

Solicitation for Financial Products or Services: Written Solicitations
Chapter 8, Article 25
§§ 8-2501 to 8-2505

8-2501

Written solicitation; restrictions.

(1) Except as provided in section 8-2503, no person shall include the name, trade name, logo, or symbol of a financial institution in a written solicitation for financial products or services directed to a consumer who has obtained a loan from the financial institution without the consent of the financial institution, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the financial institution and that the solicitation is not authorized by the financial institution, which shall be identified by name. The statement shall be made in close proximity to, and in the same or larger font size as, the first and most prominent use or uses of the name, trade name, logo, or symbol in the statement, including on an envelope or through an envelope window containing the statement.

(2) No person shall use the name of a financial institution or a name similar to that of a financial institution in a written solicitation for financial products or services directed to consumers, if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

(a) The financial institution's sponsorship, affiliation, connection, or association with the person using the name; or

(b) The financial institution's approval or endorsement of the person using the name or the person's products or services.

Last amended:

Laws 2005, LB 533, § 25

~ Revised Statutes Cumulative Supplement, 2006

8-2502

Written solicitation; restriction on use of loan information; exception.

Except as provided in section 8-2503, no person shall include a consumer's loan number, loan amount, or other specific loan information, whether or not publicly available, in a written solicitation for products or services without the consent of the consumer, unless the solicitation clearly and conspicuously states, when applicable, that the person is not sponsored by or affiliated with the financial institution, that the statement is not authorized by the financial institution, and that the consumer's loan information was not provided to that person by the financial institution. The statement shall be made in close proximity to, and in the same or larger font as, the first and the most prominent use or uses of the consumer's loan information in the statement, including on an envelope or through an envelope window containing the statement. The prohibition in this section does not apply to communications by a financial institution or any

of its affiliates, subsidiaries, or agents with a current customer of the financial institution or with a person who has been a customer of the financial institution.

Last amended:

Laws 2005, LB 533, § 26

~ Revised Statutes Cumulative Supplement, 2006

8-2503

Advertisement or written solicitation; comparison authorized.

It is not a violation of section 8-2501 or 8-2502 for a person in an advertisement or written solicitation for products or services to use the name, trade name, logo, or symbol of a financial institution without the statement described in section 8-2501 or 8-2502, if that use is exclusively part of a comparison of like products or services in which the person clearly and conspicuously identifies itself. Nothing in section 8-2501 or 8-2502 shall be deemed or interpreted to alter or modify the trade name and trademark laws of this state.

Last amended:

Laws 2005, LB 533, § 27

~ Revised Statutes Cumulative Supplement, 2006

8-2504

Violation; cease and desist order; fine.

(1) The Department of Banking and Finance may order any person to cease and desist whenever the Director of Banking and Finance determines that such person has violated section 8-2501 or 8-2502. Upon entry of a cease and desist order, the director shall promptly notify the affected person that such order has been entered and provide opportunity for hearing in accordance with the Administrative Procedure Act.

(2) If a person violates section 8-2501 or 8-2502 after receiving such cease and desist order, the director may, following notice and opportunity for hearing in accordance with the Administrative Procedure Act, impose a fine of up to one thousand dollars for each violation, plus the costs of investigation. Each instance in which a violation of section 8-2501 or 8-2502 takes place after receiving a cease and desist order constitutes a separate violation.

(3) The director shall remit all fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected shall be remitted to the Financial Institution Assessment Cash Fund.

(4) This section does not affect the availability of any remedies otherwise available to a financial institution.

Last amended:

Laws 2007, LB 124, § 19

Cross References:

Administrative Procedure Act, see section 84-920.

~ Revised Statutes Supplement, 2007

8-2505

Financial institution, defined.

For purposes of sections 8-2501 to 8-2504, financial institution means a state or federally chartered bank, savings and loan association, savings bank, or credit union or any affiliate, subsidiary, or agent thereof.

Last amended:

Laws 2005, LB 533, § 29

~ Revised Statutes Cumulative Supplement, 2006