
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 152 Session of
2017

INTRODUCED BY M. QUINN, DeLUCA, PICKETT, BARRAR, BIZZARRO,
CALTAGIRONE, DAVIDSON, DAVIS, DOWLING, DRISCOLL, FLYNN,
GAINNEY, HELM, LONGIETTI, MURT, O'NEILL, PASHINSKI, READSHAW,
WARD, WATSON, MATZIE, D. COSTA, KORTZ, ENGLISH, BARBIN,
GILLEN, DONATUCCI AND SANTORA, JANUARY 23, 2017

SENATOR WHITE, BANKING AND INSURANCE, IN SENATE, AS AMENDED, MAY
23, 2018

AN ACT

1 ~~Amending Title 40 (Insurance) of the Pennsylvania Consolidated~~ <--
 2 ~~Statutes, in general provisions, providing for life insurance~~
 3 ~~database.~~
 4 AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN <--
 5 ACT RELATING TO INSURANCE; AMENDING, REVISING, AND
 6 CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF
 7 INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND
 8 PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS
 9 ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND
 10 FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND
 11 SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES,
 12 ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY
 13 THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND
 14 REPEALING EXISTING LAWS," IN LIFE INSURANCE, FURTHER
 15 PROVIDING FOR SURPLUS OR SAFETY FUND AND PROVIDING FOR
 16 CONTACT INFORMATION AND FOR LIFE POLICY LOCATOR SERVICE; AND,
 17 IN SUITABILITY OF ANNUITY TRANSACTIONS, FURTHER PROVIDING FOR
 18 DEFINITIONS, FOR APPLICABILITY AND SCOPE OF ARTICLE 7, AND FOR
 19 DUTIES OF INSURERS AND FOR INSURANCE PRODUCERS, PROVIDING FOR
 20 INSURANCE PRODUCER TRAINING, FURTHER PROVIDING FOR MITIGATION
 21 OF RESPONSIBILITY AND FOR RECORDKEEPING AND PROVIDING FOR
 22 REGULATIONS.

23 The General Assembly of the Commonwealth of Pennsylvania
 24 hereby enacts as follows:

25 ~~Section 1. Title 40 of the Pennsylvania Consolidated~~ <--

1 Statutes is amended by adding a section to read:

2 ~~§ 102. Life insurance database.~~

3 ~~(a) Contact information. The following shall apply~~
4 ~~regarding contact information:~~

5 ~~(1) The department or its designee shall maintain an~~
6 ~~electronic database of contact information for each life~~
7 ~~insurer that has life insurance policies, annuity contracts~~
8 ~~or retained asset accounts in force in this Commonwealth.~~

9 ~~(2) All life insurers, including those insurers under~~
10 ~~Article XXIV of the act of May 17, 1921 (P.L.682, No.284),~~
11 ~~known as The Insurance Company Law of 1921, having a life~~
12 ~~insurance policy, annuity contract or retained asset account~~
13 ~~in force in this Commonwealth shall provide and maintain with~~
14 ~~the department or its designee a valid e mail address to~~
15 ~~which the department or its designee may send the requests~~
16 ~~received under this act.~~

17 ~~(b) Who may request search.~~

18 ~~(1) Subject to paragraph (2), the following may file~~
19 ~~with the department or its designee a request to conduct a~~
20 ~~search for life insurance policies, annuity contracts or~~
21 ~~retained asset accounts covering a decedent:~~

22 ~~(i) A member of the decedent's family who has~~
23 ~~requested and obtained a copy of the decedent's death~~
24 ~~certificate.~~

25 ~~(ii) A personal representative of the decedent's~~
26 ~~estate.~~

27 ~~(2) A request to conduct a search may occur only if:~~

28 ~~(i) the decedent was a resident or former resident~~
29 ~~of this Commonwealth; and~~

30 ~~(ii) the request is accompanied by a copy of the~~

1 ~~decedent's death certificate.~~

2 ~~(3) The right to file a request to conduct a search may~~
3 ~~not be assigned.~~

4 ~~(c) Submittal of search request.~~

5 ~~(1) The department or its designee shall transmit a~~
6 ~~request to conduct a search to all life insurers having life~~
7 ~~insurance policies, annuity contracts or retained asset~~
8 ~~accounts in force in this Commonwealth along with information~~
9 ~~necessary for responding directly to the person filing the~~
10 ~~request.~~

11 ~~(2) The information submitted to insurers must be on a~~
12 ~~standardized form or the search requests must be available to~~
13 ~~the life insurers on the secure website of the department or~~
14 ~~its designee.~~

15 ~~(d) Good faith efforts.~~

16 ~~(1) In response to a search request under this section,~~
17 ~~each insurer shall in good faith examine its books and~~
18 ~~records to determine whether the decedent is covered by a~~
19 ~~life insurance policy, annuity contract or retained asset~~
20 ~~account. Upon a finding that coverage does exist, the insurer~~
21 ~~shall directly notify the requesting personal representative,~~
22 ~~if any, and the beneficiary or beneficiaries to whom the~~
23 ~~benefits are due.~~

24 ~~(2) Within 90 days of receiving the search request from~~
25 ~~the department or its designee, the insurer shall complete~~
26 ~~good faith efforts to confirm the death of the insured,~~
27 ~~annuity contract holder or retained assets account holder~~
28 ~~against other available records and information. The efforts~~
29 ~~shall be documented by the insurer and determine whether~~
30 ~~benefits are due in accordance with the applicable policy or~~

1 ~~contract.~~

2 ~~(3) Within 120 days of receiving the search request from~~
3 ~~the department or its designee, if all the beneficiaries to~~
4 ~~whom the benefits are due have not been located, the issuer~~
5 ~~shall directly notify the requesting personal representative,~~
6 ~~if any, to advise the personal representative of the name of~~
7 ~~each beneficiary who has not been located.~~

8 ~~(e) Beneficiary claim. If, as a result of the search under~~
9 ~~this section, benefits are due, the insurer shall:~~

10 ~~(1) Use good faith efforts to locate each beneficiary.~~
11 ~~The efforts shall be documented by the insurer.~~

12 ~~(2) Provide the appropriate claims forms or instructions~~
13 ~~to each beneficiary to make a claim, including instructions~~
14 ~~on the need to provide an official death certificate, if~~
15 ~~applicable under the policy or contract.~~

16 ~~(f) General procedure. An insurer under this section shall~~
17 ~~implement procedures to account for all of the following:~~

18 ~~(1) Common nicknames, initials used in lieu of a first~~
19 ~~or middle name, use of a middle name, compound first and~~
20 ~~middle names and interchanged first and middle names.~~

21 ~~(2) Compound last names, maiden or married names and~~
22 ~~hyphens, blank spaces or apostrophes in last names.~~

