

## UNFAIR TRADE PRACTICES ACT

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- (4) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on the residential property risk, or the personal property contained therein, solely because of the age of the residential property.
- (5) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex, marital status, race, religion or national origin of the individual; however, nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits. Nothing in this section shall prohibit or limit the operation of fraternal benefit societies.
- (6) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subsection shall not apply to accident and health insurance sold by a casualty insurer and, provided further, that this subsection shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract.
- (7) Refusing to insure solely because another insurer has refused to write a policy, or has cancelled or has refused to renew an existing policy.

- (d) Engaging in an arrangement that would not violate Section 106 of the Bank Holding Company Act Amendments of 1972 (12 U.S.C. 1972), as interpreted by the Board of Governors of the Federal Reserve System, or Section 5(q) of the Home Owners' Loan Act, 12 U.S.C. 1464(q).

Drafting Note: Section 104 (d)(2)(B)(viii) of the Gramm-Leach

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- (3) (a) Charging fees other than commissions for financial planning by insurance producer,







- C. Every person or depository institution, or affiliate of a depository institution, who lends money or extends credit and who solicits insurance primarily for personal, family or household purposes shall disclose to the customer in writing that the insurance related to the credit extension may be purchased from an insurer or producer of the customer's choice, subject only to the lender's right to reject a given insurer or agent as provided in Subsection B(2). Further, the disclosure shall inform the customer that the customer's choice of insurer or producer will not affect the credit terms or credit terms in any way, except that the depository institution may impose reasonable requirements concerning the creditworthiness of the insurer and the scope of coverage chosen as provided in Subsection B(2).
- D. (1) A depository institution that solicits, sells, advertises or offers insurance, and any person who solicits, sells, advertises or offers insurance on behalf of a depository institution or on the premises of a depository institution shall disclose to the customer in writing, where practicable and in a clear and concise manner, prior to the sale of the insurance, the following information:

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- (b) The depository institution refers a customer to the person who sells insurance and the depository institution has a ~~contract~~ actual arrangement to receive commissions or fees derived from the sale of insurance resulting from the referral; or
  - (c) Documents evidencing the sale, solicitation, advertisement or offer of insurance identify or refer to the depository institution.
- E. The commissioner shall have the power to examine and investigate those insurance activities of any person, depository institution, affiliate of a depository institution or insurer that the commissioner believes may be in violation of this section. The ~~person~~ person, depository institution, affiliate of a depository institution or insurer shall make its insurance books and records available to the commissioner and the commissioner's staff for inspection upon reasonable notice. An affected person may submit ~~to the commissioner~~ to the commissioner.

- C. Nothing contained in this Act shall require the observance at the hearing of formal rules of pleading or evidence.
- D. The commissioner, at the hearing, may administer oaths, examine and cross examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence or other documents the commissioner deems relevant to the inquiry, provided, however, that in the case of depository institutions, the commissioner shall have the power to require the production of books, papers, records, correspondence or other documents that the commissioner deems relevant to the inquiry only on the insurance activities of the depository institution. The commissioner, may, and upon the request of any party, shall cause to be made a stenographic record of all the evidence and all the proceedings at the hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the hearing and proceeding for use on review. In case of a refusal of any person to comply with any subpoena or to testify with respect to any matter concerning which he may be lawfully interrogated, the [insert title] Court of [insert county] County or the county where the person resides, on application of the commissioner, may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey any order of the court may be punished by the court as contempt.
- E. Statements of charges, notices, orders and other processes of the commissioner under this Act may be served by anyone duly authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by the statement, notice, order or other process at the person's residence or principal office or place of business. The verified return by the person so serving the statement, notice, order, or other process, setting forth the manner of service, shall be proof of the same, and the return postcard receipt for the statement, notice, order or other process, registered and mailed as specified, shall be proof of the service of the same.

Section 8. Cease and Desist and Penalty Orders

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Section 11. Penalty for Violation of Cease and Desist Order

Any insurer, person, depository institution or affiliate of a depository institution that violates a cease and desist order of the commissioner and while such order is in effect, may after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to:

- A. A monetary penalty of not more than \$25,000 for each and every act or violation not to exceed an aggregate of \$250,000 pursuant to any such hearing; and/or
- B. Suspension or revocation of the insurer's license

Section 12. Regulations

The commissioner may, after notice and hearing, promulgate reasonable rules, regulations and orders as are necessary or proper to carry out and effectuate the provisions of this Act. Such regulations shall be subject to review in accordance with Section [insert applicable section].

