

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Giallombardo offered the following:

Amendment (with directory and title amendments)

Remove lines 1203-1926 and insert:

(c) Notwithstanding subparagraph (b), Citizens Property Insurance Corporation in underwriting risks that, prior to the date of the application, were most recently insured by an insurer that has been placed in receivership under chapter 631, may immediately cancel a policy insuring such risk that has been in effect for 90 days or less for material misrepresentation or failure to comply with underwriting requirements established before the effectuation of coverage.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

13 Section 16. Effective January 1, 2024, section 627.4554,
14 Florida Statutes, is amended to read:

15 627.4554 Suitability in annuity transactions investments.—

16 (1) PURPOSE.—The purpose of this section is to require
17 agents to act in the best interest of the consumer when making a
18 recommendation of an annuity and to require insurers to
19 establish and maintain a system to supervise so set forth
20 standards and procedures for making recommendations to consumers
21 which result in transactions involving annuity products, and to
22 establish a system for supervising such recommendations in order
23 to ensure that the insurance needs and financial objectives of
24 consumers are effectively appropriately addressed at the time of
25 the transaction.

26 (2) SCOPE.—This section applies to any sale or
27 recommendation of made to a consumer to purchase, exchange, or
28 replace an annuity by an insurer or its agent, and which results
29 in the purchase, exchange, or replacement recommended.

30 (3) DEFINITIONS.—As used in this section, the term:

31 (a) "Agent" means a person or entity required to be
32 licensed under the laws of this state to sell, solicit, or
33 negotiate insurance, including annuities. For purposes of this
34 section, the term includes an insurer when no agent is involved
35 has the same meaning as provided in s. 626.015.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

36 (b) "Annuity" means an insurance product under state law
37 which is individually solicited, whether classified as an
38 individual or group annuity.

39 (c) "Cash compensation" means any discount, concession,
40 fee, service fee, commission, sales charge, loan, override, or
41 cash benefit received by an agent from an insurer or
42 intermediary or directly from the consumer in connection with
43 the recommendation or sale of an annuity.

44 (d) "Consumer profile information" means information that
45 is reasonably appropriate to determine whether a recommendation
46 addresses the consumer's financial situation, insurance needs,
47 and financial objectives, including, at a minimum, the
48 following:

- 49 1. Age.
- 50 2. Annual income.
- 51 3. Financial situation and needs, including debts and
52 other obligations.
- 53 4. Financial experience.
- 54 5. Insurance needs.
- 55 6. Financial objectives.
- 56 7. Intended use of the annuity.
- 57 8. Financial time horizon.
- 58 9. Existing assets or financial products, including
59 investment, annuity, and insurance holdings.
- 60 10. Liquidity needs.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

61 11. Liquid net worth.

62 12. Risk tolerance, including, but not limited to,
63 willingness to accept nonguaranteed elements in the annuity.

64 13. Financial resources used to fund the annuity.

65 14. Tax status.

66 ~~(e)~~ "FINRA" means the Financial Industry Regulatory
67 Authority or a succeeding agency.

68 ~~(f)~~~~(d)~~ "Insurer" has the same meaning as provided in s.
69 624.03.

70 (g) "Intermediary" means an entity contracted directly
71 with an insurer or with another entity contracted with an
72 insurer to facilitate the sale of the insurer's annuities by
73 agents.

74 (h) "Material conflict of interest" means a financial
75 interest of the agent in the sale of an annuity which a
76 reasonable person would expect to influence the impartiality of
77 a recommendation. The term does not include cash compensation or
78 noncash compensation.

79 (i) "Noncash compensation" means any form of compensation
80 that is not cash compensation, including, but not limited to,
81 health insurance, office rent, office support, and retirement
82 benefits.

83 (j) "Nonguaranteed elements" means the premiums; credited
84 interest rates, including any bonus; benefits; values;
85 dividends; noninterest-based credits; charges; or elements of

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

86 formulas used to determine any of these, which are subject to
87 company discretion and are not guaranteed at issue. An element
88 is considered nonguaranteed if any of the underlying
89 nonguaranteed elements are used in its calculation.

90 (k)-(e) "Recommendation" means advice provided by an
91 insurer or its agent to an individual a consumer which was
92 intended to result or does result which would result in a the
93 purchase, an exchange, or a replacement of an annuity in
94 accordance with that advice. The term does not include general
95 communication to the public, generalized customer services,
96 assistance or administrative support, general educational
97 information and tools, prospectuses, or other product and sales
98 material.