23 ~~(3) Transposition of the month and date portions of the~~
24 ~~date of birth.~~

25 ~~(4) An incomplete Social Security number.~~

26 ~~(g) Fees.~~

27 ~~(1) The department may charge a fee of \$10 for each~~
28 ~~search request processed through the database.~~

29 ~~(2) The department may develop and implement an~~
30 ~~electronic payment system that may be used regarding search~~

1 ~~requests.~~

2 ~~(3) Beginning one year after the effective date of this~~
3 ~~section, the department shall have authority to increase the~~
4 ~~fee charged. The fee increase may not exceed:~~

5 ~~(i) an annual cost of living adjustment as~~
6 ~~calculated by applying the percentage increase in the~~
7 ~~Consumer Price Index for All Urban Consumers (CPI U) for~~
8 ~~the Pennsylvania, New Jersey, Delaware and Maryland area~~
9 ~~for the most recent 12 month period for which figures~~
10 ~~have been officially reported by the United States~~
11 ~~Department of Labor, Bureau of Labor Statistics; and~~

12 ~~(ii) twenty percent annually.~~

13 ~~(h) Rules and regulations. The department may promulgate~~
14 ~~rules and regulations necessary to implement the provisions of~~
15 ~~this section.~~

16 ~~(i) Definitions. As used in this section, the term~~
17 ~~"personal representative" shall have the same meaning as given~~
18 ~~to the term under 20 Pa.C.S. § 102 (relating to definitions).~~

19 ~~Section 2. This act shall take effect July 1, 2017, or~~
20 ~~immediately, whichever is later.~~

21 SECTION 1. SECTION 429 OF THE ACT OF MAY 17, 1921 (P.L.682, <--
22 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, IS
23 REPEALED:

24 [SECTION 429. SURPLUS OR SAFETY FUND.--ANY MUTUAL LIFE
25 INSURANCE COMPANY, INCORPORATED UNDER THE LAWS OF THIS
26 COMMONWEALTH AND TRANSACTING BUSINESS THEREIN, MAY ESTABLISH AND
27 MAINTAIN, OR, IF ALREADY ESTABLISHED, MAY CONTINUE TO MAINTAIN,
28 A SURPLUS OR SAFETY FUND TO AN AMOUNT NOT IN EXCESS OF TEN PER
29 CENTUM OF ITS RESERVE, OR ONE HUNDRED THOUSAND DOLLARS,
30 WHICHEVER IS GREATER, AND THE EXCESS OF THE MARKET VALUE OF ITS

1 SECURITIES OVER THEIR BOOK VALUE.

2 IN CASES WHERE THE SURPLUS OR SAFETY FUND AT PRESENT
3 EXISTING, EXCLUSIVE OF ALL ACCUMULATIONS HELD ON ACCOUNT OF THE
4 OUTSTANDING DEFERRED DIVIDEND POLICIES, EXCEEDS THE LIMIT ABOVE
5 DESIGNATED, THE COMPANY SHALL BE ENTITLED TO RETAIN SAID SURPLUS
6 OR SAFETY FUND, BUT SHALL NOT BE ENTITLED TO ADD THERETO SO LONG
7 AS IT EXCEEDS SAID LIMIT.

8 FOR CAUSE SHOWN, THE INSURANCE COMMISSIONER MAY, AT ANY TIME,
9 PERMIT ANY CORPORATION TO ACCUMULATE AND MAINTAIN A SURPLUS OR
10 SAFETY FUND IN EXCESS OF THE LIMIT ABOVE MENTIONED FOR A
11 PRESCRIBED PERIOD, NOT EXCEEDING ONE YEAR IN ANY ONE PERMISSION,
12 BY FILING IN HIS OFFICE A DECISION STATING HIS REASONS THEREFOR
13 AND CAUSING THE SAME TO BE PUBLISHED IN HIS NEXT ANNUAL REPORT.]

14 SECTION 2. ARTICLE IV OF THE ACT IS AMENDED BY ADDING A
15 SUBARTICLE TO READ:

16 (D) PROVISIONS RELATING TO
17 LOCATING LIFE INSURANCE POLICIES.

18 SECTION 441. CONTACT INFORMATION.--THE FOLLOWING SHALL APPLY
19 REGARDING CONTACT INFORMATION:

20 (A) THE INSURANCE DEPARTMENT SHALL MAINTAIN AN ELECTRONIC
21 DATABASE OF CONTACT INFORMATION FOR EACH LIFE INSURER THAT HAS
22 LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS IN FORCE IN THIS
23 COMMONWEALTH.

24 (B) ALL LIFE INSURERS, INCLUDING THOSE INSURERS UNDER
25 ARTICLE XXIV, HAVING A LIFE INSURANCE POLICY OR ANNUITY CONTRACT
26 IN FORCE IN THIS COMMONWEALTH SHALL PROVIDE AND MAINTAIN WITH
27 THE INSURANCE DEPARTMENT A VALID E-MAIL ADDRESS.

28 SECTION 442. LIFE POLICY LOCATOR SERVICE.--THE INSURANCE
29 DEPARTMENT AND ALL LIFE INSURERS, THROUGH THE CONTACT
30 INFORMATION IDENTIFIED IN SECTION 441(A), SHALL PARTICIPATE IN

1 THE LIFE POLICY LOCATOR SERVICE ADOPTED BY THE NATIONAL
2 ASSOCIATION OF INSURANCE COMMISSIONERS IN PROVIDING FOR AND
3 RESPONDING TO SEARCH REQUESTS FOR LIFE INSURANCE POLICIES OR
4 ANNUITIES IN FORCE IN THIS COMMONWEALTH COVERING A DECEDENT.

5 SECTION 3. SECTIONS 401-B, 402-B AND 403-B OF THE ACT ARE
6 AMENDED TO READ:

7 SECTION 401-B. DEFINITIONS.

8 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
9 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
10 CONTEXT CLEARLY INDICATES OTHERWISE:

11 "ANNUITY." [A FIXED ANNUITY OR VARIABLE ANNUITY THAT IS] AN
12 ANNUITY THAT IS AN INSURANCE PRODUCT AND IS INDIVIDUALLY
13 SOLICITED, WHETHER THE INSURANCE PRODUCT IS CLASSIFIED AS AN
14 INDIVIDUAL OR GROUP ANNUITY.

15 "COMMISSIONER." THE INSURANCE COMMISSIONER OF THE
16 COMMONWEALTH.

17 "CONTINUING EDUCATION CREDIT." ONE CONTINUING EDUCATION
18 CREDIT UNDER SECTION 608-A OF THE ACT OF MAY 17, 1921 (P.L.789,
19 NO.285), KNOWN AS THE INSURANCE DEPARTMENT ACT OF 1921.