Drafting Note: Insert section number providing for review of administrative orders.

Section 13. Provisions of Act Additional to Existing Law

The powers vested in the commissioner by this Act shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

Section 14. Immunity From Prosecution

If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required may tend to incriminate or subject the person to a penalty or forfeiture, and shall notwithstanding be directed to give testimony or produce evidence, the person shall nonetheless comply with the direction, but shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction or thing concerning which the person may testify or produce evidence thereto, and no testimony so given or evidence produced shall be received against the person upon any criminal action, investigation or proceeding; provided, however, that no person so testifying shall be exempt from prosecution or punishment 9 (m)25 st m y.1 (t)6ou(s)9.4 d, sg1 (.1 (m)6 (y)24 (e)-7.7 (d)-12.1 (,o t)6.9(n)12 (40.006 Tc .8 (l)2.(40.0)-



The NAIC amended this model during the 2008 Summer National Meeting. These amendments were adopted as guidelines under the NAIC's model laws process. The 2008 2<sup>nd</sup> Quarter Guideline Amendments are highlighted in grey.

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- F. "Insurer" means any person, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including producers, adjusters and third-party administrators. Insurer shall also mean medical service plans, hospital service plans, health





- (ii) An action shall be deemed to meet the requirements of subparagraph (i) of this paragraph if it is taken because either one of the following is true with respect to the travel destination:
    - (I) The Director of the Centers for Disease Control and Prevention of the Department of Health and Human Services has issued a highest level alert or warning, including a recommendation against non-essential travel, due to a serious health-related condition; or
    - (II) There is an ongoing armed conflict involving the military of a sovereign nation foreign to the country of conflict.
  - (c)
    - (i) The commissioner may adopt regulations necessary to implement the provisions of this paragraph and may provide for limited exceptions that are based upon national or international emergency conditions that affect the public health, safety, and welfare and that are consistent with public policy.
    - (ii) An insurer shall make any pertinent underwriting guidelines and supporting analyses available to the commissioner on request.
  - (3) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any accident or health insurance policy or in the benefits payable thereunder, or in any of the terms or conditions of such policy, or in any other manner.
- Drafting Note:** In the event that unfair discrimination in connection with accident and health coverage is treated in other statutes, this paragraph should be omitted.
- (4) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling or limiting the

(9) Violation of the state’s rescission laws at [insert reference to appropriate code section].

**Drafting Note:** A state may wish to include this section if it has existing state laws covering rescission and to insert a reference to a particular code section.

H. Rebates.

- (1) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any life insurance policy or annuity, or accident and health insurance or other insurance, or agreement as to such contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such policy or annu dplto rortuentd i tleneh-10.4 ()-12 (i)-5.1 (4.2 ()-5.1 ( t).9 (e)-19



- (1) File with the insurance department the following material:
  - (a) The policy and certificate;
  - (b) A corresponding outline of coverage; and

**Section 5. Favored Agent or Insurer; Coercion of Debtors**

- A. No person or depository institution, or affiliate of a depository institution may require as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation a creditor is to acquire or finance, negotiate any policy or renewal thereof through a particular insurer or group of insurers or agent or broker or group of agents or brokers. Further, no person or depository institution, or affiliate of a depository institution, may reject an insurance policy solely because the policy has been issued or underwritten by a person who is not associated with the depository institution or affiliate when insurance is required in connection with a loan or extension of credit.
- B. No person or depository institution, or affiliate of a depository institution, who lends money or extends credit may:
- (1) As a condition for extending credit or offering any product or service that is equivalent to an extension of credit, require that a customer obtain insurance from a depository institution or an affiliate of a depository institution, or a particular insurer or producer. However, this provision does not prohibit a person or depository institution, or affiliate of a depository institution, from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, or that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the person or depository institution, or affiliate of a depository institution;
  - (2) Unreasonably reject a policy furnished by the customer or borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of a policy because it contains coverage in addition to that required in the credit transaction;
  - (3) Require that any customer, borrower, mortgagor, purchaser, insurer, broker or agent pay a separate charge, in connection with the handling of any policy required as security for a loan on real estate, or pay a separate charge to substitute the policy of one insurer for that of another. This paragraph does not include the interest that may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document. Further, this paragraph does not apply to charges that would be required when the person or depository institution or affiliate of a dep(r)-5.4 ( Tw [(on69 0 Td )h)8 (an)8.1 (d)-4.(n)10 (s)-4.6



