House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 63

HOUSE BILL 2152

AN ACT

AMENDING SECTIONS 6-611, 6-636 AND 6-638, ARIZONA REVISED STATUTES; RELATING TO CONSUMER LENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 6-611, Arizona Revised Statutes, is amended to read:

6-611. Prohibited acts

~~A.~~ A licensee shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a consumer lender loan. To the extent applicable, all advertising shall comply with the advertising requirements of the truth in lending act.

~~B. Except as otherwise provided in this subsection, a licensee shall not pay a fee, commission or bonus or give anything of value to any merchant, dealer, consumer or other person for referring consumer lender loan business, other than the fees permitted pursuant to the real estate settlement procedures act (12 United States Code sections 2601 through 2617), as amended, and the regulations promulgated under that act (24 Code of Federal Regulations part 3500), as amended, or persons exempt from licensing pursuant to section 6-602 in connection with any consumer loan or consumer revolving loan that is secured by the consumer's principal residence or any home equity revolving loan. A licensee may not give a consumer any prize, good, ware, merchandise or tangible property of an aggregate value of more than twenty-five dollars.~~

Sec. 2. Section 6-636, Arizona Revised Statutes, is amended to read:

6-636. Insurance securing loan; cancellation; notice

A. The following types of insurance may be sold to the consumer in connection with a consumer lender loan and the consumer may contract for:

1. Property insurance covering any property securing a consumer lender loan.

2. Life insurance insuring the life of one or more consumers obligated on a consumer lender loan.

3. Credit disability insurance that provides indemnity for payments due on a consumer lender loan while any covered consumer has a disability.

4. Credit involuntary unemployment insurance that provides indemnity for payments due on a consumer lender loan while one or more consumers are involuntarily unemployed.

5. ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE PROVIDING A BENEFIT IF DEATH OCCURS AS A RESULT OF AN ACCIDENT OR IF DISMEMBERMENT OCCURS.

6. DISABILITY INCOME PROTECTION INSURANCE PROVIDING A BENEFIT IF A TOTAL DISABILITY OCCURS DURING THE TERM OF INSURANCE.

B. Any insurance purchased by a consumer from or through a licensee, except insurance on property securing a consumer lender loan, is optional, and a licensee shall not refuse to make a consumer lender loan based on the consumer's refusal to purchase the insurance. The consumer may cancel any insurance purchased in connection with a consumer lender loan for any reason

at any time within thirty days after the consumer lender loan is made and shall mail or deliver a written notice of the cancellation to the licensee's place of business. If the consumer cancels the insurance pursuant to this subsection, the consumer is entitled to a full refund of any premiums paid for the insurance. Before executing the note or agreement evidencing a consumer lender loan that includes a premium for insurance, the licensee shall give the consumer the disclosures required to exclude those insurance premiums from the finance charge in accordance with the truth in lending act.

C. At the time the insurance is sold the licensee shall mail or deliver a written receipt or binder to the consumer. Within thirty days after mailing or delivering the written receipt or binder, the licensee shall deliver to the consumer, or if more than one, to any one of them, a policy or certificate of insurance covering any insurance purchased by or through the licensee or any employee or affiliate of the licensee in connection with the consumer lender loan that sets forth the amount of any premium that the consumer has paid or is obligated to pay, the amount of insurance, the term of insurance and a description of the coverage. The policy or certificate may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

D. All property insurance sold pursuant to this section shall bear a reasonable bona fide relation to the existing hazard or risk of loss and shall be written by an agent licensed in this state and by an insurance company authorized to conduct property insurance business in this state. A licensee shall not require the purchase of property insurance from the licensee or any employee, affiliate or associate of the licensee as a condition precedent to the making of a consumer lender loan. The licensee may otherwise designate the company in which the insurance shall be placed as long as the insurance company is authorized to conduct business in this state.

E. Property insurance, if sold by a licensee in connection with a consumer loan, is at the option of the consumer in an amount not exceeding the greater of the reasonable value of the property insured as designated in writing by the consumer or the approximate amount of the consumer loan and shall be for a term not exceeding the approximate term of the consumer loan. However, the amount of this property insurance may not exceed the designated value of the property insured.

F. If a licensee sells property insurance in connection with a consumer revolving loan or a home equity revolving loan, the amount of the property insurance shall not exceed the greater of the reasonable value of the property insured as designated in writing by the consumer or the agreed on credit limit. However, the amount of property insurance shall not exceed the designated value of the insured property. The licensee may sell property insurance for renewable terms of not more than two years. Alternatively, the amount of property insurance may be equal to the balance outstanding on a consumer revolving loan or a home equity revolving loan from time to time

with the premiums calculated on the basis of the actual daily unpaid balance or the average daily balance of the account during each billing cycle period. Premiums for property insurance may be charged as an advance on a consumer revolving loan or a home equity revolving loan.

