Legislative Analysis

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REGULATION OF ANNUITY SALES

House Bill 4627
Sponsor: Rep. Bob Constan
Committee: Senior Health, Security, and Retirement

Complete to 3-22-10

A SUMMARY OF HOUSE BILL 4627 AS INTRODUCED 3-18-09

Public Act 399 of 2006 added a new Chapter 41A to the Insurance Code to regulate the sale of annuities to consumers. Among other things, the new chapter requires an insurance producer (agent) or an insurance company (if no agent is involved) to have reasonable grounds for believing than an annuity recommendation to a consumer is suitable on the basis of facts disclosed by the consumer about the consumer's investments, other insurance products, and financial situation and needs.

House Bill 4627 would amend Chapter 41A (MCL 500.4151, et al.) in the following ways.

- The bill would require an insurance producer or insurance company, prior to recommending and prior to executing a purchase or exchange of an annuity, to make a reasonable effort to find out about **the ability of the consumer to pay for an annuity without liquidating assets**. Currently, a producer of company must make a reasonable effort to determine the consumer's investment objectives. The bill would add, as well, the need to determine the consumer's goals and needs.

- The commissioner of the Office of Financial and Insurance Regulation (OFIR) would be required to prepare and publish annually a **consumer guide to annuities**. This guide would need to be written in plain English and contain an explanation of all of the following: (1) what an annuity is, (2) the different kinds of annuities, (3) how interest rates are set, (4) charges that may be subtracted from an annuity, (5) tax treatment of annuities, and (6) how to determine whether an annuity is a right choice.

- The bill would require an insurance producer or insurer, in recommending to a consumer the purchase or an exchange of an annuity that would result in another insurance transaction, **to provide the consumer a copy of the consumer's guide and a disclosure document**. The disclosure document would have to be in plain English and contain all of the following:

  - The generic name of the contract, the company product name (if different), form number, and the fact that it is an annuity.
  - The insurer's name and address.
  - A description of the contract and its benefits, emphasizing its long-term nature, including examples of the following, where appropriate: the guaranteed, non-guaranteed, and determinable elements of the contract and their limitations, and an explanation of how it operates; an explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate, and the fact that the rates may change from time to time and are not guaranteed; periodic

income options both on a guaranteed and non-guaranteed basis; any value reductions caused by withdrawals from or surrender of the contract; how values in the contract can be accessed; the death benefit, if available, and how it will be calculated; a summary of the federal tax status of the contract and any penalties applicable on withdrawal of the values from the contract; and the impact of any rider, such as a long-term care rider.

- Specific dollar amount or percentage charges and fees with an explanation of how each applies.
- The bill would also require information about the current guaranteed rate for new contracts that contain clear notice that the rate is subject to change.

- The bill would specify that, in addition to any right to revoke an annuity, a consumer has the **right to cancel an annuity within 30 days** after its delivery and to have the entire premium refunded if, after examination, the consumer is not satisfied for any reason.

- The bill would require that an annuity have **a notice of the right to cancel** prominently printed in no less than 14-point type on the first page of the policy and on the summary of coverage. The consumer would also have to be provided a separate notice in no less than 14 point type entitled *Right to Cancel*. The notice would also need to contain an address where the notice of cancellation can be sent. The consumer would be required to acknowledge in writing the receipt of the separate right-to-cancel notice. Cancellation would occur when the consumer mailed the written notice or sent a telegram to the address stated in the notice of cancellation.

- Currently, the chapter applies to any recommendation to purchase or exchange an annuity *that results in the purchase or exchange recommended*. The bill would **strike the italicized language**, so that it applies to all such annuity recommendations.

- The bill would **repeal Enacting Section 1** of Public Act 399 of 2006, which provided that an insurance company or producer that complied with certain rules of the National Association of Securities Dealers would be considered to have satisfied Chapter 41A's requirements for the recommendation of variable annuities.

FISCAL IMPACT:

The bill would have no material fiscal impact on the state or local units of government. The bill would require the Office of Financial and Insurance Regulation (OFIR) to prepare a consumer's guide on annuities. The printing costs of such a guide would likely be no more than $5,000 and could be met within existing resources. Chapter 2 (The Insurance Commissioner) of the Insurance Code, MCL 500.224, imposes an assessment fee on insurance companies with the total amount of the assessment based on the appropriation made to the Office of Financial and Insurance Regulation related to its regulation of the insurance industry. As such, any additional activities required of OFIR would be reflected in the annual appropriation to the office and would be supported by assessment fee revenue (i.e., the Insurance Bureau Fund, established in MCL 500.225). There is no GF/GP impact.

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