99 (l)-(f) "Replacement" means a transaction in which a new
100 annuity policy or contract is to be purchased and it is known or
101 should be known to the proposing insurer or its agent, or to the
102 proposing insurer whether or not an agent is involved, that by
103 reason of such transaction an existing annuity or other
104 insurance policy has been or is to be any of the following or
105 contract will be:

106 1. Lapsed, forfeited, surrendered or partially
107 surrendered, assigned to the replacing insurer, or otherwise
108 terminated;

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

109 2. Converted to reduced paid-up insurance, continued as
110 extended term insurance, or otherwise reduced in value due to
111 the use of nonforfeiture benefits or other policy values;

112 3. Amended so as to effect a reduction in benefits or the
113 term for which coverage would otherwise remain in force or for
114 which benefits would be paid;

115 4. Reissued with a reduction in cash value; or

116 5. Used in a financed purchase.

117 (m) "SEC" means the United States Securities and Exchange
118 Commission.

119 ~~(g) "Suitability information" means information related to~~
120 ~~the consumer which is reasonably appropriate to determine the~~
121 ~~suitability of a recommendation made to the consumer, including~~
122 ~~the following:~~

123 1. ~~Age;~~

124 2. ~~Annual income;~~

125 3. ~~Financial situation and needs, including the financial~~
126 ~~resources used for funding the annuity;~~

127 4. ~~Financial experience;~~

128 5. ~~Financial objectives;~~

129 6. ~~Intended use of the annuity;~~

130 7. ~~Financial time horizon;~~

131 8. ~~Existing assets, including investment and life~~
132 ~~insurance holdings;~~

133 9. ~~Liquidity needs;~~

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

134 | ~~10. Liquid net worth;~~

135 | ~~11. Risk tolerance; and~~

136 | ~~12. Tax status.~~

137 | (4) EXEMPTIONS.—Unless otherwise specifically included,
138 | this section does not apply to transactions involving:

139 | (a) Direct-response solicitations where there is no
140 | recommendation based on information collected from the consumer
141 | pursuant to this section;

142 | (b) Contracts used to fund:

143 | 1. An employee pension or welfare benefit plan that is
144 | covered by the federal Employee Retirement and Income Security
145 | Act;

146 | 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
147 | 408(k), or s. 408(p) of the Internal Revenue Code, if
148 | established or maintained by an employer;

149 | 3. A government or church plan defined in s. 414 of the
150 | Internal Revenue Code, a government or church welfare benefit
151 | plan, or a deferred compensation plan of a state or local
152 | government or tax-exempt organization under s. 457 of the
153 | Internal Revenue Code; or

154 | 4. A nonqualified deferred compensation arrangement
155 | established or maintained by an employer or plan sponsor;

156 | (c)5. Settlements or assumptions of liabilities associated
157 | with personal injury litigation or a dispute or claim-resolution
158 | process; or

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

159 (d)6. Formal prepaid funeral contracts.
160 (5) DUTIES OF INSURERS AND AGENTS.—
161 (a) An agent, when making a recommendation of an annuity,
162 shall act in the best interest of the consumer under the
163 circumstances known at the time the recommendation is made,
164 without placing the financial interest of the agent or insurer
165 ahead of the consumer's interest. An agent has acted in the best
166 interest of the consumer if the agent has satisfied the
167 following obligations regarding care, disclosure, conflict of
168 interest, and documentation:
169 1.a. The agent, in making a recommendation, shall exercise
170 reasonable diligence, care, and skill to:
171 (I) Know the financial situation, insurance needs, and
172 financial objectives of the customer.
173 (II) Understand the available options after making a
174 reasonable inquiry into options available to the agent.
175 (III) Have a reasonable basis to believe the recommended
176 option effectively addresses the consumer's financial situation,
177 insurance needs, and financial objectives over the life of the
178 product, as evaluated in light of the consumer profile
179 information.
180 (IV) Communicate the reason or reasons for the
181 recommendation.
182 b. The requirements of sub-subparagraph a. include:

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

183 (I) Making reasonable efforts to obtain consumer profile
184 information from the consumer before the recommendation of an
185 annuity.

186 (II) Requiring an agent to consider the types of products
187 the agent is authorized and licensed to recommend or sell which
188 address the consumer's financial situation, insurance needs, and
189 financial objectives. This does not require analysis or
190 consideration of any products outside the authority and license
191 of the agent or other possible alternative products or
192 strategies available in the market at the time of the
193 recommendation. Agents shall be held to standards applicable to
194 agents with similar authority and licensure.

195 (III) Having a reasonable basis to believe the consumer
196 would benefit from certain features of the annuity, such as
197 annuitization, death or living benefit, or other insurance-
198 related features.