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- (c) Is not guaranteed by the depository institution, its affiliate (if applicable) or any person that is soliciting, selling, advertising or offering insurance (if applicable); and
  - (d) Where appropriate, involves investment risk, including the possible loss of value.
- (2) For purposes of these requirements, an affiliate of a depository institution is subject to these requirements only to the extent that it sells, solicits, advertises, or offers insurance products or







**Drafting Note:** Insert appropriate language to accommodate to local procedure the effect given the commissioner's determination. In a state where final judgment, order or decree would not be final, insert language to provide for the commissioner's determination to be final.

**Section 14. Immunity From Prosecution**

If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required may tend to incriminate or subject the person to a penalty or forfeiture, and shall notwithstanding be directed to give testimony or produce evidence, the person shall nonetheless comply with the direction, but shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the person may testify or produce evidence thereto, and no testimony so given or evidence produced shall be received against the person upon any criminal action, investigation or proceeding; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed while so testifying and the testimony or evidence so given or produced shall be admissible against the person upon any criminal action, investigation or proceeding concerning such perjury, nor shall the person be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the Insurance Law of this state. Any such person may execute, acknowledge and file in the office of the commissioner a statement expressly waiving immunity or privilege in respect to any transaction, matter or thing specified in the statement and thereupon the testimony of the person or evidence in relation to the transaction, matter or thing may be

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**This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed b-3.tate law and should not**

**es this state page reflect a determination as to whether a state meets any applicable effort has been made to provide correct and accurate summaries tyisist readers in ders should consult state law for further details and for the most current information.**



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**KEY:**

**MODEL ADOPTION:** States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

**RELATED STATE ACTIVITY:** Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

**NO CURRENT ACTIVITY:** No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama		ALA. CODE §§ 27-12-1 to 27-12-24 (1971/1994).
Alaska	ALASKA STAT. §§ 21.36.010 to 21.36.350 (1976/2009).	ALASKA STAT. § 21.36.500 (1992) (financial planners); § 45.50.471 (1970/2009); ALASKA ADMIN. CODE tit. 3, § 26.110 (2015); BULLETIN 2007-6 (2007).





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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Missouri	MO. REV. STAT. §§ 375.930 to 375.948 (1978/2004).	MO. REV. STAT. § 376.502 (2009); MO. CODE REGS. ANN. tit. 20, § 100-2.100 (2008) (f)



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Cited to the Proceedings of the NAIC

On June 5, 1944, the Supreme Court handed down the decision in the *Southeastern Underwriters* case, (*United States v.*



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#### Section 1 (cont.)

The advisory committee spoke out against inclusion of consumer class action suits for damages resulting from violations of the Act. They felt such a provision was unnecessary and undesirable for several reasons: (1) the common law in all states recognizes the principle of representative actions, so the consumer is not without remedy; (2) there is less reason for such legislation as applied to such a heavily regulated industry as insurance; (3) the regulator has the practical power to accomplish on behalf of the consumer what consumer class actions are designed to accomplish; (4) insurers would not then be able to rely on the decision of the regulator; (5) consumer class actions would result in “judicial” regulation of the insurance business; (6) the class action principle has been abused, with the principle beneficiaries being lawyers; (7) class actions impact on the entire industry and are not restricted to isolated acts by one insurer; (8) class actions tend to encourage champerty; (9) the insurer would not be able to rely on the opinion of counsel, or even the decision of the regulator, regarding interpretation of unclear laws because of the fear of class action suits.

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#### Section 2C (cont.)

After review of a later draft of the model, an industry trade association again urged the working group to redefine customer more narrowly to apply solely to individuals. The suggested language was incorporated into the draft of the model. **2001 Proc. 1<sup>st</sup> Quarter 753.**

The federal consumer protection rules were drafted to apply solely to individuals and insurance regulators expressed no objection to using the same definition in the NAIC model. **2001 Proc. 2<sup>nd</sup> Quarter 838.**

D. The definition of “depository institution” was added with the amendments adopted in 2001. An interested party e



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#### Section 4G (cont.)

