

SUBSTITUTE FOR  
HOUSE BILL NO. 4627

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 4151, 4153, 4155, and 4165 (MCL 500.4151,  
500.4153, 500.4155, and 500.4165), as added by 2006 PA 399, and by  
adding sections 4158, 4159, 4160, 4161, and 4162 and chapter 41B;  
and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 4151. As used in this chapter:

2       (a) "Annuity" means ~~a fixed annuity or variable~~ **AN** annuity  
3       **THAT IS AN INSURANCE PRODUCT UNDER STATE LAW** that is individually  
4       solicited, whether the product is classified as an individual or  
5       group annuity.

6       (b) "Insurance producer" or "producer" means insurance  
7       producer as defined in section 1201 and includes a business entity

1 described in section 1205(2) that is licensed as an insurance  
2 producer under this act.

3 (c) "Recommendation" means advice provided by an insurance  
4 producer, or an insurer where no producer is involved, to an  
5 individual consumer that results in a purchase, ~~ex~~-exchange, OR  
6 REPLACEMENT of an annuity in accordance with that advice.

7 (D) "REPLACEMENT" OR "REPLACE" MEANS A TRANSACTION IN WHICH A  
8 NEW POLICY OR CONTRACT IS TO BE PURCHASED, AND IT IS KNOWN OR  
9 SHOULD BE KNOWN TO THE PROPOSING PRODUCER, OR TO THE PROPOSING  
10 INSURER IF THERE IS NO PRODUCER, THAT BY REASON OF THE TRANSACTION,  
11 AN EXISTING POLICY OR CONTRACT HAS BEEN OR IS TO BE 1 OF THE  
12 FOLLOWING:

13 (i) LAPSED, FORFEITED, SURRENDERED OR PARTIALLY SURRENDERED,  
14 ASSIGNED TO THE REPLACING INSURER, OR OTHERWISE TERMINATED.

15 (ii) CONVERTED TO REDUCED PAID-UP INSURANCE, CONTINUED AS  
16 EXTENDED TERM INSURANCE, OR OTHERWISE REDUCED IN VALUE BY THE USE  
17 OF NONFORFEITURE BENEFITS OR OTHER POLICY VALUES.

18 (iii) AMENDED SO AS TO EFFECT EITHER A REDUCTION IN BENEFITS OR  
19 IN THE TERM FOR WHICH COVERAGE WOULD OTHERWISE REMAIN IN FORCE OR  
20 FOR WHICH BENEFITS WOULD BE PAID.

21 (iv) REISSUED WITH ANY REDUCTION IN CASH VALUE.

22 (v) USED IN A FINANCED PURCHASE.

23 (E) "SUITABILITY INFORMATION" MEANS INFORMATION THAT IS  
24 REASONABLY APPROPRIATE TO DETERMINE THE SUITABILITY OF A  
25 RECOMMENDATION, INCLUDING ALL OF THE FOLLOWING:

26 (i) AGE.

27 (ii) ANNUAL INCOME.

(iii) FINANCIAL SITUATION AND NEEDS, INCLUDING THE FINANCIAL RESOURCES USED FOR THE FUNDING OF THE ANNUITY.

(iv) FINANCIAL EXPERIENCE.

(v) FINANCIAL OBJECTIVES.

(vi) INTENDED USE OF THE ANNUITY.

(vii) FINANCIAL TIME HORIZON.

(viii) EXISTING ASSETS, INCLUDING INVESTMENT AND LIFE INSURANCE HOLDINGS.

(ix) LIQUIDITY NEEDS.

(x) LIQUID NET WORTH.

(xi) RISK TOLERANCE.

(xii) TAX STATUS.

Sec. 4153. (1) This chapter applies to any recommendation to purchase, ~~or~~ exchange, **OR REPLACE** an annuity made to a consumer by an insurance producer, or **BY** an insurer where no producer is involved, that results in the purchase, ~~or~~ exchange, **OR REPLACEMENT** recommended.

(2) This chapter does not apply to any recommendation to purchase, ~~or~~ exchange, **OR REPLACE** an annuity involving any of the following:

(a) Direct response solicitations where there is no recommendation based on information collected from the consumer.