199 c. The requirements of this subsection do not create a
200 fiduciary obligation or relationship and only create a
201 regulatory obligation as provided in this section.

202 d. The consumer profile information, characteristics of
203 the insurer, and product costs, rates, benefits, and features
204 are those factors generally relevant in making a determination
205 whether an annuity effectively addresses the consumer's
206 financial situation, insurance needs, and financial objectives,
207 but the level of importance of each factor under the care

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

208 obligation of this paragraph may vary depending on the facts and
209 circumstances of a particular case. However, each factor may not
210 be considered in isolation.

211 e. The requirements under sub-subparagraph a. apply to the
212 particular annuity as a whole and the underlying subaccounts to
213 which funds are allocated at the time of purchase or exchange of
214 an annuity, and riders and similar product enhancements, if any.

215 f. Sub-subparagraph a. does not require that the annuity
216 with the lowest one-time occurrence compensation structure or
217 multiple occurrence compensation structure shall necessarily be
218 recommended.

219 g. Sub-subparagraph a. does not require the agent to have
220 ongoing monitoring obligations under the care obligation,
221 although such an obligation may be separately owed under the
222 terms of a fiduciary, consulting, investment, advising, or
223 financial planning agreement between the consumer and the agent.

224 h. In the case of an exchange or replacement of an
225 annuity, the agent shall consider the whole transaction, which
226 includes taking into consideration whether:

227 (I) The consumer will incur a surrender charge; be subject
228 to the commencement of a new surrender period; lose existing
229 benefits, such as death, living, or other contractual benefits;
230 or be subject to increased fees, investment advisory fees, or
231 charges for riders and similar product enhancements.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

232 (II) The replacing product would substantially benefit the
233 consumer in comparison to the replaced product over the life of
234 the product.

235 (III) The consumer has had another annuity exchange or
236 replacement and, in particular, an exchange or replacement
237 within the preceding 60 months.

238 i. This section does not require an agent to obtain any
239 license other than an agent license with the appropriate line of
240 authority to sell, solicit, or negotiate insurance in this
241 state, including, but not limited to, any securities license, in
242 order to fulfill the duties and obligations contained in this
243 section; provided, the agent does not give advice or provide
244 services that are otherwise subject to securities laws or engage
245 in any other activity requiring other professional licenses.

246 2.a. Before the recommendation or sale of an annuity, the
247 agent shall prominently disclose to the consumer, on a form
248 substantially similar to that posted on the office website as
249 Appendix A, related to an insurance agent disclosure for
250 annuities:

251 (I) A description of the scope and terms of the
252 relationship with the consumer and the role of the agent in the
253 transaction.

254 (II) An affirmative statement on whether the agent is
255 licensed and authorized to sell the following products:

256 (A) Fixed annuities.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

- 257 | (B) Fixed indexed annuities.
- 258 | (C) Variable annuities.
- 259 | (D) Life insurance.
- 260 | (E) Mutual funds.
- 261 | (F) Stocks and bonds.
- 262 | (G) Certificates of deposit.
- 263 | (III) An affirmative statement describing the insurers for
- 264 | which the agent is authorized, contracted, or appointed, or
- 265 | otherwise able to sell insurance products, using the following
- 266 | descriptions:
- 267 | (A) From one insurer;
- 268 | (B) From two or more insurers; or
- 269 | (C) From two or more insurers, although primarily
- 270 | contracted with one insurer.
- 271 | (IV) A description of the sources and types of cash
- 272 | compensation and noncash compensation to be received by the
- 273 | agent, including whether the agent is to be compensated for the
- 274 | sale of a recommended annuity by commission as part of premium
- 275 | or other remuneration received from the insurer, intermediary,
- 276 | or other agent, or by fee as a result of a contract for advice
- 277 | or consulting services.
- 278 | (V) A notice of the consumer's right to request additional
- 279 | information regarding cash compensation described in sub-
- 280 | subparagraph b.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