20 "CONTINUING EDUCATION PROVIDER." AN INDIVIDUAL OR ENTITY
21 APPROVED TO OFFER CONTINUING EDUCATION COURSES UNDER SECTION
22 608-A OF THE INSURANCE DEPARTMENT ACT OF 1921.

23 "DEPARTMENT." THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

24 "FINRA." THE FINANCIAL INDUSTRY REGULATORY AUTHORITY OR A
25 SUCCEEDING AGENCY.

26 "GENERAL AGENT." AN INSURANCE PRODUCER THAT PROVIDES
27 SUPERVISION ON BEHALF OF AN INSURER TO AN INSURER'S SALES FORCE
28 IN A PARTICULAR GEOGRAPHIC REGION OR TERRITORY.

29 ["INDEPENDENT AGENCY." A PRODUCER ENTITY THAT DOES NOT
30 EXCLUSIVELY REPRESENT ONE INSURANCE COMPANY.]

1 "INSURANCE PRODUCER." A PERSON WHO SELLS, SOLICITS OR
2 NEGOTIATES CONTRACTS OF INSURANCE AS DEFINED IN SECTION 601-A OF
3 [THE ACT OF MAY 17, 1921 (P.L.789, NO.285), KNOWN AS] THE
4 INSURANCE DEPARTMENT ACT OF 1921.

5 "INSURER." A LIFE INSURANCE COMPANY LICENSED OR REQUIRED TO
6 BE LICENSED UNDER SECTION 202 OR A FRATERNAL BENEFIT SOCIETY AS
7 DEFINED IN SECTION 2403.

8 "RECOMMENDATION." ADVICE PROVIDED BY AN INSURANCE PRODUCER,
9 OR AN INSURER WHERE NO PRODUCER IS INVOLVED, TO AN INDIVIDUAL
10 CONSUMER THAT RESULTS IN A PURCHASE OR EXCHANGE OF AN ANNUITY IN
11 ACCORDANCE WITH THAT ADVICE.

12 "REPLACE" OR "REPLACEMENT." THE PURCHASE OF A NEW POLICY OR
13 CONTRACT WHERE IT IS KNOWN OR SHOULD BE KNOWN TO THE PROPOSING
14 PRODUCER, OR TO THE PROPOSING INSURER IF THERE IS NO INSURANCE
15 PRODUCER, THAT BY REASON OF THE TRANSACTION, AN EXISTING POLICY
16 OR CONTRACT HAS BEEN OR WILL BE:

17 (1) LAPSED, FORFEITED, SURRENDERED OR PARTIALLY
18 SURRENDERED OR ASSIGNED TO THE REPLACING INSURER OR OTHERWISE
19 TERMINATED;

20 (2) CONVERTED TO REDUCED PAID-UP INSURANCE, CONTINUED AS
21 EXTENDED TERM INSURANCE, OR OTHERWISE REDUCED IN VALUE BY THE
22 USE OF NONFORFEITURE BENEFITS OR OTHER POLICY VALUES;

23 (3) AMENDED SO AS TO EFFECT A REDUCTION IN BENEFITS OR
24 IN THE TERM FOR WHICH COVERAGE WOULD OTHERWISE REMAIN IN
25 FORCE OR FOR WHICH BENEFITS WOULD BE PAID;

26 (4) REISSUED WITH A REDUCTION IN CASH VALUE; OR

27 (5) USED IN A FINANCED PURCHASE.

28 "SUITABILITY INFORMATION." INFORMATION RELATING TO AN
29 ANNUITY THAT IS APPROPRIATE TO DETERMINE THE SUITABILITY OF A
30 RECOMMENDATION, INCLUDING:

- 1 (1) AGE.
- 2 (2) ANNUAL INCOME.
- 3 (3) FINANCIAL SITUATION AND NEEDS, INCLUDING THE
4 FINANCIAL RESOURCES USED FOR THE FUNDING OF THE ANNUITY.
- 5 (4) FINANCIAL EXPERIENCE.
- 6 (5) FINANCIAL OBJECTIVES.
- 7 (6) INTENDED USE OF THE ANNUITY.
- 8 (7) FINANCIAL TIME HORIZON.
- 9 (8) EXISTING ASSETS, INCLUDING INVESTMENT AND LIFE
10 INSURANCE HOLDINGS.
- 11 (9) LIQUIDITY NEEDS.
- 12 (10) LIQUID NET WORTH.
- 13 (11) RISK TOLERANCE.
- 14 (12) TAX STATUS.

15 SECTION 402-B. APPLICABILITY AND SCOPE OF ARTICLE.

16 (A) GENERAL RULE.--THIS ARTICLE SHALL APPLY TO ANY
17 RECOMMENDATION TO PURCHASE OR [EXCHANGE] REPLACE AN ANNUITY MADE
18 TO A CONSUMER BY AN INSURANCE PRODUCER, OR AN INSURER WHERE NO
19 PRODUCER IS INVOLVED, THAT RESULTS IN THE PURCHASE OR [EXCHANGE]
20 REPLACEMENT RECOMMENDED.

21 (B) EXCLUSIONS.--UNLESS OTHERWISE SPECIFICALLY INCLUDED,
22 THIS ARTICLE SHALL NOT APPLY TO RECOMMENDATIONS INVOLVING THE
23 FOLLOWING:

24 (1) DIRECT RESPONSE SOLICITATIONS WHERE THERE IS NO
25 RECOMMENDATION BASED ON INFORMATION COLLECTED FROM THE
26 CONSUMER PURSUANT TO THIS ARTICLE.

27 (2) [ANNUITY CONTRACTS] CONTRACTS USED TO FUND:

28 (I) AN EMPLOYEE PENSION OR WELFARE BENEFIT PLAN THAT
29 IS COVERED BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT
30 OF 1974 (PUBLIC LAW 93-406, 88 STAT. 829).

1 (II) A PLAN DESCRIBED BY SECTIONS 401(A) OR (K),
2 403(B), 408(K) OR (P) OF THE INTERNAL REVENUE CODE OF
3 1986 (PUBLIC LAW 99-514, 26 U.S.C. §§ 401(A) OR (K),
4 403(B), 408(K) OR (P)), WHEN THE PLAN, FOR PURPOSES OF
5 THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, IS
6 ESTABLISHED OR MAINTAINED BY AN EMPLOYER.

7 (III) A GOVERNMENTAL OR CHURCH PLAN DEFINED IN
8 SECTION 414 OF THE INTERNAL REVENUE CODE OF 1986 OR A
9 DEFERRED COMPENSATION PLAN OF A STATE OR LOCAL GOVERNMENT
10 OR TAX EXEMPT ORGANIZATION UNDER SECTION 457 OF THE
11 INTERNAL REVENUE CODE OF 1986.

