

By the Committee on Banking and Insurance; and Senator Bennett

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1 A bill to be entitled

2 An act relating to insurance; providing a short title;
3 amending s. 626.171, F.S.; requiring that an applicant for
4 licensure as an insurance agent, customer representative,
5 adjuster, service representative, managing general agent,
6 or reinsurance intermediary provide to the Department of
7 Financial Services his or her home and office telephone
8 numbers and e-mail address; amending s. 626.2815, F.S.;
9 requiring persons licensed to solicit or sell life
10 insurance to complete a specified number of hours in
11 continuing education on the subject of suitability in
12 annuity and life insurance transactions; amending s.
13 626.551, F.S.; requiring that a licensee notify the
14 department within 60 days after a change in home or
15 business telephone numbers or e-mail address; amending s.
16 626.9521, F.S.; providing enhanced penalties for offenses
17 involving misleading representations or fraudulent
18 comparisons or omissions, the generation of unlawful fees
19 and commissions, or the use of fraudulent signatures;
20 providing for other enhanced penalties to supersede the
21 penalties provided by the act under certain conditions;
22 amending s. 626.9541, F.S.; revising the elements of the
23 offense known as "churning" to include direct or indirect
24 purchases made for the purpose of earning fees or
25 commissions; providing that the submission of certain
26 fraudulent signatures or the misrepresentation of a
27 licensee's qualifications constitute an unfair method of
28 competition and an unfair or deceptive act or practice;
29 amending s. 626.99, F.S.; revising requirements for life

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30 insurance or annuity policies to increase the period of
31 time allowed for obtaining an unconditional refund;
32 requiring insurers for all types of annuities to provide a
33 buyer's guide and a policy summary to the buyer; amending
34 s. 627.4554, F.S.; providing for the regulation of
35 recommendations relating to the sale of life insurance
36 products to senior consumers; redefining the term
37 "annuity" and defining the term "life insurance contract";
38 requiring that an agent obtain financial and other
39 information concerning the senior consumer before
40 executing a purchase or exchange of an annuity or life
41 insurance contract; requiring that the agent perform a
42 suitability analysis relative to the investment he or she
43 recommends and document the analysis in writing; requiring
44 an agent to provide a comparison of current and
45 recommended products if the transaction involves the
46 replacement or exchange of an in-force insurance policy or
47 annuity; requiring an agent to provide information about
48 any surrender charges and tax consequences; authorizing
49 the department and commission to adopt rules; providing an
50 effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. This act may be cited as the "John and Patricia
55 Seibel Act."

56 Section 2. Paragraph (a) of subsection (2) of section
57 626.171, Florida Statutes, is amended to read:

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58 626.171 Application for license as an agent, customer
59 representative, adjuster, service representative, managing
60 general agent, or reinsurance intermediary.--

61 (2) In the application, the applicant shall set forth:

62 (a) His or her full name, age, social security number,
63 residence address, business address, ~~and~~ mailing address, home
64 telephone number, business telephone number, and e-mail address.

65
66 However, the application must contain a statement that an
67 applicant is not required to disclose his or her race or
68 ethnicity, gender, or native language, that he or she will not be
69 penalized for not doing so, and that the department will use this
70 information exclusively for research and statistical purposes and
71 to improve the quality and fairness of the examinations.

72 Section 3. Paragraph (k) is added to subsection (3) of
73 section 626.2815, Florida Statutes, to read:

74 626.2815 Continuing education required; application;
75 exceptions; requirements; penalties.--

76 (3)

77 (k) Effective January 1, 2009, and until January 1, 2010,
78 any person who holds a license to solicit or sell life insurance
79 in this state must complete a minimum of 3 hours in continuing
80 education, approved by the department, on the subject of
81 suitability in annuity and life insurance transactions. A
82 licensee may use the hours obtained under this paragraph to
83 satisfy the requirement for continuing education in ethics under
84 paragraph (a).

85 Section 4. Section 626.551, Florida Statutes, is amended to
86 read:

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87 626.551 Notice of change of address, name.--Every licensee
88 shall notify the department in writing within 60 days after a
89 change of name, residence address, principal business street
90 address, ~~or~~ mailing address, home telephone number, business
91 telephone number, or e-mail address. ~~A~~ Any licensed agent who has
92 moved his or her residence from this state shall have his or her
93 license and all appointments immediately terminated by the
94 department. Failure to notify the department within the required
95 time period shall result in a fine not to exceed \$250 for the
96 first offense and, for subsequent offenses, a fine of at least
97 ~~not less than~~ \$500 or suspension or revocation of the license
98 pursuant to s. 626.611 or s. 626.621.