281 b. Upon request of the consumer or the consumer's
282 designated representative, the agent shall disclose:
283 (I) A reasonable estimate of the amount of cash
284 compensation to be received by the agent, which may be stated as
285 a range of amounts or percentages.
286 (II) Whether the cash compensation is a one-time or
287 multiple occurrence amount; and if a multiple occurrence amount,
288 the frequency and amount of the occurrence, which may be stated
289 as a range of amounts or percentages. ~~When recommending the~~
290 ~~purchase or exchange of an annuity to a consumer which results~~
291 ~~in an insurance transaction or series of insurance transactions,~~
292 ~~the agent, or the insurer where no agent is involved, must have~~
293 ~~reasonable grounds for believing that the recommendation is~~
294 ~~suitable for the consumer, based on the consumer's suitability~~
295 ~~information, and that there is a reasonable basis to believe all~~
296 ~~of the following:~~
297 c.1. Before or at the time of the recommendation or sale
298 of an annuity, the agent shall have a reasonable basis to
299 believe the consumer has been ~~reasonably~~ informed of various
300 features of the annuity, such as the potential surrender period
301 and surrender charge; potential tax penalty if the consumer
302 sells, exchanges, surrenders, or annuitizes the annuity;
303 mortality and expense fees; any annual fees; investment advisory
304 fees; potential charges for and features of riders or other
305 options of the annuity; limitations on interest returns;

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

306 potential changes in nonguaranteed elements of the annuity;
307 insurance and investment components; and market risk.

308 ~~2. The consumer would benefit from certain features of the~~
309 ~~annuity, such as tax-deferred growth, annuitization, or the~~
310 ~~death or living benefit.~~

311 3. An agent shall identify and avoid or reasonably manage
312 and disclose material conflicts of interest, including material
313 conflicts of interest related to an ownership interest.

314 4. An agent shall at the time of the recommendation or
315 sale:

316 a. Make a written record of any recommendation and the
317 basis for the recommendation, subject to this section.

318 b. Obtain a consumer-signed statement on a form
319 substantially similar to that posted on the office website as
320 Appendix B, related to a consumer's refusal to provide
321 information, documenting:

322 (I) A customer's refusal to provide the consumer profile
323 information, if any.

324 (II) A customer's understanding of the ramifications of
325 not providing his or her consumer profile information or
326 providing insufficient consumer profile information.

327 c. Obtain a consumer-signed statement on a form
328 substantially similar to that posted on the office website as
329 Appendix C, related to a consumer's decision to purchase an
330 annuity not based on a recommendation, acknowledging the annuity

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

331 transaction is not recommended if a customer decides to enter
332 into an annuity transaction that is not based on the agent's
333 recommendation.

334 5. Any requirement applicable to an agent under this
335 subsection applies to every agent who has exercised material
336 control or influence in the making of a recommendation and has
337 received direct compensation as a result of the recommendation
338 or sale, regardless of whether the agent has had any direct
339 contact with the consumer. Activities such as providing or
340 delivering marketing or education materials, product wholesaling
341 or other back office product support, and general supervision of
342 an agent do not, in and of themselves, constitute material
343 control or influence.

344 ~~3. The particular annuity as a whole, the underlying~~
345 ~~subaccounts to which funds are allocated at the time of purchase~~
346 ~~or exchange of the annuity, and riders and similar product~~
347 ~~enhancements, if any, are suitable; and, in the case of an~~
348 ~~exchange or replacement, the transaction as a whole is suitable~~
349 ~~for the particular consumer based on his or her suitability~~
350 ~~information.~~

351 ~~4. In the case of an exchange or replacement of an~~
352 ~~annuity, the exchange or replacement is suitable after~~
353 ~~considering whether the consumer:~~

354 ~~a. Will incur a surrender charge; be subject to the~~
355 ~~commencement of a new surrender period; lose existing benefits,~~

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

356 ~~such as death, living, or other contractual benefits; or be~~
357 ~~subject to increased fees, investment advisory fees, or charges~~
358 ~~for riders and similar product enhancements;~~

359 ~~b. Would benefit from product enhancements and~~
360 ~~improvements; and~~

361 ~~e. Has had another annuity exchange or replacement,~~
362 ~~including an exchange or replacement within the preceding 36~~
363 ~~months.~~

364 ~~(b) Before executing a purchase, exchange, or replacement~~
365 ~~of an annuity resulting from a recommendation, an insurer or its~~
366 ~~agent must make reasonable efforts to obtain the consumer's~~
367 ~~suitability information. The information shall be collected on~~
368 ~~form DFS-H1-1980, which is hereby incorporated by reference, and~~
369 ~~completed and signed by the applicant and agent. Questions~~
370 ~~requesting this information must be presented in at least 12-~~
371 ~~point type and be sufficiently clear so as to be readily~~
372 ~~understandable by both the agent and the consumer. A true and~~
373 ~~correct executed copy of the form must be provided by the agent~~
374 ~~to the insurer, or to the person or entity that has contracted~~
375 ~~with the insurer to perform this function as authorized by this~~
376 ~~section, within 10 days after execution of the form, and shall~~
377 ~~be provided to the consumer no later than the date of delivery~~
378 ~~of the contract or contracts.~~

