, c. 22, §16 (AMD). PL 2005, c. 82, §10 (AMD). PL 2017, c. 143, §3 (AMD).

§446. Closely-related activities

(REPEALED)

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §§21-A (AMD). PL 1997, c. 22, §§17,18 (AMD). PL 1997, c. 398, §134 (RP).

§446-A. Closely related activities

A financial institution authorized to do business in this State may engage, directly or indirectly, in closely related activities as defined in section 131, subsection 6-A. The financial institution may engage in those activities directly, or indirectly through a subsidiary, unless the superintendent determines that an activity must be conducted through a subsidiary with appropriate corporate firewalls and safeguards, as determined by the superintendent, that limit the financial institution's exposure by emphasizing the subsidiary's independent legal structure. [PL 1997, c. 398, Pt. I, §35 (NEW).]

1. Application required. A financial institution shall make application to the superintendent in accordance with section 252 for authority to engage in a closely related activity, except that an application is not necessary if all of the following conditions are satisfied:

A. Before and immediately after the proposed transaction, the financial institution is well capitalized as determined by the superintendent; [PL 1999, c. 218, §21 (AMD).]

B. At the time of the transaction, the financial institution is well managed, which means that in connection with the financial institution's most recent examination:

(1) The financial institution received a composite rating of one or 2 pursuant to the uniform financial institution rating system adopted by the Bureau of Financial Institutions; and

(2) The financial institution received at least a satisfactory rating for management; [PL 1999, c. 218, §21 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

C. The book value of the total assets to be acquired does not exceed 15% of the consolidated total risk-weighted assets of the financial institution; [PL 1999, c. 218, §21 (AMD).]

D. The consideration to be paid for the securities or assets to be acquired does not exceed 15% of the consolidated capital of the financial institution; [PL 1999, c. 218, §21 (AMD).]

E. During the 12-month period prior to the proposed transaction, the financial institution has not been under an enforcement action nor is there an enforcement action pending; [PL 1999, c. 218, §21 (AMD).]

F. The financial institution provides written notification to the superintendent at least 30 days prior to consummating the transaction; and [PL 2001, c. 211, §14 (AMD).]

G. The activity is authorized pursuant to this Title or by rule or order of the superintendent. [PL 1997, c. 398, Pt. I, §35 (NEW).]

Notwithstanding paragraphs A and G, the superintendent, after review of the written notification under paragraph F, may require an application if the superintendent determines that the activity raises significant supervisory concerns or raises significant legal or policy issues.

[PL 2001, c. 44, §4 (AMD); PL 2001, c. 211, §14 (AMD).]

2. Joint ownership. A subsidiary corporation formed pursuant to this section may be owned jointly with one or more persons, if the superintendent approves the joint ownership.

[PL 1997, c. 398, Pt. I, §35 (NEW).]

3. Investment limits. The amount of investment in any one subsidiary corporation may not exceed 20% of the financial institution's total capital. The aggregate investment in all subsidiary corporations may not exceed 50% of the financial institution's total capital. The superintendent may approve higher limits upon request.

[PL 1997, c. 398, Pt. I, §35 (NEW).]

4. Application or notice fee. An application or notice required under subsection 1 is not complete unless accompanied by a fee to be credited and used as provided in section 214. The superintendent shall establish the amount of the fee, which may not exceed \$2,500.

[PL 1999, c. 218, §22 (NEW).]

SECTION HISTORY

PL 1997, c. 398, §135 (NEW). PL 1999, c. 218, §§21,22 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2001, c. 211, §14 (AMD).

§447. Real estate appraisals; copies

A financial institution that imposes a fee on a person for the cost of an appraisal of any real estate shall furnish to the person, at no cost, one copy of the appraisal upon request, if the request is made within 90 days after the financial institution has provided notice of action taken on the application for credit or the date of the closing, whichever is later, or 90 days after the application is withdrawn. [PL 1999, c. 150, §8 (AMD).]

SECTION HISTORY

PL 1987, c. 265, §2 (NEW). PL 1999, c. 150, §8 (AMD).