(b) Contracts used to fund any of the following:

(i) An employee pension or welfare benefit plan that is covered by the employee retirement ~~and~~ income security act **OF 1974**, Public Law 93-406.

(ii) A plan described by 26 USC 401(a), 26 USC 401(k), 26 USC

1 403(b), 26 USC 408(k), or 26 USC 408(p), if established or  
2 maintained by an employer.

3 (iii) A government or church plan defined in 26 USC 414, a  
4 government or church welfare benefit plan, or a deferred  
5 compensation plan of a state or local government or tax exempt  
6 organization under 26 USC 457.

7 (iv) A nonqualified deferred compensation arrangement  
8 established or maintained by an employer or plan sponsor.

9 (v) Settlements of or assumptions of liabilities associated  
10 with personal injury litigation or any dispute or claim resolution  
11 process.

12 (vi) Formal prepaid funeral contracts.

13 Sec. 4155. (1) In recommending to a consumer the purchase of  
14 an annuity or the exchange of an annuity that results in another  
15 insurance transaction or series of insurance transactions, the  
16 insurance producer, or the insurer where no producer is involved,  
17 shall have reasonable grounds for believing that the recommendation  
18 is suitable for the consumer on the basis of the facts disclosed by  
19 the consumer as to his or her investments and other insurance  
20 products and as to his or her financial situation and needs, -

21 **INCLUDING THE CONSUMER'S SUITABILITY INFORMATION, AND THAT THERE IS**  
22 **A REASONABLE BASIS TO BELIEVE ALL OF THE FOLLOWING:**

23 **(A) IN ADDITION TO THE REQUIREMENTS UNDER CHAPTER 41B, THE**  
24 **CONSUMER HAS BEEN REASONABLY INFORMED OF VARIOUS FEATURES OF THE**  
25 **ANNUITY, SUCH AS THE POTENTIAL SURRENDER PERIOD AND SURRENDER**  
26 **CHARGE, POTENTIAL TAX PENALTY IF THE CONSUMER SELLS, EXCHANGES,**  
27 **SURRENDERS, OR ANNUITIZES THE ANNUITY, MORTALITY AND EXPENSE FEES,**

1 INVESTMENT ADVISORY FEES, POTENTIAL CHARGES FOR AND FEATURES OF  
2 RIDERS, LIMITATIONS ON INTEREST RETURNS, INSURANCE AND INVESTMENT  
3 COMPONENTS, AND MARKET RISK.

4 (B) THE CONSUMER WOULD BENEFIT FROM CERTAIN FEATURES OF THE  
5 ANNUITY, SUCH AS TAX-DEFERRED GROWTH, ANNUITIZATION, OR DEATH OR  
6 LIVING BENEFIT.

7 (C) THE PARTICULAR ANNUITY AS A WHOLE, THE UNDERLYING  
8 SUBACCOUNTS TO WHICH FUNDS ARE ALLOCATED AT THE TIME OF PURCHASE OR  
9 EXCHANGE OF THE ANNUITY, AND RIDERS AND SIMILAR PRODUCT  
10 ENHANCEMENTS, IF ANY, ARE SUITABLE AND, FOR AN EXCHANGE OR  
11 REPLACEMENT, THE TRANSACTION AS A WHOLE IS SUITABLE, FOR THE  
12 PARTICULAR CONSUMER BASED ON HIS OR HER SUITABILITY INFORMATION.

13 (D) FOR AN EXCHANGE OR REPLACEMENT OF AN ANNUITY, THE EXCHANGE  
14 OR REPLACEMENT IS SUITABLE INCLUDING TAKING INTO CONSIDERATION ALL  
15 OF THE FOLLOWING:

16 (i) WHETHER THE CONSUMER WILL INCUR A SURRENDER CHARGE, BE  
17 SUBJECT TO THE COMMENCEMENT OF A NEW SURRENDER PERIOD, LOSE  
18 EXISTING BENEFITS SUCH AS DEATH, LIVING, OR OTHER CONTRACTUAL  
19 BENEFITS, OR BE SUBJECT TO INCREASED FEES, INVESTMENT ADVISORY  
20 FEES, OR CHARGES FOR RIDERS AND SIMILAR PRODUCT ENHANCEMENTS.