12 (IV) A NONQUALIFIED DEFERRED COMPENSATION
13 ARRANGEMENT ESTABLISHED OR MAINTAINED BY AN EMPLOYER OR
14 PLAN SPONSOR.

15 (V) SETTLEMENTS OF OR ASSUMPTIONS OF LIABILITIES
16 ASSOCIATED WITH PERSONAL INJURY LITIGATION OR ANY DISPUTE
17 OR CLAIM RESOLUTION PROCESS.

18 (VI) FORMAL PREPAID FUNERAL CONTRACTS.
19 SECTION 403-B. DUTIES OF INSURERS AND INSURANCE PRODUCERS.

20 (A) GENERAL DUTIES.--IN MAKING A RECOMMENDATION TO A
21 CONSUMER FOR THE PURCHASE OR REPLACEMENT OF AN ANNUITY [OR THE
22 EXCHANGE OF AN ANNUITY] THAT RESULTS IN ANOTHER INSURANCE
23 TRANSACTION OR SERIES OF INSURANCE TRANSACTIONS, THE INSURANCE
24 PRODUCER, OR THE INSURER WHERE NO INSURANCE PRODUCER IS
25 INVOLVED, SHALL HAVE REASONABLE GROUNDS FOR BELIEVING THAT
26 [THE]:

27 (1) THE RECOMMENDATION IS SUITABLE FOR THE CONSUMER ON
28 THE BASIS OF THE FACTS DISCLOSED BY THE CONSUMER AS TO THE
29 CONSUMER'S INVESTMENTS AND OTHER INSURANCE PRODUCTS AND AS TO
30 [THE CONSUMER'S FINANCIAL SITUATION AND NEEDS.] THE

1 CONSUMER'S SUITABILITY INFORMATION.

2 (2) THE CONSUMER HAS BEEN REASONABLY INFORMED OF VARIOUS
3 FEATURES OF THE ANNUITY, INCLUDING THE POTENTIAL SURRENDER
4 PERIOD AND SURRENDER CHARGE, POTENTIAL TAX PENALTY IF THE
5 CONSUMER SELLS, REPLACES, SURRENDERS OR ANNUITIZES THE
6 ANNUITY, MORTALITY AND EXPENSE FEES, INVESTMENT ADVISORY
7 FEES, POTENTIAL CHARGES FOR AND FEATURES OF RIDERS,
8 LIMITATIONS ON INTEREST RETURNS, INSURANCE AND INVESTMENT
9 COMPONENTS AND MARKET RISK.

10 (3) THE CONSUMER WOULD BENEFIT FROM CERTAIN FEATURES OF
11 THE ANNUITY, INCLUDING TAX-DEFERRED GROWTH, ANNUITIZATION OR
12 DEATH OR LIVING BENEFIT.

13 (4) THE PARTICULAR ANNUITY AS A WHOLE, THE UNDERLYING
14 SUBACCOUNTS TO WHICH FUNDS ARE ALLOCATED AT THE TIME OF
15 PURCHASE OR REPLACEMENT OF THE ANNUITY, AND RIDERS AND
16 SIMILAR PRODUCT ENHANCEMENTS, IF ANY, ARE SUITABLE AND, IN
17 THE CASE OF A REPLACEMENT, THE TRANSACTION AS A WHOLE IS
18 SUITABLE FOR THE CONSUMER BASED ON THE CONSUMER'S SUITABILITY
19 INFORMATION.

20 (5) IN THE CASE OF A REPLACEMENT OF AN ANNUITY, THE
21 REPLACEMENT IS SUITABLE AND SHALL TAKE INTO CONSIDERATION
22 WHETHER:

23 (I) THE CONSUMER WILL INCUR A SURRENDER CHARGE, BE
24 SUBJECT TO THE COMMENCEMENT OF A NEW SURRENDER PERIOD,
25 LOSE EXISTING BENEFITS, INCLUDING DEATH, LIVING OR OTHER
26 CONTRACTUAL BENEFITS, OR BE SUBJECT TO INCREASED FEES,
27 INVESTMENT ADVISORY FEES OR CHARGES FOR RIDERS AND
28 SIMILAR PRODUCT ENHANCEMENTS.

29 (II) THE CONSUMER WOULD BENEFIT FROM PRODUCT
30 ENHANCEMENTS AND IMPROVEMENTS.

1 (III) THE CONSUMER HAS HAD ANOTHER ANNUITY
2 REPLACEMENT, INCLUDING A REPLACEMENT WITHIN THE PRECEDING
3 36 MONTHS.

4 (B) CONSUMER INFORMATION.--PRIOR TO THE EXECUTION OF A
5 PURCHASE OR [EXCHANGE] REPLACEMENT OF AN ANNUITY RESULTING FROM
6 A RECOMMENDATION, AN INSURANCE PRODUCER, OR AN INSURER WHERE NO
7 INSURANCE PRODUCER IS INVOLVED, SHALL MAKE REASONABLE EFFORTS TO
8 OBTAIN [INFORMATION CONCERNING ALL OF THE FOLLOWING:

9 (1) THE CONSUMER'S FINANCIAL STATUS.

10 (2) THE CONSUMER'S TAX STATUS.

11 (3) THE CONSUMER'S INVESTMENT OBJECTIVES.

12 (4) OTHER INFORMATION USED OR CONSIDERED TO BE
13 REASONABLE BY THE INSURANCE PRODUCER, OR THE INSURER WHERE NO
14 INSURANCE PRODUCER IS INVOLVED, IN MAKING RECOMMENDATIONS TO
15 THE CONSUMER.] THE CONSUMER'S SUITABILITY INFORMATION.

16 (B.1) REASONABLE BASIS.--EXCEPT AS PERMITTED UNDER
17 SUBSECTION (C), AN INSURER MAY NOT ISSUE AN ANNUITY RECOMMENDED
18 TO A CONSUMER UNLESS THERE IS A REASONABLE BASIS TO BELIEVE THE
19 ANNUITY IS SUITABLE BASED ON THE CONSUMER'S SUITABILITY
20 INFORMATION.

21 (C) OBLIGATION LIMITS.--

22 (1) [NEITHER] EXCEPT AS PROVIDED UNDER PARAGRAPH (2),
23 NEITHER AN INSURANCE PRODUCER NOR AN INSURER WHERE NO
24 INSURANCE PRODUCER IS INVOLVED SHALL HAVE ANY OBLIGATION TO A
25 CONSUMER UNDER SUBSECTION (A) OR (B.1) RELATED TO ANY
26 [RECOMMENDATION THAT IS REASONABLE UNDER ALL THE
27 CIRCUMSTANCES ACTUALLY KNOWN TO THE INSURER OR INSURANCE
28 PRODUCER AT THE TIME OF THE RECOMMENDATION WHEN A CONSUMER:

29 (I) REFUSES TO PROVIDE RELEVANT INFORMATION
30 REQUESTED BY THE INSURER OR INSURANCE PRODUCER.