99 Section 5. Section 626.9521, Florida Statutes, is amended
100 to read:

101 626.9521 Unfair methods of competition and unfair or
102 deceptive acts or practices prohibited; penalties.--

103 (1) No person shall engage in this state in any trade
104 practice which is defined in this part as, or determined pursuant
105 to s. 626.951 or s. 626.9561 to be, an unfair method of
106 competition or an unfair or deceptive act or practice involving
107 the business of insurance.

108 (2) Except as provided in subsection (3), any person who
109 violates any provision of this part is ~~shall be~~ subject to a fine
110 in an amount not greater than \$2,500 for each nonwillful
111 violation and not greater than \$20,000 for each willful
112 violation. Fines under this subsection may not exceed an
113 aggregate amount of \$10,000 for all nonwillful violations arising
114 out of the same action or an aggregate amount of \$100,000 for all
115 willful violations arising out of the same action. The fines

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116 ~~authorized by this subsection~~ may be imposed in addition to any
117 other applicable penalty.

118 (3) (a) If a person violates s. 626.9541(1) (l), the offense
119 known as "twisting," or violates s. 626.9541(1) (aa), the offense
120 known as "churning," the person commits a felony of the third
121 degree, punishable as provided in s. 775.082, and a fine not
122 greater than \$5,000 shall be imposed for each nonwillful
123 violation or a fine not greater than \$30,000 shall be imposed for
124 each willful violation. However, if the victim of such offense is
125 65 years of age or older or the agent knew or should have known
126 the victim is mentally disabled, the person commits a felony of
127 the second degree, punishable as provided in s. 775.082, and a
128 fine not greater than \$5,000 shall be imposed for each nonwillful
129 violation or a fine not greater than \$30,000 shall be imposed for
130 each willful violation. To impose criminal penalties under this
131 subparagraph, the agent must have exhibited a pattern or practice
132 of "churning" or "twisting."

133 (b) If a person violates s. 626.9541(1) (ee) by submitting
134 fraudulent signatures on an application or policy-related
135 document, the person commits a felony of the third degree,
136 punishable as provided in s. 775.082, and a fine not greater than
137 \$5,000 shall be imposed for each nonwillful violation or a fine
138 not greater than \$30,000 shall be imposed for each willful
139 violation.

140 (c) Fines under this subsection may not exceed an aggregate
141 amount of \$20,000 for all nonwillful violations arising out of
142 the same action or an aggregate amount of \$150,000 for all
143 willful violations arising out of the same action.

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144 Section 6. Any increase in the fines imposed under s.
145 626.9521, Florida Statutes, which exceeds the increase provided
146 by this act shall supersede the amendments made to that section
147 by this act if such increase is enacted during the 2008
148 legislative session and becomes law, and the amendments to s.
149 626.9521, Florida Statutes, made by this act shall not take
150 effect.

151 Section 7. Paragraph (aa) of subsection (1) of section
152 626.9541, Florida Statutes, is amended, and paragraphs (ee) and
153 (ff) are added to that subsection, to read:

154 626.9541 Unfair methods of competition and unfair or
155 deceptive acts or practices defined.--

156 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
157 ACTS.--The following are defined as unfair methods of competition
158 and unfair or deceptive acts or practices:

159 (aa) Churning.--

160 1. Churning is the practice whereby policy values in an
161 existing life insurance policy or annuity contract, including,
162 but not limited to, cash, loan values, or dividend values, and in
163 any riders to that policy or contract, are directly or indirectly
164 used ~~utilized~~ to purchase another insurance policy or annuity
165 contract with that same insurer for the purpose of earning
166 additional premiums, fees, commissions, or other compensation:

167 a. Without an objectively reasonable basis for believing
168 that the replacement or extraction will result in an actual and
169 demonstrable benefit to the policyholder;

170 b. In a fashion that is fraudulent, deceptive, or otherwise
171 misleading or that involves a deceptive omission;

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172 c. When the applicant is not informed that the policy
173 values including cash values, dividends, and other assets of the
174 existing policy or contract will be reduced, forfeited, or used
175 ~~utilized~~ in the purchase of the replacing or additional policy or
176 contract, if this is the case; or

177 d. Without informing the applicant that the replacing or
178 additional policy or contract will not be a paid-up policy or
179 that additional premiums will be due, if this is the case.