21 (ii) WHETHER THE CONSUMER WOULD BENEFIT FROM PRODUCT  
22 ENHANCEMENTS AND IMPROVEMENTS.

23 (iii) WHETHER THE CONSUMER HAS HAD ANOTHER ANNUITY EXCHANGE OR  
24 REPLACEMENT AND, IN PARTICULAR, AN EXCHANGE OR REPLACEMENT WITHIN  
25 THE PRECEDING 36 MONTHS.

26 (2) Prior to the execution of a purchase, ~~ex~~-exchange, OR  
27 REPLACEMENT of an annuity resulting from a recommendation, an

1 insurance producer, or an insurer where no producer is involved,  
2 shall make reasonable efforts to obtain all of the following  
3 information: **THE CONSUMER'S SUITABILITY INFORMATION.**

4 ~~—— (a) The consumer's financial status.~~

5 ~~—— (b) The consumer's tax status.~~

6 ~~—— (c) The consumer's investment objectives.~~

7 ~~—— (d) Such other information used or considered to be reasonable~~  
8 ~~by the insurance producer, or the insurer where no producer is~~  
9 ~~involved, in making recommendations to the consumer.~~

10 ~~—— (3) Except as provided under subsection (4), neither an~~  
11 ~~insurance producer, nor an insurer where no producer is involved,~~  
12 ~~shall have any obligation to a consumer under subsection (1)~~  
13 ~~related to any recommendation if a consumer does any of the~~  
14 ~~following:~~

15 ~~—— (a) Refuses to provide relevant information requested by the~~  
16 ~~insurer or insurance producer.~~

17 ~~—— (b) Decides to enter into an insurance transaction that is not~~  
18 ~~based on a recommendation of the insurer or insurance producer.~~

19 ~~—— (c) Fails to provide complete or accurate information.~~

20 ~~—— (4) An insurer or insurance producer's recommendation subject~~  
21 ~~to subsection (1) shall be reasonable under all the circumstances~~  
22 ~~actually known to the insurer or insurance producer at the time of~~  
23 ~~the recommendation.~~

24 **(3) EXCEPT AS PERMITTED UNDER SUBSECTION (4), AN INSURER SHALL**  
25 **NOT ISSUE AN ANNUITY RECOMMENDED TO A CONSUMER UNLESS THERE IS A**  
26 **REASONABLE BASIS TO BELIEVE THAT THE ANNUITY IS SUITABLE BASED ON**  
27 **THE CONSUMER'S SUITABILITY INFORMATION.**

1 (4) AN INSURER'S ISSUANCE OF AN ANNUITY SHALL BE REASONABLE  
2 UNDER ALL OF THE CIRCUMSTANCES ACTUALLY KNOWN TO THE INSURER AT THE  
3 TIME THE ANNUITY IS ISSUED. HOWEVER, NEITHER A PRODUCER NOR AN  
4 INSURER SHALL HAVE ANY OBLIGATION TO A CONSUMER UNDER SUBSECTION  
5 (1) OR (3) RELATED TO ANY ANNUITY TRANSACTION IF ANY OF THE  
6 FOLLOWING APPLY:

7 (A) NO RECOMMENDATION IS MADE.

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

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

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

16 (5) A PRODUCER OR, WHERE NO PRODUCER IS INVOLVED, THE  
17 RESPONSIBLE INSURER REPRESENTATIVE, SHALL AT THE TIME OF SALE DO  
18 ALL OF THE FOLLOWING:

19 (A) MAKE A RECORD OF ANY RECOMMENDATION SUBJECT TO SUBSECTION  
20 (1).

21 (B) OBTAIN A CUSTOMER-SIGNED STATEMENT DOCUMENTING A  
22 CUSTOMER'S REFUSAL TO PROVIDE SUITABILITY INFORMATION, IF ANY.