1 (II) DECIDES TO ENTER INTO AN INSURANCE TRANSACTION
2 THAT IS NOT BASED ON A RECOMMENDATION OF THE INSURER OR
3 INSURANCE PRODUCER.

4 (III) FAILS TO PROVIDE COMPLETE OR ACCURATE
5 INFORMATION.] ANNUITY TRANSACTION IF:

6 (I) NO RECOMMENDATION IS MADE.

7 (II) A RECOMMENDATION WAS MADE AND WAS LATER FOUND
8 TO HAVE BEEN PREPARED BASED ON MATERIALLY INACCURATE
9 INFORMATION PROVIDED BY THE CONSUMER.

10 (III) A CONSUMER REFUSES TO PROVIDE RELEVANT
11 SUITABILITY INFORMATION AND THE ANNUITY TRANSACTION IS
12 NOT RECOMMENDED.

13 (IV) A CONSUMER DECIDES TO ENTER INTO AN ANNUITY
14 TRANSACTION THAT IS NOT BASED ON A RECOMMENDATION OF THE
15 INSURER OR THE INSURANCE PRODUCER.

16 (2) AN INSURER'S ISSUANCE OF AN ANNUITY SUBJECT TO
17 PARAGRAPH (1) SHALL BE REASONABLE UNDER ALL THE CIRCUMSTANCES
18 ACTUALLY KNOWN TO THE INSURER AT THE TIME THE ANNUITY IS
19 ISSUED.

20 (C.1) DOCUMENTATION.--AN INSURANCE PRODUCER, OR THE
21 RESPONSIBLE INSURER REPRESENTATIVE IF NO INSURANCE PRODUCER IS
22 INVOLVED, SHALL AT THE TIME OF SALE OF AN ANNUITY:

23 (1) MAKE A RECORD OF EACH RECOMMENDATION SUBJECT TO
24 SUBSECTION (A).

25 (2) OBTAIN A CUSTOMER-SIGNED STATEMENT DOCUMENTING A
26 CUSTOMER'S REFUSAL TO PROVIDE SUITABILITY INFORMATION, IF
27 ANY.

28 (3) OBTAIN A CUSTOMER-SIGNED STATEMENT ACKNOWLEDGING
29 THAT AN ANNUITY TRANSACTION IS NOT RECOMMENDED IF THE
30 CUSTOMER DECIDES TO ENTER INTO AN ANNUITY TRANSACTION THAT IS

1 NOT BASED ON THE INSURANCE PRODUCER'S OR INSURER'S
2 RECOMMENDATION.

3 (D) SUPERVISION OF RECOMMENDATIONS.--

4 (1) AN INSURER SHALL [ASSURE THAT A SYSTEM TO SUPERVISE
5 RECOMMENDATIONS] ESTABLISH A SUPERVISION SYSTEM THAT IS
6 REASONABLY DESIGNED TO ACHIEVE THE INSURER'S AND ITS
7 INSURANCE PRODUCER'S COMPLIANCE WITH THIS ARTICLE [IS
8 ESTABLISHED AND MAINTAINED BY COMPLYING WITH PARAGRAPHS (3)
9 AND (4) OR SHALL ESTABLISH AND MAINTAIN SUCH A SYSTEM THAT
10 INCLUDES AT LEAST THE FOLLOWING:

11 (I) MAINTAINING WRITTEN PROCEDURES.

12 (II) CONDUCTING PERIODIC REVIEWS OF ITS RECORDS THAT
13 ARE REASONABLY DESIGNED TO ASSIST IN DETECTING AND
14 PREVENTING VIOLATIONS OF THIS ARTICLE.

15 (2) A GENERAL AGENT OR INDEPENDENT AGENCY SHALL ADOPT A
16 SYSTEM ESTABLISHED BY AN INSURER TO SUPERVISE RECOMMENDATIONS
17 OF ITS INSURANCE PRODUCERS THAT IS REASONABLY DESIGNED TO
18 ACHIEVE COMPLIANCE WITH THIS ARTICLE OR SHALL ESTABLISH AND
19 MAINTAIN A SYSTEM THAT IS REASONABLY DESIGNED TO ACHIEVE
20 COMPLIANCE WITH THIS ARTICLE. THE SYSTEM MUST INCLUDE AT
21 LEAST THE FOLLOWING:

22 (I) MAINTAINING WRITTEN PROCEDURES.

23 (II) CONDUCTING PERIODIC REVIEWS OF RECORDS THAT ARE
24 REASONABLY DESIGNED TO ASSIST IN DETECTING AND PREVENTING
25 VIOLATIONS OF THIS ARTICLE.

26 (3) AN INSURER MAY CONTRACT WITH A THIRD PARTY,
27 INCLUDING A GENERAL AGENT OR INDEPENDENT AGENCY, TO ESTABLISH
28 AND MAINTAIN A SYSTEM OF SUPERVISION AS REQUIRED BY PARAGRAPH
29 (1) WITH RESPECT TO INSURANCE PRODUCERS UNDER CONTRACT WITH
30 OR EMPLOYED BY THE THIRD PARTY.

1 (4) AN INSURER SHALL MAKE REASONABLE INQUIRY TO ASSURE
2 THAT THE THIRD PARTY CONTRACTING UNDER PARAGRAPH (3) IS
3 PERFORMING THE FUNCTIONS REQUIRED UNDER PARAGRAPH (1) AND
4 SHALL TAKE SUCH ACTION AS IS REASONABLE UNDER THE
5 CIRCUMSTANCES TO ENFORCE THE CONTRACTUAL OBLIGATION TO
6 PERFORM THE FUNCTIONS. AN INSURER MAY COMPLY WITH ITS
7 OBLIGATION TO MAKE REASONABLE INQUIRY BY DOING BOTH OF THE
8 FOLLOWING:

9 (I) THE INSURER ANNUALLY OBTAINS, ELECTRONICALLY OR
10 OTHERWISE, A CERTIFICATION FROM A THIRD PARTY SENIOR
11 MANAGER WHO HAS RESPONSIBILITY FOR THE DELEGATED
12 FUNCTIONS THAT THE MANAGER HAS A REASONABLE BASIS TO
13 REPRESENT, AND DOES REPRESENT, THAT THE THIRD PARTY IS
14 PERFORMING THE REQUIRED FUNCTIONS.