180
181 Churning by an insurer or an agent is an unfair method of
182 competition and an unfair or deceptive act or practice.

183 2. Each insurer shall comply with sub-subparagraphs 1.c.
184 and 1.d. by disclosing to the applicant at the time of the offer
185 on a form designed and adopted by rule by the commission if, how,
186 and the extent to which the policy or contract values (including
187 cash value, dividends, and other assets) of a previously issued
188 policy or contract will be used to purchase a replacing or
189 additional policy or contract with the same insurer. The form
190 must ~~shall~~ include disclosure of the premium, the death benefit
191 of the proposed replacing or additional policy, and the date when
192 the policy values of the existing policy or contract will be
193 insufficient to pay the premiums of the replacing or additional
194 policy or contract.

195 3. Each insurer shall adopt written procedures to
196 reasonably avoid churning of policies or contracts that it has
197 issued, and failure to adopt written procedures sufficient to
198 reasonably avoid churning shall be an unfair method of
199 competition and an unfair or deceptive act or practice.

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200 (ee) Fraudulent signatures on an application or policy-
201 related document.--Willfully submitting to an insurer on behalf
202 of a consumer an insurance application or policy-related document
203 bearing a false or fraudulent signature.

204 (ff) Unlawful use of designations; misrepresentation of
205 agent qualifications.--

206 1. A licensee may not, in any sales presentation or
207 solicitation for insurance, use a designation or title in such a
208 way as to falsely imply that the licensee:

209 a. Possesses special financial knowledge or has obtained
210 specialized financial training; or

211 b. Is certified or qualified to provide specialized
212 financial advice to senior citizens.

213 2. A licensee may not use terms such as "financial advisor"
214 in such a way as to falsely imply that the licensee is licensed
215 or qualified to discuss, sell, or recommend financial products
216 other than insurance products.

217 3. A licensee may not, in any sales presentation or
218 solicitation for insurance, falsely imply that he or she is
219 qualified to discuss, recommend, or sell securities or other
220 investment products in addition to insurance products.

221 4. A licensee who also holds a designation as a certified
222 financial planner (CFP), chartered life underwriter (CLU),
223 chartered financial consultant (ChFC), life underwriter training
224 council fellow (LUTC), or the appropriate license to sell
225 securities from the Financial Industry Regulatory Authority
226 (FINRA) may inform the customer of those licenses or designations
227 and make recommendations in accordance with those licenses or
228 designations, and in so doing does not violate this paragraph.

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229 Section 8. Paragraph (a) of subsection (4) of section
230 626.99, Florida Statutes, is amended to read:

231 626.99 Life insurance solicitation.--

232 (4) DISCLOSURE REQUIREMENTS.--

233 (a) The insurer shall provide to each prospective purchaser
234 a buyer's guide and a policy summary prior to accepting the ~~any~~
235 applicant's initial premium or premium deposit, unless the policy
236 for which application is made provides ~~contains a provision for~~
237 an unconditional refund for a period of at least 14 ~~10~~ days, or
238 unless the policy summary contains an offer of such an
239 unconditional refund, in which event the buyer's guide and policy
240 summary must be delivered with the policy or prior to delivery of
241 the policy. With respect to ~~fixed~~ annuities, the insurer shall
242 provide to each prospective purchaser a buyer's guide to
243 annuities and a contract summary as provided in the National
244 Association of Insurance Commissioners (NAIC) Model Annuity and
245 Deposit Fund Regulation and the policy must provide ~~shall contain~~
246 ~~a provision for~~ an unconditional refund for a period of at least
247 14 ~~10~~ days.

248 Section 9. Section 627.4554, Florida Statutes, is amended
249 to read:

250 627.4554 Annuity and life insurance investments by
251 seniors.--

252 (1) PURPOSE; CONSTRUCTION.--

253 (a) The purpose of this section is to set forth standards
254 and procedures for making recommendations to senior consumers
255 which result in a transaction involving life insurance or annuity
256 products to appropriately address the insurance needs and

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257 financial objectives of senior consumers at the time of the
258 transaction.