G. If the licensee sells the consumer property insurance for a renewable term, the licensee shall mail a notice to the consumer at least thirty days before the renewal date that states all of the following:

1. The consumer's property insurance is about to expire.

2. The consumer may obtain property insurance from any source chosen by the consumer subject to the licensee's right to reasonably reject the insurer chosen by the consumer by providing written notice to the consumer of those reasons for rejection.

3. The term, coverage and premium for the renewal of property insurance.

4. The property insurance will be renewed on expiration unless the consumer provides the licensee before the expiration date with evidence that the consumer has obtained other property insurance.

H. Notwithstanding any other provision of this chapter, any advantage, commission, dividend, gain or identifiable charge for insurance authorized by this section, or otherwise, to the licensee or any employee or affiliate of the licensee from that insurance or its sale is not an additional finance charge or other allowed fee in connection with the consumer lender loan. If the licensee provides a new consumer lender loan or renews a contract of a consumer lender loan and the licensee sells the consumer new insurance, the licensee shall apply the insurance provided for in this section to the new loan or renewal, or the licensee shall cancel the prior insurance and provide the consumer with a refund or credit of the unearned premium or identifiable charge before selling the new insurance to the consumer.

I. The licensee shall determine the refund of unearned premiums for credit life insurance and credit disability insurance on prepayment in full according to title 20, chapter 6, article 10.

J. Except as otherwise specifically provided in this chapter, insurance transactions pursuant to this chapter are subject in all respects to the applicable laws pertaining to that insurance pursuant to title 20 and to the applicable rules adopted pursuant to title 20.

Sec. 3. Section 6-638, Arizona Revised Statutes, is amended to read:

6-638. <u>Other insurance</u>

A. A licensee who is licensed to sell life insurance pursuant to title 20 may sell and include in the principal amount of a consumer lender loan the cost of the premium for life insurance that is not for credit if ALL OF THE FOLLOWING APPLY:

1. The insurance policy or certificate is approved by the director of the department of insurance.~~,~~

2. The purchase of the insurance is not a condition of the consumer lender loan. ~~and~~

3. The consumer signs an application for the insurance that is separate from the consumer lender loan application.

4. The licensee ~~shall~~ DOES not offer or discuss with the consumer the option of life insurance until after the consumer lender loan application is completed and the consumer lender loan is approved.

B. A LICENSEE WHO IS LICENSED TO SELL DISABILITY INSURANCE PURSUANT TO TITLE 20 MAY SELL AND INCLUDE IN THE PRINCIPAL AMOUNT OF THE CONSUMER LENDER LOAN THE COST OF THE PREMIUM FOR ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE OR DISABILITY INCOME PROTECTION INSURANCE, OR BOTH, IF ALL OF THE FOLLOWING APPLY:

1. THE INSURANCE POLICY OR CERTIFICATE IS APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

2. THE PURCHASE OF THE INSURANCE IS NOT A CONDITION OF THE CONSUMER LENDER LOAN.

3. THE CONSUMER SIGNS AN APPLICATION FOR THE INSURANCE THAT IS SEPARATE FROM THE CONSUMER LENDER LOAN APPLICATION.

4. THE LICENSEE DOES NOT OFFER OR DISCUSS WITH THE CONSUMER THE OPTION OF ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE OR DISABILITY INCOME PROTECTION INSURANCE UNTIL AFTER THE CONSUMER LENDER LOAN APPLICATION IS COMPLETED AND THE CONSUMER LENDER LOAN IS APPROVED.

~~B.~~ C. Any insurance purchased by the consumer pursuant to this section is optional and the licensee shall disclose in writing to the consumer that the insurance is optional.

~~C.~~ D. The consumer may cancel the insurance for any reason at any time within thirty days after the date of purchase and the consumer shall receive a full refund of the premium within five days of the date of cancellation. If the consumer cancels the insurance after thirty days from the date of purchase, the consumer shall receive a refund of the unearned premium in accordance with the insurance policy. In the event the consumer cancels the insurance, the licensee shall give the consumer the amount of any refund of premium or shall credit the consumer's lender loan at the option of the consumer.

~~D.~~ For the purposes of this ~~section~~ SUBSECTION, the date of cancellation is defined as the date the licensee receives the receipt for the notice of cancellation for the insurance policy.

E. If the consumer decides to cancel the policy, the consumer shall either:

1. Return the policy to the insurer or to the licensee at the licensee's place of business.

2. Provide written notice of cancellation to the insurer or to the licensee at the licensee's place of business.

F. The licensee shall give the consumer a written copy of the provisions of this section.

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.

Passed the House January 28, 2016

by the following vote: 35 Ayes,

22 Nays, 3 Not Voting

Speaker of the House

☐ Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate March 17, 2016

by the following vote: 16 Ayes,

14 Nays, 0 Not Voting

President of the Senate

Susan Reeves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

22nd day of March, 2016

at 10:06 o'clock A. M.

Secretary to the Governor

Approved this 24th day of

March

at 10:56 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of March, 2016

at 2:08 o'clock P M.

Michele Reagan

Secretary of State

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