



What Other States Are Doing in Annuity Suitability

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Annuity Suitability Legislation

- The National Association of Insurance Commissioners (NAIC) adopted the Suitability in Annuity Transactions Model Regulation. It creates standards and procedures for making recommendations to consumers to buy annuity products. It helps ensure the insurance needs and financial objectives of the consumers are appropriately addressed at the time of the transaction.
- 39 states have adopted laws based on the NAIC Model, or an adaptation of the Model.
- Florida leads the nation with the anticipated adoption of annuity suitability and disclosure forms.
- These forms are direct and clear tools used by the seller to determine suitability – and for the buyer to see the factors used for the recommendation for the sale.
- California enacted a “Senior Bill of Rights” which requires a 24-hour notice from any person planning to meet with a consumer in connection with life or annuity sales.
- Texas has enacted the first “read-out-loud” requirements for suitability, comparison, and disclosure.

Annuity Suitability Activity

- States with an active task force or special unit ~ Florida, California, New York, Alabama and Wisconsin.
- Alabama's task force is a joint venture with its Securities Commission and Attorney General.
- Florida is a member of the NAIC Suitability of Annuity Sales Working Group. Other members include New York, California, Wisconsin, Arkansas, and Colorado.
- In 2008, Wisconsin ordered an insurer to cease annuity sales for four years related to unsuitable sales to 2,200 senior consumers.
- Wisconsin has proposed regulations that require insurance companies to independently verify the suitability of every annuity sale to consumers 70 and older.
- The Financial Industry Regulatory Authority, which regulates securities-type investments has a newly approved (by the SEC) rule for deferred variable annuities. This new rule provides clear guidance for brokers to use to determine suitability of the sale.

Annuity Suitability Legislation in Florida

- In the 2008 legislative session, DFS changed laws to further protect senior citizens. The law:
 - Clearly identified the requirements of both insurance agents and companies regarding suitability, including the information to be obtained to determine suitability. New forms will be adopted by rule.
 - Required persons licensed to solicit annuities complete a continuing education course on the subject of suitability.
 - Provided administrative fines and criminal penalties for the offenses of misrepresentation, unlawful fees and commissions, and the use of fraudulent signatures.
 - Redefined when penalties apply in the case of “churning” (replacing same-company products just to earn fees or commissions).
 - Provided that willful submission of certain fraudulent signatures or the misrepresentation of an agent’s qualifications constitute an unfair method of competition and an unfair or deceptive act.
 - Increased the period of time allowed for a consumer to obtain an unconditional refund.

New Rule

- A proposed rule has been drafted to adopt new forms.
- The forms record the consumer's financial information and guides the seller in making the appropriate product recommendation.
- The forms must be used for every sale of an annuity to a senior in which an exchange of an existing annuity or life insurance policy is recommended.
- The effective date for the new law is January 1, 2009.