While considering amendments to the Unfair Trade Practices Act dealing with redlining and similar discriminatory practices, the task force also recommended addition of a provision to prohibit discrimination based on the sex or marital status of an individual. Although the initial thought was to adopt a provision related to auto insurance, the paragraph drafted covers all lines of insurance. **1979 Proc. II 552-554.**

In 1977 a task force was appointed to consider the issue of “redlining,” especially with respect to personal lines insurance. More specifically, the committee was charged to develop a definition of redlining and consider its relationship to the unfair trade practices laws in the states. **1977 Proc. II 627.**

A statement of principles and objectives adopted by the Availability of Essential Insurance Subcommittee stated ther.1 (oh(.))3 ( I (e).1



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#### Section 4G (cont.)

An advisory committee was asked to prepare a report on steps the insurance industry must take to address the concerns outlined by the redlining task force. The committee was asked to address itself to several issues: (1) what is the duty of the insurance industry to educate policy holders as to the reason for rejection or cancellation; (2) what has the industry done, or should it do, to identify potential problem areas and advise consumers of necessary corrective action to continue insurance coverage. They also reported on alternative forms of coverage. **1978 Proc. II 515-556.**

The model amendment adopted included the substance of the proposed model regulation, so the need for a separate model regulation was obviated. **1979 Proc. II 525.**

A representative from the U.S. Commission on Civil Rights spoke against the model amendments adopted. He felt that inclusion of the phrase prohibiting the practice unless it is “for a business purpose that is not a pretext for unfair discrimination,” amounts to little more than fitting regulations comfortably around current practices rather than curtailing abusive practices. **1979 Proc. II 579.**

The task force spent a considerable amount of time deciding between two alternative amendments to deal with the discrimination issue in general and redlining in particular. The general amendments simply prohibited discrimination in the issuance, renewal, cancellation or limitation of property insurance. A regulation spelled out details with regard to redlining. **1979 Proc. II 547-548.** A more specific amendment detailed types of discrimination prohibited, and this is the alternative adopted. **1979 Proc. II 39-40.**

When modifications were made to the Unfair Trade Practices Act in 1990 to accommodate the separate free-standing act, there remained unfinished business relative to fair treatment of consumers. The changes to ensure an actively competitive marketplace included consideration of several issues: redlining, refusal to offer coverage, rescission of policies and blackballing (using the underwriting decision of other insurers to deny coverage). **1991 Proc. IIA 265.**

In an attempt to deal with the issue of redlining the drafters considered several proposals. The one they ended up adopting changed Paragraph (3) to add the phrase about sound underwriting in place of a provision which had allowed a limitation for a business purpose that was not a pretext for unfair discrimination. **1992 Proc. IA 227-228.**

A change was also suggested to Paragraph (4) to add the word “solely” and again delete language related to a business purpose. It was the regulators’ intent for this to be an affirmative change to not allow any such exception based upon age of the property alone. **1992 Proc. IA 228, 1993 Proc. I.**

A consumer advocate raised the issue regarding the failure of the Unfair Trade Practices Act to specify race, religion and national origin in Section 4G(5). There was a general consensus that Paragraph (5) should be amended. **1992 Proc. IIA 149.**

As a subsequent drafting session, it was decided that there should be provided an exception for fraternal insurance companies since such insurers are inherently allowed to discriminate in these areas by statute. **1992 Proc. IIA 144.**

A new Paragraph (7) was added in 1992 to deal with the issue of “blackballing.” Some insurers apparently considered it efficient to simply reject those consumer that other insurers had previously rejected without any appropriate underwriting. The advisory committee objected that such language would pose a problem for surplus lines business where an insurer

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#### Section 40 (cont.)

There was discussion on whether the time frame for providing the information should be 30 days or 45 days. First the drafters decided to use 45 days, but then agreed that 30 days was clearly sufficient time in the personal lines area. It was also agreed to add a drafting note stating that the provision might not be required in states with a privacy law governing access to the information. **1992 Proc. IIA 143-144.**

At one point in the drafting process it was suggested that the provisions of Subsection O should only apply to *commercial* property and casualty policies. The word was added to the 81Nte(o96l-2.8 (d)-7 (7.2 (t)0.0) (t)0.0) (n)0.006 Tc 0.006.578 -1.205 2 (ppt, (n)5



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#### Section 5B (cont.)