23 (C) OBTAIN A CUSTOMER-SIGNED STATEMENT ACKNOWLEDGING THAT AN  
24 ANNUITY TRANSACTION IS NOT RECOMMENDED IF A CUSTOMER DECIDES TO  
25 ENTER INTO AN ANNUITY TRANSACTION THAT IS NOT BASED ON THE  
26 PRODUCER'S OR INSURER'S RECOMMENDATION.

27 SEC. 4158. (1) AN INSURER SHALL ESTABLISH A SUPERVISION SYSTEM

1 THAT IS REASONABLY DESIGNED TO ACHIEVE THE INSURER'S AND ITS  
2 PRODUCERS' COMPLIANCE WITH THIS CHAPTER, INCLUDING, BUT NOT LIMITED  
3 TO, ALL OF THE FOLLOWING:

4 (A) MAINTAIN REASONABLE PROCEDURES TO INFORM ITS PRODUCERS OF  
5 THE REQUIREMENTS OF THIS CHAPTER AND INCORPORATE THE REQUIREMENTS  
6 OF THIS CHAPTER INTO RELEVANT PRODUCER TRAINING MANUALS.

7 (B) ESTABLISH STANDARDS FOR PRODUCER PRODUCT TRAINING AND  
8 MAINTAIN REASONABLE PROCEDURES TO REQUIRE ITS PRODUCERS TO COMPLY  
9 WITH SECTION 4160.

10 (C) PROVIDE PRODUCT-SPECIFIC TRAINING AND TRAINING MATERIALS  
11 THAT EXPLAIN ALL MATERIAL FEATURES OF ITS ANNUITY PRODUCTS TO ITS  
12 PRODUCERS.

13 (D) MAINTAIN PROCEDURES FOR REVIEW OF EACH RECOMMENDATION  
14 PRIOR TO ISSUANCE OF AN ANNUITY THAT ARE DESIGNED TO ENSURE THAT  
15 THERE IS A REASONABLE BASIS TO DETERMINE THAT A RECOMMENDATION IS  
16 SUITABLE. REVIEW PROCEDURES MAY APPLY A SCREENING SYSTEM FOR THE  
17 PURPOSE OF IDENTIFYING SELECTED TRANSACTIONS FOR ADDITIONAL REVIEW  
18 AND MAY BE ACCOMPLISHED ELECTRONICALLY OR THROUGH OTHER MEANS,  
19 INCLUDING, BUT NOT LIMITED TO, PHYSICAL REVIEW. AN ELECTRONIC OR  
20 OTHER SYSTEM MAY BE DESIGNED TO REQUIRE ADDITIONAL REVIEW ONLY OF  
21 THOSE TRANSACTIONS IDENTIFIED FOR ADDITIONAL REVIEW BY THE  
22 SELECTION CRITERIA.

23 (E) MAINTAIN REASONABLE PROCEDURES TO DETECT RECOMMENDATIONS  
24 THAT ARE NOT SUITABLE. THIS MAY INCLUDE, BUT IS NOT LIMITED TO,  
25 CONFIRMATION OF CONSUMER SUITABILITY INFORMATION, SYSTEMATIC  
26 CUSTOMER SURVEYS, INTERVIEWS, CONFIRMATION LETTERS, AND PROGRAMS OF  
27 INTERNAL MONITORING. THIS SUBDIVISION DOES NOT PREVENT AN INSURER



1 FROM COMPLYING WITH THIS SUBDIVISION BY APPLYING SAMPLING  
2 PROCEDURES OR BY CONFIRMING SUITABILITY INFORMATION AFTER ISSUANCE  
3 OR DELIVERY OF THE ANNUITY.

4 (F) ANNUALLY PROVIDE A REPORT TO SENIOR MANAGEMENT, INCLUDING  
5 TO THE SENIOR MANAGER RESPONSIBLE FOR AUDIT FUNCTIONS, WHICH  
6 DETAILS A REVIEW, WITH APPROPRIATE TESTING, REASONABLY DESIGNED TO  
7 DETERMINE THE EFFECTIVENESS OF THE SUPERVISION SYSTEM, THE  
8 EXCEPTIONS FOUND, AND CORRECTIVE ACTION TAKEN OR RECOMMENDED, IF  
9 ANY.