§448. Insurance agency activities

1. Authorization. A financial institution authorized to do business in this State or credit union authorized to do business in this State, or financial institution holding company, or an affiliate of either, other than a licensed supervised lender regulated under Title 9-A, Article IV, Part 4, may act as an insurance producer or consultant in this State and may employ, affiliate with or hire as a 3rd-party agent an insurance producer or consultant, if the producer or consultant is duly licensed under Title 24-A or engages in authorized insurance activities in another state, if the producer or consultant complies with the applicable laws of that state.

[PL 1999, c. 218, §23 (AMD).]

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

A. "Affiliate" has the same meaning as defined in Title 24-A, section 1443-A, subsection 1, paragraph A. [PL 1999, c. 127, Pt. A, §22 (AMD).]

B. "Customer" means a person or business entity or an authorized representative of either who has been personally and directly offered, or presently maintains, an investment security, trust, credit or an insurance product with a financial institution or credit union authorized to do business in this State. [PL 1997, c. 315, §17 (NEW).]

[PL 1999, c. 127, Pt. A, §22 (AMD).]

3. Customer notice that insurance is not federally guaranteed. An institution that engages in insurance agency or brokerage activities authorized under subsection 1 must provide customer notice regarding insurance products in the following manner.

A. The institution shall post conspicuously a notice that is clearly visible to all customers that may purchase insurance products from the institution. The notice must state in clearly understandable language that the insurance is not insured by the Federal Deposit Insurance Corporation or National Credit Union Administration, as applicable; [PL 1997, c. 315, §17 (NEW).]

B. When a prospective purchaser of insurance is directly and personally contacted by the institution, the institution shall orally inform that prospective purchaser of insurance that the insurance product is not insured by the Federal Deposit Insurance Corporation or National Credit Union Administration, as applicable; and [PL 1997, c. 315, §17 (NEW).]

C. Before the sale of an insurance product is completed the institution must obtain a written statement signed by the purchaser of insurance that the purchaser received the oral notice required by paragraph B. [PL 1997, c. 315, §17 (NEW).]

[PL 1997, c. 315, §17 (NEW).]

4. Distinguishing insurance products from loan or deposit products; identification of insurance producers. To the extent practicable, sales of insurance products authorized by this section must take place in a manner that minimizes customer confusion between the deposit, share or loan products offered by the institution and those insurance products. An institution authorized under subsection 1 is in compliance with this subsection if it utilizes signs clearly visible to its customers that distinguish its insurance products from its deposit, share or loan products and that adequately identify insurance producers and consultants affiliated with the institution.

[PL 1999, c. 218, §23 (AMD).]

5. Rulemaking. The superintendent, Superintendent of Insurance and the Superintendent of Consumer Credit Protection are authorized, pursuant to this subsection, Title 9-A, section 4-407 and Title 24-A, section 1443-A, subsection 3 to undertake joint rulemaking to carry out the purpose of subsection 4, 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 Insurance 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 Insurance or the Bureau of Consumer Credit Protection to adopt rules with respect to areas in which the respective agencies have independent jurisdiction.

[PL 1999, c. 790, Pt. A, §10 (RPR); PL 2007, c. 273, Pt. B, §§5, 6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

6. Applicability. Other than the authorizations provided in subsection 1, this section does not apply to group health and group life insurance to the extent authorized by Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37, credit property insurance, credit involuntary unemployment insurance, forced placed property insurance, a vendor's single interest policy or any

other insurance product as determined by the Superintendent of Insurance. This section also does not apply to annuity sales authorized under section 443, subsection 11.

[PL 1997, c. 315, §17 (NEW).]

SECTION HISTORY

PL 1997, c. 315, §17 (NEW). PL 1999, c. 127, §§A22,23 (AMD). PL 1999, c. 218, §23 (AMD). PL 1999, c. 790, §A10 (AMD). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 273, Pt. B, §§5, 6 (REV). PL 2007, c. 695, Pt. A, §47 (AFF).

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