



STATE OF MISSISSIPPI
DEPARTMENT OF BANKING AND CONSUMER FINANCE
Commissioner, Rhoshunda G. Kelly

Memo to Industry 24-03
November 22, 2024

SUBJECT: Small Loan Lenders and Non-Filing Insurance

Small Loan Licensees,

This memo is being issued pursuant to the authority of the commissioner under Miss. Code Ann. Section 75-67-121(4). The purpose of this Memo is to outline the circumstances under which a Small Loan Lender may charge a fee to a customer for “Non-File insurance” (NFI).

It has come to the attention of the Mississippi Department of Banking and Consumer Finance (DBCF) that certain Small Loan Lenders are obtaining NFI and charging a fee to customers for the amount of the premiums for such policies. It is DBCF’s understanding that the purpose of the insurance is to provide coverage for lenders who extend secured credit to borrowers, but do not perfect their security interest in the borrower’s collateral by recording or filing the security instrument with the proper public officer or office. A benefit is paid to the lender in the event the debtor defaults and the lender is unable to repossess the property, obtain proceeds from the sale or disposition of the property, or otherwise enforce its rights due to the lender’s failure to perfect its security interest.

NFI is not insurance on the collateralized property that is selected by the borrower for the benefit of the borrower in the event of a loss on said property, nor does it constitute a credit insurance policy which is a type of insurance policy purchased by a borrower that pays a benefit toward or pays in full an existing debt in the event of a death, disability, or unemployment. Therefore, NFI is a noncredit insurance policy governed by the requirements of Miss. Code Ann. Section 75-67-121(3). Said statute states as follows:

On loans of One Hundred Dollars (\$100.00) or more, any licensee under this article may solicit and collect from any purchasing borrower the actual cost of any insurance premium paid for any one or more noncredit insurance policies, provided that such insurance is optional, is filed with the Department of Insurance, and is underwritten by an insurance company qualified to do business in Mississippi, and provided that the following conditions are met:

- (a) The licensee shall not require the purchase of the noncredit insurance as a condition of receiving any loan or other extension of credit from the licensee;
- (b) The licensee’s employees offering the noncredit insurance are:
 - (i) Properly licensed with the Department of Insurance as an insurance producer for the type of insurance being offered to the borrower by that employee; and
 - (ii) Appointed with the insurance company providing the insurance policy to the purchasing borrower;

- (c) The licensee shall not make the borrower's ability to obtain any current or future loan or other extension of credit from the licensee contingent upon the borrower's agreement to purchase the noncredit insurance or otherwise transact business with the licensee; and
- (d) The licensee shall allow the borrower the option to pay the cost of the noncredit insurance policy using funds other than the proceeds of a loan obtained from the licensee, or to have the cost of the noncredit insurance paid from the proceeds of any loan obtained from the licensee.

The limitations on the amount of insurance contained in subsection (1) of this section shall not apply to insurance sold under this subsection (3).

It is DBCF's determination that a Small Loan Lender may obtain NFI; however, a licensee may only collect from the purchasing borrower the actual cost of the insurance premium paid for such insurance policy if each and every requirement of Miss. Code Ann. Section 75-67-121(3) is met with regard to the subject loan.

Based on the above, all Small Loan Lenders should review their policies and procedures and ensure that they are in compliance with this guidance. Please note that failure to modify policies and procedures as of the date of this memo will result in an enforcement action or violation.

Should you have any questions, please contact Mike Garrard, Nonbank Division Director, at mike.garrard@dbcf.ms.gov or 601-321-6901.