10 (2) THIS SUBSECTION DOES NOT RESTRICT AN INSURER FROM  
11 CONTRACTING FOR PERFORMANCE OF A FUNCTION, INCLUDING MAINTENANCE OF  
12 PROCEDURES, REQUIRED UNDER SUBSECTION (1). AN INSURER SHALL TAKE  
13 APPROPRIATE CORRECTIVE ACTION AND MAY BE SUBJECT TO SANCTIONS AND  
14 PENALTIES UNDER THIS ACT REGARDLESS OF WHETHER THE INSURER  
15 CONTRACTS FOR PERFORMANCE OF A FUNCTION AND REGARDLESS OF THE  
16 INSURER'S COMPLIANCE WITH SUBSECTION (3).

17 (3) AN INSURER'S SUPERVISION SYSTEM UNDER SUBSECTION (2) SHALL  
18 INCLUDE SUPERVISION OF CONTRACTUAL PERFORMANCE. THIS INCLUDES, BUT  
19 IS NOT LIMITED TO, THE FOLLOWING:

20 (A) MONITORING AND, AS APPROPRIATE, CONDUCTING AUDITS TO  
21 ASSURE THAT THE CONTRACTED FUNCTION IS PROPERLY PERFORMED.

22 (B) ANNUALLY OBTAINING A CERTIFICATION FROM A SENIOR MANAGER  
23 WHO HAS RESPONSIBILITY FOR THE CONTRACTED FUNCTION THAT THE MANAGER  
24 HAS A REASONABLE BASIS TO REPRESENT, AND DOES REPRESENT, THAT THE  
25 FUNCTION IS PROPERLY PERFORMED.

26 (4) AN INSURER IS NOT REQUIRED TO INCLUDE IN ITS SYSTEM OF  
27 SUPERVISION A PRODUCER'S RECOMMENDATIONS TO CONSUMERS OF PRODUCTS

1 OTHER THAN THE ANNUITIES OFFERED BY THE INSURER.

2 SEC. 4159. A PRODUCER SHALL NOT DISSUADE, OR ATTEMPT TO  
3 DISSUADE, A CONSUMER FROM ANY OF THE FOLLOWING:

4 (A) TRUTHFULLY RESPONDING TO AN INSURER'S REQUEST FOR  
5 CONFIRMATION OF SUITABILITY INFORMATION.

6 (B) FILING A COMPLAINT.

7 (C) COOPERATING WITH THE INVESTIGATION OF A COMPLAINT.

8 SEC. 4160. (1) A PRODUCER SHALL NOT SOLICIT THE SALE OF AN  
9 ANNUITY PRODUCT UNLESS THE PRODUCER HAS ADEQUATE KNOWLEDGE OF THE  
10 PRODUCT TO RECOMMEND THE ANNUITY AND THE PRODUCER IS IN COMPLIANCE  
11 WITH THE INSURER'S STANDARDS FOR PRODUCT TRAINING. A PRODUCER MAY  
12 RELY ON INSURER-PROVIDED PRODUCT-SPECIFIC TRAINING STANDARDS AND  
13 MATERIALS TO COMPLY WITH THIS SUBSECTION.

14 (2) A PRODUCER WHO ENGAGES IN THE SALE OF ANNUITY PRODUCTS  
15 SHALL COMPLETE A 1-TIME 4-CREDIT TRAINING COURSE APPROVED BY THE  
16 COMMISSIONER AND PROVIDED BY AN INSURANCE AGENT PROGRAM OF STUDY  
17 REGISTERED UNDER CHAPTER 12. INSURANCE PRODUCERS WHO HOLD A LIFE  
18 INSURANCE LINE OF AUTHORITY ON THE EFFECTIVE DATE OF THIS SECTION  
19 AND WHO DESIRE TO SELL ANNUITIES SHALL COMPLETE THE REQUIREMENTS OF  
20 THIS SUBSECTION WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE  
21 AMENDATORY ACT THAT ADDED THIS SECTION. INDIVIDUALS WHO OBTAIN A  
22 LIFE INSURANCE LINE OF AUTHORITY ON OR AFTER THE EFFECTIVE DATE OF  
23 THE AMENDATORY ACT THAT ADDED THIS SECTION SHALL NOT ENGAGE IN THE  
24 SALE OF ANNUITIES UNTIL THE ANNUITY TRAINING COURSE REQUIRED UNDER  
25 THIS SUBSECTION HAS BEEN COMPLETED.

