

## **IC 27-4-9**

### **Chapter 9. Recommendations to Senior Consumers**

#### **IC 27-4-9-1**

##### **"Securities commissioner"**

Sec. 1. As used in this chapter, "securities commissioner" refers to the commissioner appointed by the secretary of state under IC 23-19-6-1(a).

*As added by P.L.138-2005, SEC.2. Amended by P.L.27-2007, SEC.28.*

#### **IC 27-4-9-2**

##### **"Consumer"**

Sec. 2. As used in this chapter, "consumer" means an individual who receives a recommendation to purchase or exchange an annuity that results in the recommended purchase or exchange.

*As added by P.L.138-2005, SEC.2. Amended by P.L.131-2007, SEC.2.*

#### **IC 27-4-9-3**

##### **Suitability of annuity recommendations**

Sec. 3. (a) An insurance producer, or an insurer in a case in which an insurance producer is not involved, shall not recommend to a consumer the:

- (1) purchase of an annuity; or
- (2) exchange of an annuity that results in another insurance transaction;

that is unsuitable for the consumer.

(b) A determination regarding whether a purchase or an exchange under subsection (a) is unsuitable for a consumer must be made:

- (1) based on the facts disclosed by the consumer concerning the consumer's:
  - (A) investments and other insurance products; and
  - (B) financial situation and needs; and
- (2) according to the rule adopted under section 4 of this chapter.

*As added by P.L.138-2005, SEC.2. Amended by P.L.131-2007, SEC.3.*

#### **IC 27-4-9-4**

##### **Rules**

Sec. 4. (a) The department shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The rules adopted under subsection (a) must set forth the duties that apply to an insurer or an insurance producer in determining whether reasonable grounds exist to believe that a recommendation to purchase or exchange an annuity is suitable for a consumer to whom the recommendation is made based on the facts disclosed by the consumer concerning the consumer's investments, other insurance products, and financial situation and needs.

*As added by P.L.138-2005, SEC.2. Amended by P.L.131-2007,*

*SEC.4.*

**IC 27-4-9-5**

**Violations**

Sec. 5. (a) Except as provided in subsection (b), a recommendation made in violation of section 3 of this chapter is an unfair method of competition or an unfair and deceptive act or practice under IC 27-4-1-4.

(b) A recommendation made in violation of section 3 of this chapter is not an unfair method of competition or an unfair and deceptive act or practice under IC 27-4-1-4 if the recommendation is made in compliance with the National Association of Securities Dealers Conduct Rules concerning suitability, as determined by the commissioner.

*As added by P.L.138-2005, SEC.2.*

**IC 27-4-9-6**

**Commissioner actions concerning compliance**

Sec. 6. (a) The commissioner may conduct an investigation, pursue an enforcement action, and take other official action that the commissioner considers appropriate to ensure compliance with section 3 of this chapter.

(b) With regard to a variable annuity, the commissioner may:

- (1) consult with the securities commissioner; and
- (2) use the resources of the securities commissioner;

in making a final determination regarding any issue concerning compliance with section 3 of this chapter.

(c) If the securities commissioner is informed of a violation or suspected violation of section 3 of this chapter or other insurance laws of the state, the securities commissioner shall timely advise the commissioner of the violation or suspected violation.

*As added by P.L.138-2005, SEC.2.*