15 (II) THE INSURER, BASED ON REASONABLE SELECTION
16 CRITERIA, PERIODICALLY SELECTS THIRD PARTIES CONTRACTING
17 UNDER PARAGRAPH (3) FOR A REVIEW TO DETERMINE WHETHER THE
18 THIRD PARTIES ARE PERFORMING THE REQUIRED FUNCTIONS. THE
19 INSURER SHALL PERFORM PROCEDURES TO CONDUCT THE REVIEW
20 THAT ARE REASONABLE UNDER THE CIRCUMSTANCES.

21 (5) AN INSURER THAT CONTRACTS WITH A THIRD PARTY UNDER
22 PARAGRAPH (3) AND THAT COMPLIES WITH THE REQUIREMENTS TO
23 SUPERVISE UNDER PARAGRAPH (4) SHALL HAVE FULFILLED ITS
24 RESPONSIBILITIES UNDER PARAGRAPH (1).

25 (6) AN INSURER, GENERAL AGENT OR INDEPENDENT AGENCY IS
26 NOT REQUIRED TO DO EITHER OF THE FOLLOWING:

27 (I) REVIEW OR PROVIDE FOR REVIEW OF ALL INSURANCE
28 PRODUCER-SOLICITED TRANSACTIONS.

29 (II) INCLUDE IN ITS SYSTEM OF SUPERVISION AN
30 INSURANCE PRODUCER'S RECOMMENDATIONS TO CONSUMERS OF

1 PRODUCTS OTHER THAN THE ANNUITIES OFFERED BY THE INSURER,
2 GENERAL AGENT OR INDEPENDENT AGENCY.

3 (7) A GENERAL AGENT OR INDEPENDENT AGENCY CONTRACTING
4 WITH AN INSURER PURSUANT TO PARAGRAPH (3) SHALL PROMPTLY,
5 WHEN REQUESTED BY THE INSURER PURSUANT TO PARAGRAPH (4), GIVE
6 A CERTIFICATION AS DESCRIBED IN PARAGRAPH (4) OR GIVE A CLEAR
7 STATEMENT THAT IT IS UNABLE TO MEET THE CERTIFICATION
8 CRITERIA.

9 (8) NO PERSON MAY PROVIDE A CERTIFICATION UNDER
10 PARAGRAPH (4) (I) UNLESS BOTH THE FOLLOWING CONDITIONS ARE
11 MET:

12 (I) THE PERSON IS A SENIOR MANAGER WITH
13 RESPONSIBILITY FOR THE DELEGATED FUNCTIONS.

14 (II) THE PERSON HAS A REASONABLE BASIS FOR MAKING
15 THE CERTIFICATION.], INCLUDING, BUT NOT LIMITED TO, THE
16 FOLLOWING:

17 (I) THE INSURER SHALL MAINTAIN REASONABLE PROCEDURES
18 TO INFORM ITS INSURANCE PRODUCERS OF THE REQUIREMENTS OF
19 THIS ARTICLE AND SHALL INCORPORATE THE REQUIREMENTS OF
20 THIS ARTICLE INTO RELEVANT INSURANCE PRODUCER TRAINING
21 MANUALS.

22 (II) THE INSURER SHALL ESTABLISH STANDARDS FOR
23 INSURANCE PRODUCER PRODUCT TRAINING AND MAINTAIN
24 REASONABLE PROCEDURES TO REQUIRE ITS INSURANCE PRODUCERS
25 TO COMPLY WITH THE REQUIREMENTS OF SECTION 403.1-B.

26 (III) THE INSURER SHALL PROVIDE PRODUCT-SPECIFIC
27 TRAINING AND TRAINING MATERIALS THAT EXPLAIN ALL MATERIAL
28 FEATURES OF ITS ANNUITY PRODUCTS TO ITS INSURANCE
29 PRODUCERS.

30 (IV) THE INSURER SHALL MAINTAIN PROCEDURES FOR

1 REVIEW OF EACH RECOMMENDATION BEFORE ISSUANCE OF AN
2 ANNUITY THAT ARE DESIGNED TO ENSURE THAT THERE IS A
3 REASONABLE BASIS TO DETERMINE THAT A RECOMMENDATION IS
4 SUITABLE. THE REVIEW PROCEDURES MAY APPLY A SCREENING
5 SYSTEM FOR THE PURPOSE OF IDENTIFYING SELECTED
6 TRANSACTIONS FOR ADDITIONAL REVIEW AND MAY BE
7 ACCOMPLISHED ELECTRONICALLY OR THROUGH OTHER MEANS,
8 INCLUDING, BUT NOT LIMITED TO, PHYSICAL REVIEW. THE
9 ELECTRONIC OR OTHER SYSTEM MAY BE DESIGNED TO REQUIRE
10 ADDITIONAL REVIEW ONLY FOR THOSE TRANSACTIONS IDENTIFIED
11 FOR ADDITIONAL REVIEW BY THE SELECTION CRITERIA.

12 (V) THE INSURER SHALL MAINTAIN REASONABLE PROCEDURES
13 TO DETECT RECOMMENDATIONS THAT ARE NOT SUITABLE,
14 INCLUDING, BUT IS NOT LIMITED TO, CONFIRMATION OF
15 CONSUMER SUITABILITY INFORMATION, SYSTEMATIC CUSTOMER
16 SURVEYS, INTERVIEWS, CONFIRMATION LETTERS AND PROGRAMS OF
17 INTERNAL MONITORING. NOTHING IN THIS SUBPARAGRAPH SHALL
18 PREVENT AN INSURER FROM COMPLYING WITH THIS SUBPARAGRAPH
19 BY APPLYING SAMPLING PROCEDURES OR BY CONFIRMING
20 SUITABILITY INFORMATION AFTER ISSUANCE OR DELIVERY OF THE
21 ANNUITY.

22 (VI) THE INSURER SHALL ANNUALLY PROVIDE A REPORT
23 DETAILING ITS SUPERVISION SYSTEM TO SENIOR MANAGEMENT,
24 INCLUDING TO THE SENIOR MANAGER RESPONSIBLE FOR AUDIT
25 FUNCTIONS. THE REPORT SHALL INCLUDE A DESCRIPTION OF THE
26 TESTING DESIGNED TO DETERMINE THE EFFECTIVENESS OF THE
27 SUPERVISION SYSTEM, THE EXCEPTIONS FOUND AND CORRECTIVE
28 ACTION TAKEN OR RECOMMENDED, IF ANY.