259 (b) A violation of ~~Nothing in~~ this section does not shall
260 ~~be construed to~~ create or imply a private cause of action ~~for a~~
261 ~~violation of this section.~~

262 (2) APPLICATION.--This section applies to any
263 recommendation to purchase or exchange an annuity or life
264 insurance product which is made to a senior consumer by an
265 insurance agent, or an insurer where no agent is involved, and
266 which, ~~that~~ results in the purchase or exchange recommended.

267 (3) DEFINITIONS.--For purposes of this section, the term:

268 (a) "Annuity contract" means a fixed annuity, fixed equity
269 indexed annuity, or variable annuity that is individually
270 solicited, whether the product is classified as an individual
271 annuity or a group annuity.

272 (b) "Life insurance contract" means life insurance of human
273 lives.

274 (c) ~~(b)~~ "Recommendation" means advice provided by an
275 insurance agent, or an insurer if no insurance agent is involved,
276 to an individual senior consumer which results in a purchase or
277 exchange of an annuity or life insurance contract in accordance
278 with that advice.

279 (d) ~~(c)~~ "Senior consumer" means a person 65 years of age or
280 older. In the event of a joint purchase by more than one party, a
281 purchaser is considered to be a senior consumer if any of the
282 parties is age 65 or older.

283 (4) DUTIES OF INSURERS AND INSURANCE AGENTS.--

284 (a) In recommending to a senior consumer the purchase or
285 exchange of an annuity or life insurance contract which ~~or the~~

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286 ~~exchange of an annuity that~~ results in another insurance
287 transaction or series of insurance transactions, an insurance
288 agent, or an insurer if no insurance agent is involved, must
289 ~~shall~~ have an objectively reasonable basis ~~grounds~~ for believing
290 that the recommendation is suitable for the senior consumer based
291 ~~on the basis of~~ the facts disclosed by the senior consumer as to
292 his or her investments and other insurance products and as to his
293 or her financial situation and needs.

294 (b) Before executing a purchase or exchange of an annuity
295 or life insurance contract resulting from a recommendation to a
296 senior consumer, an insurance agent, or an insurer if no
297 insurance agent is involved, shall make reasonable efforts to
298 obtain information concerning the suitability of ~~senior~~
299 ~~consumer's financial status, tax status, and investment~~
300 ~~objectives and such other information used or considered to be~~
301 ~~reasonable by the insurance agent, or the insurer if no agent is~~
302 ~~involved, in making~~ the recommendation. The information shall
303 include, at a minimum:

304 1. Personal information, including the age and gender of
305 the parties to the annuity or life insurance and ages and number
306 of any dependents;

307 2. Sources and amounts of income, including employment and
308 salary details or other compensation applicable to the parties to
309 the annuity or life insurance;

310 3. Financial information applicable to the parties to the
311 annuity or life insurance, including, at a minimum, specific
312 assets and liabilities to determine net worth and long-term and
313 short-term debt;

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- 314 4. Other in-force insurance and annuities and retirement or
315 savings plans;
- 316 5. Tax status of the consumer;
- 317 6. Current and foreseeable living and health-related
318 expenses;
- 319 7. Investment experience of the consumer;
- 320 8. Savings and investment goals relative to investment and
321 income time horizons and need for liquidity;
- 322 9. Individual objectives, anticipated changes in needs, and
323 investment preferences, including risk tolerance;
- 324 10. The source of the funds that will be used to purchase
325 the annuity or life insurance; and
- 326 11. Such other information used or considered to be
327 relevant by the insurance agent or insurer in making
328 recommendations to the consumer regarding the purchase or
329 exchange of an annuity or life insurance contract.

330

331 This information shall be collected on a form adopted by rule by
332 the department and completed and signed by the applicant and
333 agent. Questions requesting this information must be presented in
334 at least 12-point type and be sufficiently clear so as to be
335 readily understandable by both the agent and the consumer. A true
336 and correct executed copy of the form shall be provided by the
337 agent to the insurer within 10 days after execution of the form,
338 and shall be provided to the consumer no later than the date of
339 delivery of the contract or contracts.

340 (c)1. Except as provided under subparagraph 2., an
341 insurance agent, or an insurer if no insurance agent is involved,
342 has no ~~shall not have any~~ obligation to a senior consumer under

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343 paragraph (a) related to any recommendation if the senior
344 consumer:

345 a. Refuses to provide relevant information requested by the
346 insurer or insurance agent;

347 b. Decides to enter into an insurance transaction that is
348 not based on a recommendation of the insurer or insurance agent;
349 or

350 c. Fails to provide complete or accurate information.