The commenter pointed out that the new proposed language to be added specifically provided that the restriction did not prohibit a lender from informing a customer that insurance was required and noting it was available from that lender. This limitation would enable lenders to inform consumers of their insurance needs and of the availability of the insurance products from the lender. **2000 Proc. 4<sup>th</sup> Quarter 849.**

An early draft of the 2001 model revisions contained a provision requiring a depository institution to obtain a customer's express consent to disclose credit-related insurance information. Some interested parties raised concerns related to privacy and to the Fair Credit Reporting Act. The chair reported in early 2001 that the paragraph had been deleted and replaced by a drafting note that referred to the NAIC's model privacy regulations and the Fair Credit Reporting Act. **2001 Proc. 1<sup>st</sup> Quarter 753.**

An interested party suggested that the new Paragraph (7) on licensing was unnecessary as it was covered in other NAIC models and was not a safe harbor. The chair responded that the drafters had not limited themselves to the safe harbors, but noted that two of the safe harbors were closely related to licensing. Another interested party noted that there might be difficulty prosecuting an unlicensed individual under the current Unfair Trade Practices Act; the language might limit a regulator's options. **2001 Proc. 1<sup>st</sup> Quarter 754-755.**

A representative from an insurance trade association urged deletion of Paragraph (7). She said that language might allow individuals to pursue a private right of action with respect to licensing matters in those states that allow a private right of action under their Unfair Trade Practices Act. Regulators disagreed that there was potential harm from including the provision. **2001 Proc. 2<sup>nd</sup> Quarter 839.**

The trade association representative also urged deletion of Paragraph (8). She said it was unnecessary because it was covered by another NAIC model and was too restrictive. The working group gave the comment serious consideration but declined to change the draft. **2001 Proc. 2<sup>nd</sup> Quarter 839.**

Just before adoption of the model the working group made a change to Paragraph (8). The purpose of the change was to address concerns regarding the application of the "one-time nominal fee" language. **2001 Proc. 2<sup>nd</sup> Quarter 836.**

An interested party suggested an amendment to the new Paragraph (11) to add the words "by depository institutions" to give context to the term "retail deposits." The generally accepted meaning of "retail deposits" would be deposits accepted in the teller area of a depository institution. Without adding the clarifying context, the term could be read to apply to brokerage and other transactions. **2001 Proc. 1<sup>st</sup> Quarter 754.**

C. The Subcommittee on Unfair Competition considered the possibility of further amendments to this section to address the problems presented by the implicit economic leverage that exists when a credit relationship is established with a lending institution, **1984 Proc. II 78.**

The amendments adopted in 1984 added the second paragraph of Subsection C to address coercion of debtor problems identified. **1985 Proc. I 85-86.**

Subsection C was significantly revised when the 2001 amendments were developed. Interested parties suggested the revisions were redundant and duplicative. Credit lenders were already required by the federal Truth in Lending Act to disclose that property insurance may be obtained from a person of the consumer's choice. **2000 Proc 4<sup>th</sup> Quarter 850.**

An interested party suggested adding a limitation regarding personal, family or household purposes, similar to the action the working group took for Subsection D(1). **2001 Proc. 1<sup>st</sup> Quarter 754.**

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**Section 5** (cont.)

D. A new Subsection D was developed as a result of the Gramm-

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#### Section 5 (cont.)

The drafting note at the end of Section 5 was part of the amendments adopted in 2001 in response to the Gramm-Leach-Bliley Act. **2001 Proc. 2<sup>nd</sup> Quarter 851.**

#### Section 6. Power of Commissioner

Section 6 was substantially revised in 2001 by the addition of the last two sentences. To broaden its scope, references to persons were added wherever insurers were noted. **2001 Proc. 2<sup>nd</sup> Quarter 851.**

#### Section 7. Defined and Undefined Practices: Hearings, Witnesses, Appearances, Production of Books, and Service of Process

The sections now numbered Sections 7 and 8 were originally drafted in six sections setting up procedures for enforcement of the model's prohibitions similar to the procedures prescribed by the Federal Trade Commission Act. **1946 Proc. 149.** Before adoption they were consolidated in much the same fashion as the current version. **1946 Proc. 39.**

The procedures for dealing with "undefined" unfair trade practices in the original model were felt by many commissioners to be too cumbersome. This required notice and hearing, and the commissioner to make a determination, but he had no power to order the licensee to desist from such practices. He was required to go to court to get an injunction in order to enforce his findings. **1971 Proc. II 343.**



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#### Section 8A (cont.)

An advisory committee presented a report to the drafting committee suggesting changes to streamline administrative procedures and put more “teeth” in the model. The model as it existed only provided a penalty after a cease and desist order was violated. **1971 Proc. II 343.**

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**Section 11. Penalty for Violation of Cease and Desist Orders**

Under the original model act t