29 (2) NOTHING IN THIS SUBSECTION SHALL RESTRICT AN INSURER
30 FROM CONTRACTING FOR PERFORMANCE OF A FUNCTION, INCLUDING

1 MAINTENANCE OF PROCEDURES, REQUIRED UNDER PARAGRAPH (1). AN
2 INSURER IS RESPONSIBLE FOR TAKING APPROPRIATE CORRECTIVE
3 ACTION AND MAY BE SUBJECT TO SANCTIONS AND PENALTIES UNDER
4 SECTION 406-B REGARDLESS OF WHETHER THE INSURER CONTRACTS FOR
5 PERFORMANCE OF A FUNCTION AND REGARDLESS OF THE INSURER'S
6 COMPLIANCE WITH PARAGRAPH (3).

7 (3) AN INSURER'S SUPERVISION SYSTEM UNDER PARAGRAPH (1)
8 SHALL INCLUDE SUPERVISION OF CONTRACTUAL PERFORMANCE UNDER
9 PARAGRAPH (2), INCLUDING, BUT IS NOT LIMITED TO, THE
10 FOLLOWING:

11 (I) MONITORING AND, AS APPROPRIATE, CONDUCTING
12 AUDITS TO ASSURE THAT THE CONTRACTED FUNCTION IS PROPERLY
13 PERFORMED.

14 (II) ANNUALLY OBTAINING A CERTIFICATION FROM A
15 SENIOR MANAGER WHO HAS RESPONSIBILITY FOR THE CONTRACTED
16 FUNCTION THAT THE SENIOR MANAGER HAS A REASONABLE BASIS
17 TO REPRESENT, AND DOES REPRESENT, THAT THE FUNCTION IS
18 PROPERLY PERFORMED.

19 (4) AN INSURER IS NOT REQUIRED TO INCLUDE IN ITS SYSTEM
20 OF SUPERVISION AN INSURANCE PRODUCER'S RECOMMENDATIONS TO
21 CONSUMERS FOR PRODUCTS OTHER THAN THE ANNUITIES OFFERED BY
22 THE INSURER.

23 (D.1) DISSUASION.--AN INSURANCE PRODUCER MAY NOT DISSUADE,
24 OR ATTEMPT TO DISSUADE, A CONSUMER FROM:

25 (1) TRUTHFULLY RESPONDING TO AN INSURER'S REQUEST FOR
26 CONFIRMATION OF SUITABILITY INFORMATION.

27 (2) FILING A COMPLAINT.

28 (3) COOPERATING WITH THE INVESTIGATION OF A COMPLAINT.

29 (E) COMPLIANCE WITH OTHER RULES.--SALES MADE [BY AN
30 INSURANCE PRODUCER SUBJECT TO AND IN COMPLIANCE WITH THE

1 FINANCIAL INDUSTRY REGULATORY AUTHORITY CONDUCT RULES PERTAINING
2 TO SUITABILITY SHALL SATISFY THE REQUIREMENTS UNDER THIS SECTION
3 FOR THE RECOMMENDATION OF ANNUITIES. NOTHING IN THIS SUBSECTION
4 SHALL LIMIT THE COMMISSIONER'S ABILITY TO ENFORCE THE PROVISIONS
5 OF THIS ARTICLE.] IN COMPLIANCE WITH FINRA REQUIREMENTS
6 PERTAINING TO SUITABILITY AND SUPERVISION OF ANNUITY
7 TRANSACTIONS SHALL SATISFY THE REQUIREMENTS UNDER THIS SECTION.
8 THIS SUBSECTION APPLIES TO FINRA BROKER-DEALER SALES OF
9 ANNUITIES IF THE SUITABILITY AND SUPERVISION IS SIMILAR TO THOSE
10 APPLIED TO VARIABLE ANNUITY SALES. HOWEVER, NOTHING IN THIS
11 SUBSECTION SHALL LIMIT THE COMMISSIONER'S ABILITY TO ENFORCE OR
12 INVESTIGATE THE PROVISIONS OF THIS ARTICLE. FOR THIS SUBSECTION
13 TO APPLY, AN INSURER SHALL:

14 (1) MONITOR THE FINRA MEMBER BROKER-DEALER USING
15 INFORMATION COLLECTED IN THE NORMAL COURSE OF AN INSURER'S
16 BUSINESS.

17 (2) PROVIDE TO THE FINRA MEMBER BROKER-DEALER
18 INFORMATION AND REPORTS WHICH ARE REASONABLY APPROPRIATE TO
19 ASSIST THE FINRA MEMBER BROKER-DEALER TO MAINTAIN ITS
20 SUPERVISION SYSTEM.

21 (F) INTERNAL AUDIT AND COMPLIANCE PROCEDURES.--NOTHING IN
22 THIS ARTICLE SHALL EXEMPT AN INSURER FROM THE INTERNAL AUDIT AND
23 COMPLIANCE PROCEDURE REQUIREMENTS UNDER SECTION 405-A.

24 SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
25 SECTION 403.1-B. INSURANCE PRODUCER TRAINING.

26 (A) CONTINUING EDUCATION CREDITS.--AN INSURANCE PRODUCER WHO
27 HAS THE AUTHORITY TO SELL ANNUITIES SHALL COMPLETE AT LEAST FOUR
28 CONTINUING EDUCATION CREDITS IN AN ANNUITY TRAINING COURSE OR
29 COURSES COVERING THE FOLLOWING TOPICS:

30 (1) THE TYPES OF ANNUITIES AND VARIOUS CLASSIFICATIONS

1 OF ANNUITIES.

2 (2) IDENTIFICATION OF THE PARTIES TO AN ANNUITY.

3 (3) HOW PRODUCT SPECIFIC ANNUITY CONTRACT FEATURES
4 AFFECT CONSUMERS.

5 (4) THE APPLICATION OF INCOME TAXATION OF QUALIFIED AND
6 NONQUALIFIED ANNUITIES.

7 (5) THE PRIMARY USES OF ANNUITIES.

8 (6) APPROPRIATE SALES PRACTICES, REPLACEMENT AND
9 DISCLOSURE REQUIREMENTS.

10 (B) COMPLIANCE.--THE CONTINUING EDUCATION CREDIT REQUIREMENT
11 UNDER SUBSECTION (A) SHALL BE MET ON OR BEFORE THE END OF THE
12 INSURANCE PRODUCER'S NEXT COMPLETE LICENSE PERIOD OCCURRING
13 AFTER THE EFFECTIVE DATE OF THIS SECTION. FOR INDIVIDUALS
14 LICENSED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
15 REQUIREMENT SHALL BE MET ON OR BEFORE THE END OF THE INSURANCE
16 PRODUCER'S FIRST LICENSE PERIOD.