351 2. An insurer or insurance agent's recommendation subject
352 to subparagraph 1. shall be objectively reasonable under all the
353 circumstances actually known to the insurer or insurance agent at
354 the time of the recommendation.

355 3. If the consumer refuses to provide relevant information
356 requested by the insurance agent or insurer, before the execution
357 of the sale the insurance agent or insurer shall obtain a signed
358 verification from the senior consumer on a form adopted by rule
359 by the department that he or she refuses to provide the requested
360 information and may be limiting protections afforded by this
361 section regarding the suitability of the sale.

362 (d) In addition to the information required by paragraph
363 (b), before the execution of a replacement or exchange of an
364 annuity or life insurance policy resulting from a recommendation,
365 the insurance agent shall also provide, on a form adopted by rule
366 by the department, information concerning differences between
367 each existing annuity or life insurance policy and the annuity or
368 life insurance policy being recommended in order to determine the
369 suitability of the recommendation and its benefit to the
370 consumer. A true and correct executed copy of this form shall be
371 provided by the agent to the insurer within 10 days after

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372 execution of the form, and shall be provided to the consumer no
373 later than the date of delivery of the contract or contracts. The
374 information shall include, at a minimum:

375 1. A comparison of the benefits, terms, and limitations
376 between the annuities and life insurance policies;

377 2. A comparison of any fees and charges between the
378 annuities and life insurance policies;

379 3. A written basis for the recommended exchange, including
380 the overall advantages and disadvantages to the consumer if the
381 recommendation is followed; and

382 4. Such other information used or considered to be relevant
383 by the insurance agent or the insurer in making recommendations
384 to the consumer regarding the replacement or exchange of an
385 annuity or life insurance policy.

386 (e) Prior to the execution of a purchase or exchange of an
387 annuity or life insurance policy resulting from a recommendation,
388 an agent shall also disclose to the consumer that such purchase
389 or exchange may have tax consequences and that the applicant
390 should contact his or her tax advisor for more information.

391 (f) ~~(d)~~1. An insurer or insurance agent must ~~shall~~ ensure
392 that a system to supervise recommendations, which is reasonably
393 designed to achieve compliance with this section, is established
394 and maintained by complying with subparagraphs 3., 4., and 5., or
395 shall establish and maintain such a system, including, but not
396 limited to:

397 a. Maintaining written procedures.

398 b. Conducting periodic reviews of its records that are
399 reasonably designed to assist in detecting and preventing
400 violations of this section.

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401 2. A managing general agent and an insurance agency shall
402 adopt a system established by an insurer to supervise
403 recommendations of its insurance agents which is reasonably
404 designed to achieve compliance with this section or shall
405 establish and maintain such a system, including, but not limited
406 to:

407 a. Maintaining written procedures.

408 b. Conducting periodic reviews of records that are
409 reasonably designed to assist in detecting and preventing
410 violations of this section.

411 3. An insurer may contract with a third party, including a
412 managing general agent or an insurance agency, to establish and
413 maintain a system of supervision as required by subparagraph 1.
414 with respect to insurance agents under contract with or employed
415 by the third party.

416 4. An insurer shall make reasonable inquiry to ensure that
417 such third party contracting under subparagraph 3. is performing
418 the functions required under subparagraph 1. and shall take such
419 action as is reasonable under the circumstances to enforce the
420 contractual obligation to perform the functions. An insurer may
421 comply with its obligation to make reasonable inquiry by:

422 a. Annually obtaining a certification from a third party
423 senior manager who has responsibility for the delegated functions
424 that the manager has a reasonable basis to represent, and does
425 represent, that the third party is performing the required
426 functions.

427 b. Based on reasonable selection criteria, periodically
428 selecting third parties contracting under subparagraph 3. for a
429 review to determine whether the third parties are performing the

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430 required functions. The insurer shall perform any procedures
431 necessary to conduct the review which are reasonable under the
432 circumstances.

433 5. An insurer that contracts with a third party pursuant to
434 subparagraph 3. and complies with the requirements specified in
435 subparagraph 4. is deemed to have fulfilled its responsibilities
436 under subparagraph 1.