379 ~~(c) Except as provided under paragraph (d), an insurer may~~
380 ~~not issue an annuity recommended to a consumer unless there is a~~

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

381 ~~reasonable basis to believe the annuity is suitable based on the~~
382 ~~consumer's suitability information.~~

383 ~~(b)1.(d) Except as provided under subparagraph 2., An~~
384 ~~insurer's issuance of an annuity must be reasonable based on all~~
385 ~~the circumstances actually known to the insurer at the time the~~
386 ~~annuity is issued. However, an insurer or its agent does not~~
387 ~~have does not have an obligation to a consumer related to an~~
388 ~~annuity transaction under subparagraph (a)1. ~~paragraph (a) or~~~~
389 ~~paragraph (c) if:~~

390 ~~a.1.~~ A recommendation has not been made;

391 ~~b.2.~~ A recommendation was made and is later found to have
392 been based on materially inaccurate information provided by the
393 consumer;

394 ~~c.3.~~ A consumer refuses to provide relevant consumer
395 profile suitability information and the annuity transaction is
396 not recommended; or

397 ~~d.4.~~ A consumer decides to enter into an annuity
398 transaction that is not based on a recommendation of the an
399 ~~insurer or its~~ agent.

400 2. An insurer's issuance of an annuity subject to
401 subparagraph 1. must be reasonable under all the circumstances
402 actually known to the insurer at the time the annuity is issued.

403 (c)1. Except as permitted under paragraph (b), an insurer
404 may not issue an annuity recommended to a consumer unless there
405 is a reasonable basis to believe the annuity would effectively

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

406 address the particular consumer's financial situation, insurance
407 needs, and financial objectives based on the consumer's consumer
408 profile information.

409 ~~(c) At the time of sale, the agent or the agent's~~
410 ~~representative must:~~

411 ~~1. Make a record of any recommendation made to the~~
412 ~~consumer pursuant to paragraph (a);~~

413 ~~2. Obtain the consumer's signed statement documenting his~~
414 ~~or her refusal to provide suitability information, if~~
415 ~~applicable; and~~

416 ~~3. Obtain the consumer's signed statement acknowledging~~
417 ~~that an annuity transaction is not recommended if he or she~~
418 ~~decides to enter into an annuity transaction that is not based~~
419 ~~on the insurer's or its agent's recommendation, if applicable.~~

420 ~~(f) Before executing a replacement or exchange of an~~
421 ~~annuity contract resulting from a recommendation, the agent must~~
422 ~~provide on form DFS-H1-1981, which is hereby incorporated by~~
423 ~~reference, information that compares the differences between the~~
424 ~~existing annuity contract and the annuity contract being~~
425 ~~recommended in order to determine the suitability of the~~
426 ~~recommendation and its benefit to the consumer. A true and~~
427 ~~correct executed copy of this form must be provided by the agent~~
428 ~~to the insurer, or to the person or entity that has contracted~~
429 ~~with the insurer to perform this function as authorized by this~~
430 ~~section, within 10 days after execution of the form, and must be~~

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

431 ~~provided to the consumer no later than the date of delivery of~~
432 ~~the contract or contracts.~~

433 2.(g) An insurer shall establish and maintain a
434 supervision system that is reasonably designed to achieve the
435 insurer's and its agent's compliance with this section,
436 including, but not limited to, the following:-

437 ~~1. Such system must include, but is not limited to:~~

438 a. The insurer shall establish and maintain ~~Maintaining~~
439 reasonable procedures to inform its agents of the requirements
440 of this section and incorporating those requirements into
441 relevant agent training manuals.†

442 b. The insurer shall establish and maintain ~~Establishing~~
443 standards for agent product training and shall establish and
444 maintain reasonable procedures to require its agents to comply
445 with the requirements of subsection (6).†

446 c. The insurer shall provide ~~Providing~~ product-specific
447 training and training materials that explain all material
448 features of its annuity products to its agents.†

449 d. The insurer shall establish and maintain ~~Maintaining~~
450 procedures for the review of each recommendation before issuance
451 of an annuity which are designed to ensure that there is a
452 reasonable basis to determine the recommended annuity would
453 effectively address the particular consumer's financial
454 situation, insurance needs, and financial objectives ~~for~~
455 ~~determining that a recommendation is suitable.~~ Such review

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

456 procedures may use a screening system for identifying selected
457 transactions for additional review and may be accomplished
458 electronically or through other means, including, but not
459 limited to, physical review. Such electronic or other system may
460 be designed to require additional review only of those
461 transactions identified for additional review using established
462 selection criteria.†