17 (C) COURSE REQUIREMENTS.--FOR A COURSE TO COMPLY WITH THE
18 REQUIREMENTS OF THIS SUBSECTION, IT SHALL COVER ALL TOPICS
19 LISTED UNDER SUBSECTION (A) AND MAY NOT CONTAIN ANY MARKETING
20 INFORMATION, PROVIDE TRAINING ON SALES TECHNIQUES OR PROVIDE
21 SPECIFIC INFORMATION ABOUT A PARTICULAR INSURER'S PRODUCTS.
22 ADDITIONAL TOPICS MAY BE OFFERED IN CONJUNCTION WITH AND IN
23 ADDITION TO THOSE REQUIRED.

24 (D) PROVIDER REGISTRATION.--A PROVIDER OF AN ANNUITY
25 TRAINING COURSE INTENDED TO COMPLY WITH THIS SUBSECTION SHALL
26 REGISTER AS A CONTINUING EDUCATION PROVIDER IN THIS COMMONWEALTH
27 AND COMPLY WITH THE RULES AND GUIDELINES APPLICABLE TO INSURANCE
28 PRODUCER CONTINUING EDUCATION COURSES.

29 (E) COURSE METHOD.--ANNUITY TRAINING COURSES MAY BE
30 CONDUCTED AND COMPLETED BY CLASSROOM OR SELF-STUDY METHODS.

1 (F) REPORTING REQUIREMENTS.--A CONTINUING EDUCATION PROVIDER
2 OF ANNUITY TRAINING SHALL COMPLY WITH REPORTING REQUIREMENTS AND
3 SHALL ISSUE CERTIFICATES OF COMPLETION.

4 (G) SATISFACTION IN OTHER STATES.--THE SATISFACTION OF THE
5 TRAINING REQUIREMENTS OF ANOTHER STATE THAT ARE SUBSTANTIALLY
6 SIMILAR TO THE PROVISIONS OF THIS SUBSECTION SHALL BE DEEMED TO
7 SATISFY THE TRAINING REQUIREMENTS OF THIS SUBSECTION FOR
8 RESIDENT AND NONRESIDENT PRODUCERS.

9 (H) VERIFICATION.--AN INSURER SHALL VERIFY THAT AN INSURANCE
10 PRODUCER HAS COMPLETED THE ANNUITY TRAINING COURSE REQUIRED
11 UNDER THIS SUBSECTION WITHIN THE TIME PERIOD SPECIFIED UNDER
12 SUBSECTION (B). AN INSURER MAY SATISFY ITS RESPONSIBILITY UNDER
13 THIS SUBSECTION BY OBTAINING CERTIFICATES OF COMPLETION OF THE
14 TRAINING COURSE OR OBTAINING REPORTS PROVIDED BY THE
15 COMMISSIONER-SPONSORED DATABASE SYSTEMS OR VENDORS OR FROM A
16 REASONABLY RELIABLE COMMERCIAL DATABASE VENDOR THAT HAS A
17 REPORTING ARRANGEMENT WITH APPROVED INSURANCE EDUCATION
18 PROVIDERS.

19 SECTION 5. SECTIONS 404-B AND 405-B OF THE ACT ARE AMENDED
20 TO READ:

21 SECTION 404-B. MITIGATION OF RESPONSIBILITY.

22 (A) CORRECTIVE ACTIONS.--[THE COMMISSIONER MAY ORDER:] AN
23 INSURER IS RESPONSIBLE FOR COMPLIANCE WITH THIS ARTICLE. IF A
24 VIOLATION OCCURS, EITHER BECAUSE OF THE ACTION OR INACTION OF AN
25 INSURER OR ITS INSURANCE PRODUCER, THE COMMISSIONER MAY ORDER:

26 (1) AN INSURER TO TAKE REASONABLY APPROPRIATE CORRECTIVE
27 ACTION FOR ANY CONSUMER HARMED BY THE INSURER'S OR BY ITS
28 INSURANCE PRODUCER'S VIOLATION OF THIS ARTICLE.

29 [(2) AN INSURANCE PRODUCER TO TAKE REASONABLY
30 APPROPRIATE CORRECTIVE ACTION FOR ANY CONSUMER HARMED BY THE

1 INSURANCE PRODUCER'S VIOLATION OF THIS ARTICLE.]

2 (3) [A] AN EXCLUSIVE GENERAL AGENT [OR INDEPENDENT
3 AGENCY THAT EMPLOYS OR CONTRACTS WITH AN INSURANCE PRODUCER
4 TO SELL OR SOLICIT THE SALE OF ANNUITIES TO CONSUMERS] OR THE
5 INSURANCE PRODUCER TO TAKE REASONABLY APPROPRIATE CORRECTIVE
6 ACTION FOR ANY CONSUMER HARMED BY THE [INSURANCE PRODUCER'S]
7 LICENSEE'S VIOLATION OF THIS ARTICLE.

8 (4) PENALTIES AND REMEDIES UNDER SECTION 406-B.

9 (B) REDUCTION OF PENALTY.--ANY APPLICABLE PENALTY PERMITTED
10 UNDER SECTION 406-B FOR A VIOLATION OF THIS ARTICLE MAY BE
11 REDUCED OR ELIMINATED IF CORRECTIVE ACTION FOR THE CONSUMER WAS
12 TAKEN PROMPTLY AFTER A VIOLATION WAS DISCOVERED OR THE VIOLATION
13 WAS NOT PART OF A PATTERN OR PRACTICE.

14 SECTION 405-B. RECORDKEEPING.

15 (A) GENERAL RULE.--AN INSURER, EXCLUSIVE GENERAL AGENT[,
16 INDEPENDENT AGENCY] AND INSURANCE PRODUCER SHALL MAINTAIN OR BE
17 ABLE TO MAKE AVAILABLE TO THE COMMISSIONER RECORDS OF THE
18 INFORMATION COLLECTED FROM THE CONSUMER AND OTHER INFORMATION
19 USED IN MAKING THE RECOMMENDATIONS THAT WERE THE BASIS FOR THE
20 INSURANCE TRANSACTIONS FOR FIVE YEARS AFTER THE INSURANCE
21 TRANSACTION IS COMPLETED BY THE INSURER. AN INSURER IS PERMITTED
22 BUT SHALL NOT BE REQUIRED TO MAINTAIN DOCUMENTATION ON BEHALF OF
23 AN INSURANCE PRODUCER.

24 (B) FORM OF RECORDS.--RECORDS REQUIRED TO BE MAINTAINED
25 UNDER THIS ARTICLE MAY BE MAINTAINED IN PAPER, PHOTOGRAPHIC,
26 MICROPROCESS, MAGNETIC, MECHANICAL OR ELECTRONIC MEDIA OR BY ANY
27 PROCESS THAT ACCURATELY REPRODUCES THE ACTUAL DOCUMENT.

28 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
29 SECTION 408-B. REGULATIONS.

30 THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS NECESSARY

1 FOR THE ADMINISTRATION OF THIS ARTICLE.

2 SECTION 7. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.