437 6. An insurer, managing general agent, or insurance agency
438 is not required by subparagraph 1. or subparagraph 2. to:

439 a. Review or provide for review of all transactions
440 solicited by an insurance agent; or

441 b. Include in its system of supervision an insurance
442 agent's recommendations to senior consumers of products other
443 than the annuities offered by the insurer, managing general
444 agent, or insurance agency.

445 7. A managing general agent or insurance agency contracting
446 with an insurer pursuant to subparagraph 3. shall promptly, when
447 requested by the insurer pursuant to subparagraph 4., provide a
448 certification as described in subparagraph 4. or provide a clear
449 statement that the managing general agent or insurance agency is
450 unable to meet the certification criteria.

451 8. A person may not provide a certification under sub-
452 subparagraph 4.a. unless the person is a senior manager with
453 responsibility for the delegated functions and has a reasonable
454 basis for making the certification.

455 (5) MITIGATION OF RESPONSIBILITY.--

456 (a) The office may order an insurer to take reasonably
457 appropriate corrective action, including rescission of the policy
458 or contract and a full refund of the premiums paid or the

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459 accumulation value, whichever is greater, for any senior consumer
460 harmed by a violation of this section by the insurer or the
461 insurer's insurance agent.

462 (b) The department may order:

463 1. An insurance agent to take reasonably appropriate
464 corrective action for any senior consumer harmed by a violation
465 of this section by the insurance agent.

466 2. A managing general agency or insurance agency that
467 employs or contracts with an insurance agent to sell or solicit
468 the sale of annuities to senior consumers to take reasonably
469 appropriate corrective action for any senior consumer harmed by a
470 violation of this section by the insurance agent.

471 (c) Any applicable penalty under the Florida Insurance Code
472 for a violation of paragraph (4)(a), paragraph (4)(b), or
473 subparagraph (4)(c)2. may be reduced or eliminated, according to
474 a schedule adopted by the office or the department, as
475 appropriate, if corrective action for the senior consumer was
476 taken promptly after a violation was discovered.

477 (6) RECORDKEEPING.--

478 (a) Insurers, managing general agents, insurance agencies,
479 and insurance agents shall each maintain or ~~be able to~~ make
480 available to the department or office, as appropriate, records of
481 the information collected from the senior consumer and other
482 information used in making the recommendations that were the
483 basis for insurance transactions for 5 years after the insurance
484 transaction is completed by the insurer. An insurer is permitted,
485 but shall not be required, to maintain documentation on behalf of
486 an insurance agent.

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487 (b) Records required to be maintained by this subsection
488 ~~regulation~~ may be maintained in paper, photographic,
489 microprocess, magnetic, mechanical, or electronic media, or by
490 any process that accurately reproduces the actual document.

491 (7) EXEMPTIONS.--Unless otherwise specifically included,
492 this section does not apply to recommendations involving:

493 (a) Direct-response solicitations where there is no
494 recommendation based on information collected from the senior
495 consumer pursuant to this section.

496 (b) Contracts used to fund:

497 1. An employee pension or welfare benefit plan that is
498 covered by the Employee Retirement and Income Security Act;

499 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
500 408(k), or s. 408(p) of the Internal Revenue Code of 1986, as
501 amended, if established or maintained by an employer;

502 3. A government or church plan defined in s. 414 of the
503 Internal Revenue Code of 1986, as amended, a government or church
504 welfare benefit plan, or a deferred compensation plan of a state
505 or local government or tax-exempt organization under s. 457 of
506 the Internal Revenue Code of 1986, as amended;

507 4. A nonqualified deferred compensation arrangement
508 established or maintained by an employer or plan sponsor;

509 5. Settlements of or assumptions of liabilities associated
510 with personal injury litigation or any dispute or claim
511 resolution process; or

512 6. Prepaid funeral contracts.

513 (8) APPLICATION TO VARIABLE ANNUITIES.--Compliance with the
514 Financial Industry Regulatory Authority National Association of
515 ~~Securities Dealers~~ Conduct Rules in effect on January 1, 2004,

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516 shall satisfy the requirements under this section for the
517 recommendation of variable annuities. This section does not limit
518 the department's ability to enforce the provisions of this
519 section with respect to insurance agents, insurance agencies, and
520 managing general agents, or the office's ability to enforce the
521 provisions of this section with respect to insurers.

522 (9) RULES.--The department and commission may adopt rules
523 to administer this section.

524 Section 10. This act shall take effect January 1, 2009.