463 e. The insurer shall establish and maintain ~~Maintaining~~
464 reasonable procedures to detect recommendations that are not in
465 compliance with paragraphs (a), (b), (d), and (e). This may
466 include, but is not limited to, suitable, ~~such as~~ confirmation
467 of consumer profile suitability information, systematic customer
468 surveys, agent and consumer interviews, confirmation letters,
469 agent statements or attestations, and internal monitoring
470 programs. This sub-subparagraph does not prevent an insurer from
471 using sampling procedures or from confirming the consumer
472 profile suitability information after the issuance or delivery
473 of the annuity.†~~and~~

474 f. The insurer shall establish and maintain reasonable
475 procedures to assess, prior to or upon issuance or delivery of
476 an annuity, whether an agent has provided to the consumer the
477 information required to be provided under this subsection.

478 g. The insurer shall establish and maintain reasonable
479 procedures to identify and address suspicious consumer refusals
480 to provide consumer profile information.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

481 h. The insurer shall establish and maintain reasonable
482 procedures to identify and eliminate any sales contests, sales
483 quotas, bonuses, and noncash compensation that are based on the
484 sales of specific annuities within a limited period of time. The
485 requirements of this sub-subparagraph are not intended to
486 prohibit the receipt of health insurance, office rents, office
487 support, retirement benefits, or other employee benefits by
488 employees, as long as those benefits are not based upon the
489 volume of sales of a specific annuity within a limited period of
490 time.

491 i.f. The insurer shall annually provide ~~providing~~ a
492 written report to senior managers, including the senior manager
493 who is responsible for audit functions, which details a review,
494 along with appropriate testing, which is reasonably designed to
495 determine the effectiveness of the supervision system, the
496 exceptions found, and corrective action taken or recommended, if
497 any.

498 3.2. An insurer is not required to include in its
499 supervision system:

500 a. Agent recommendations to consumers of products other
501 than the annuities offered by the insurer; or

502 b. Consideration of or comparison to options available to
503 the agent or compensation relating to those options other than
504 annuities or other products offered by the insurer.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

505 ~~4.3.~~ An insurer may contract for performance of a
506 function, including maintenance of procedures, required under
507 subparagraph 1.

508 a. An insurer's supervision system under this subsection
509 shall include supervision of contractual performance under this
510 subsection, which includes, but is ~~If an insurer contracts for~~
511 ~~the performance of a function, the insurer must include the~~
512 ~~supervision of contractual performance as part of those~~
513 ~~procedures listed in subparagraph 1. These include, but are not~~
514 limited to:

515 (I) Monitoring and, as appropriate, conducting audits to
516 ensure that the contracted function is properly performed; and

517 (II) Annually obtaining a certification from a senior
518 manager who has responsibility for the contracted function that
519 the manager has a reasonable basis to represent, and does
520 represent, ~~for representing~~ that the function is being properly
521 performed.

522 b. An insurer is responsible for taking appropriate
523 corrective action and may be subject to sanctions and penalties
524 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer
525 contracts for performance of a function and regardless of the
526 insurer's compliance with sub-subparagraph a.

527 ~~(d)-(h)~~ Neither an agent nor an insurer shall ~~may not~~
528 dissuade, or attempt to dissuade, a consumer from:

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

529 1. Truthfully responding to an insurer's request for
530 confirmation of consumer profile suitability information;

531 2. Filing a complaint; or

532 3. Cooperating with the investigation of a complaint.

533 (e)1.(i) Recommendations and sales made in compliance with
534 comparable standards shall ~~FINRA requirements pertaining to the~~
535 ~~suitability and supervision of annuity transactions~~ satisfy the
536 requirements of this section. This applies to all
537 recommendations and ~~FINRA broker-dealer~~ sales of ~~variable~~
538 annuities made by financial professionals in compliance with
539 business rules, controls, and procedures that satisfy a
540 comparable standard even if such standard would not otherwise
541 apply to the product or recommendation at issue ~~and fixed~~
542 ~~annuities if the suitability and supervision is similar to those~~
543 ~~applied to variable annuity sales.~~ However, this paragraph does
544 not limit the ability of the office or the department to
545 investigate and enforce, ~~including investigate, the provisions~~
546 ~~of~~ this section.

547 2. Subparagraph 1. does not limit the insurer's obligation
548 to comply with subparagraph (c)1., although the insurer may base
549 its analysis on information received from either the financial
550 professional or the entity supervising the financial
551 professional.

552 3. For subparagraph 1. this paragraph to apply, an insurer
553 must:

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

554 a.1. Monitor relevant conduct of the financial
555 professional seeking to rely on subparagraph 1. or the entity
556 responsible for supervising the financial professional, such as
557 the financial professional's broker-dealer or an investment
558 adviser registered under federal or state securities law, the
559 ~~FINRA member broker-dealer~~ using information collected in the
560 normal course of an insurer's business; and

561 b.2. Provide to the entity responsible for supervising the
562 financial professional seeking to rely on subparagraph 1., such
563 as the financial professional's broker-dealer or investment
564 adviser registered under federal or state securities laws, FINRA
565 ~~member broker-dealer~~ information and reports that are reasonably
566 appropriate to assist such entity ~~the FINRA member broker-dealer~~
567 in maintaining its supervision system.

568 4. For purposes of this paragraph, the term:

569 a. "Comparable standards" means:

570 (I) With respect to broker-dealers and registered
571 representatives of broker-dealers, applicable SEC and FINRA
572 rules pertaining to best interest obligations and supervision of
573 annuity recommendations and sales, including, but not limited
574 to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any
575 amendments or successor regulations thereto;

576 (II) With respect to investment advisers registered under
577 federal or state securities laws or investment adviser
578 representatives, the fiduciary duties and all other requirements

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

579 imposed on such investment advisers or investment adviser
580 representatives by contract or under the Investment Advisers Act
581 of 1940 or applicable state securities laws, including, but not
582 limited to, Form ADV and interpretations; and

583 (III) With respect to plan fiduciaries or fiduciaries, the
584 duties, obligations, prohibitions, and all other requirements
585 attendant to such status under the Employee Retirement Income
586 Security Act of 1974 or the Internal Revenue Code and any
587 amendments or successor statutes thereto.

588 b. "Financial professional" means an agent that is
589 regulated and acting as:

590 (I) A broker-dealer registered under federal or state
591 securities laws or a registered representative of a broker-
592 dealer;

593 (II) An investment adviser registered under federal or
594 state securities laws or an investment adviser representative
595 associated with the federal or state registered investment
596 adviser; or

597 (III) A plan fiduciary under s. 3(21) of the Employee
598 Retirement Income Security Act of 1974 or fiduciary under s.
599 4975(e) (3) of the Internal Revenue Code or any amendments or
600 successor statutes thereto.

601 (6) AGENT TRAINING.—

602 (a) An agent shall not solicit the sale of an annuity
603 product unless the agent has adequate knowledge of the product

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

604 to recommend the annuity and the agent is in compliance with the
605 insurer's standards for product training. An agent may rely on
606 insurer-provided, product-specific training standards and
607 materials to comply with this subsection.

608 (b)1.a. An agent who engages in the sale of annuity
609 products shall complete a one-time 4-hour training course. This
610 requirement is not part of an agent's continuing education
611 requirement in s. 626.2815; however, if a course provider
612 submits and receives approval from the department, the course is
613 eligible for continuing education credit pursuant to s.
614 626.2815.

615 b. Agents who hold a life insurance line of authority on
616 January 1, 2024, and who desire to sell annuities shall complete
617 the requirements of this subsection by July 1, 2024. Individuals
618 who obtain a life insurance line of authority after January 1,
619 2024, may not engage in the sale of annuities until the annuity
620 training course required under this subsection has been
621 completed.

622 2. The minimum length of the training required under this
623 subsection is 4 hours.

624 3. The training required under this subsection shall
625 include information on the following topics:

626 a. The types of annuities and various classifications of
627 annuities.

628 b. Identification of the parties to an annuity.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

629 c. How product-specific annuity contract features affect
630 consumers.

631 d. The application of income taxation of qualified and
632 nonqualified annuities.

633 e. The primary uses of annuities.

634 f. The appropriate standard of conduct, sales practices,
635 replacement, and disclosure requirements.

636 4. Providers of courses intended to comply with this
637 subsection shall cover all topics listed in the prescribed
638 outline and shall not present any marketing information or
639 provide training on sales techniques or provide specific
640 information about a particular insurer's products. Additional
641 topics may be offered in conjunction with and in addition to the
642 required outline.

643 5. An agent who has completed an annuity training course
644 before January 1, 2024, shall, by July 1, 2024, complete either:

645 a. A new 4-hour training course; or

646 b. An additional 1-hour training course on appropriate
647 sales practices, replacement, and disclosure requirements under
648 this section.

649 6. Annuity training courses may be conducted and completed
650 by classroom or self-study methods.

651 7. Providers of annuity training shall issue certificates
652 of completion.

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

653 8. The satisfaction of the training requirements of
654 another state that are substantially similar to the provisions
655 of this subsection shall be deemed to satisfy the training
656 requirements of this subsection in this state.

657 9. The satisfaction of the training requirements of any
658 course or courses with components substantially similar to the
659 provisions of this subsection shall be deemed to satisfy the
660 training requirements of this subsection in this state.

661 10. An insurer shall verify that an agent has completed
662 the annuity training course required under this subsection
663 before allowing the agent to sell an annuity product for that
664 insurer.

665 ~~(7)-(6)~~ RECORDKEEPING.—

666 (a) Insurers and agents must maintain or be able to make
667 available to the office or department records of the information
668 collected from the consumer and other information used in making
669 the recommendations that were the basis for insurance
670 transactions for 5 years after the insurance transaction is
671 completed by the insurer. An insurer may maintain the
672 documentation on behalf of its agent.

673 (b) Records required to be maintained under this
674 subsection may be maintained in paper, photographic,
675 microprocess, magnetic, mechanical, or electronic media, or by
676 any process that accurately reproduces the actual document.

677 ~~(8)-(7)~~ COMPLIANCE MITIGATION; PENALTIES.—

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

678 (a) An insurer is responsible for compliance with this
679 section. If a violation occurs because of the action or inaction
680 of the insurer or its agent which results in harm to a consumer,
681 the office may order the insurer to take reasonably appropriate
682 corrective action for the consumer and may impose appropriate
683 penalties and sanctions.

684 (b) The department may order:

685 1. An ~~insurance~~ agent to take reasonably appropriate
686 corrective action for a consumer harmed by a violation of this
687 section by the ~~insurance~~ agent, including monetary restitution
688 of penalties or fees incurred by the consumer, and impose
689 appropriate penalties and sanctions.

690 2. A managing general agency or insurance agency that
691 employs or contracts with an ~~insurance~~ agent to sell or solicit
692 the sale of annuities to consumers to take reasonably
693 appropriate corrective action for a consumer harmed by a
694 violation of this section by the ~~insurance~~ agent.

695 (c) In addition to any other penalty authorized under
696 chapter 626, the department shall order an insurance agent to
697 pay restitution to a consumer who has been deprived of money by
698 the agent's misappropriation, conversion, or unlawful
699 withholding of moneys belonging to the consumer in the course of
700 a transaction involving annuities. The amount of restitution
701 required to be paid may not exceed the amount misappropriated,
702 converted, or unlawfully withheld. This paragraph does not limit

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

703 or restrict a person's right to seek other remedies as provided
704 by law.

705 (d) Any applicable penalty under the Florida Insurance
706 Code for a violation of this section shall be reduced or
707 eliminated according to a schedule adopted by the office or the
708 department, as appropriate, if corrective action for the
709 consumer was taken promptly after a violation was discovered.

710 (e) A violation of this section does not create or imply a
711 private cause of action.

712 ~~(9)-(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a
713 senior consumer age 65 or older may not contain a surrender or
714 deferred sales charge for a withdrawal of money from an annuity
715 exceeding 10 percent of the amount withdrawn. The charge shall
716 be reduced so that no surrender or deferred sales charge exists
717 after the end of the 10th policy year or 10 years after the date
718 of each premium payment if multiple premiums are paid, whichever
719 is later. This subsection does not apply to annuities purchased
720 by an accredited investor, as defined in Regulation D as adopted
721 by the United States Securities and Exchange Commission, or to
722 those annuities specified in paragraph (4) (b).

723 ~~(10)-(9)~~ RULES.—The department and the commission may adopt
724 rules to administer this section. The department may adopt by
725 rule the forms prescribed in the National Association of
726 Insurance Commissioners Suitability in Annuity Transactions
727 Model Regulation Appendix A - Insurance Agent (Producer)

916441

Approved For Filing: 4/25/2023 5:55:09 PM

Amendment No.

728 Disclosure for Annuities, Appendix B - Consumer Refusal to
729 Provide Information, and Appendix C - Consumer Decision to
730 Purchase an Annuity Not Based on a Recommendation.

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734

D I R E C T O R Y A M E N D M E N T

735

Remove lines 1057-1060 and insert:

736

Section 15. Paragraph (b) of subsection (1) and paragraph
737 (b) of subsection (2) of section 627.4133, Florida Statutes, are
738 amended, and paragraph (d) is added to subsection (1) and
739 paragraph (c) is added to subsection (2) of that section, to
740 read:

741

742

743

T I T L E A M E N D M E N T

744

Remove lines 67-71 and insert:

745

department to adopt certain forms by rule; amending s.
746 634.041, F.S.; specifying

916441

Approved For Filing: 4/25/2023 5:55:09 PM