26 (3) THE MINIMUM LENGTH OF THE TRAINING REQUIRED UNDER  
27 SUBSECTION (2) SHALL BE NOT LESS THAN 4 HOURS, AS DEFINED IN

1 SECTION 1204C, AND MAY BE LONGER.

2 (4) THE TRAINING REQUIRED UNDER SUBSECTION (2) SHALL INCLUDE  
3 INFORMATION ON ALL OF THE FOLLOWING:

4 (A) THE TYPES OF ANNUITIES AND VARIOUS CLASSIFICATIONS OF  
5 ANNUITIES.

6 (B) IDENTIFICATION OF THE PARTIES TO AN ANNUITY.

7 (C) HOW FIXED, VARIABLE, AND INDEXED ANNUITY CONTRACT  
8 PROVISIONS AFFECT CONSUMERS.

9 (D) THE APPLICATION OF INCOME TAXATION OF QUALIFIED AND  
10 NONQUALIFIED ANNUITIES.

11 (E) THE PRIMARY USES OF ANNUITIES.

12 (F) APPROPRIATE SALES PRACTICES AND REPLACEMENT AND DISCLOSURE  
13 REQUIREMENTS.

14 (5) REGISTERED INSURANCE AGENT PROGRAMS OF STUDY SHALL COVER  
15 ALL TOPICS UNDER SUBSECTION (4) AND SHALL NOT PRESENT ANY MARKETING  
16 INFORMATION OR PROVIDE TRAINING ON SALES TECHNIQUES OR PROVIDE  
17 SPECIFIC INFORMATION ABOUT A PARTICULAR INSURER'S PRODUCTS.  
18 ADDITIONAL TOPICS MAY BE OFFERED IN CONJUNCTION WITH AND IN  
19 ADDITION TO THE TOPICS UNDER SUBSECTION (4).

20 (6) THE SATISFACTION OF THE TRAINING REQUIREMENTS OF ANOTHER  
21 STATE THAT ARE SUBSTANTIALLY SIMILAR TO THIS SECTION SATISFIES THE  
22 TRAINING REQUIREMENTS OF THIS SECTION.

23 (7) AN INSURER SHALL VERIFY THAT AN INSURANCE PRODUCER HAS  
24 COMPLETED THE ANNUITY TRAINING COURSE REQUIRED UNDER THIS SECTION  
25 BEFORE ALLOWING THE PRODUCER TO SELL AN ANNUITY PRODUCT FOR THAT  
26 INSURER. AN INSURER MAY SATISFY ITS RESPONSIBILITY UNDER THIS  
27 SECTION BY OBTAINING CERTIFICATES OF COMPLETION OF THE TRAINING

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1 COURSE OR OBTAINING REPORTS PROVIDED BY COMMISSIONER-SPONSORED  
2 DATABASE SYSTEMS OR VENDORS OR FROM A REASONABLY RELIABLE  
3 COMMERCIAL DATABASE VENDOR THAT HAS A REPORTING ARRANGEMENT WITH A  
4 REGISTERED INSURANCE AGENT PROGRAM OF STUDY.

5 SEC. 4161. FOR A CONSUMER PURCHASING AN INDIVIDUAL ANNUITY,  
6 THE CONSUMER SHALL BE GIVEN A COPY OF THE ANNUITY POLICY AT THE  
7 TIME THE ANNUITY IS ACCEPTED AND ISSUED.

8 SEC. 4162. NOTWITHSTANDING SECTION 4073 AND IN ADDITION TO ANY  
9 RIGHT TO REVOKE AN ANNUITY, A CONSUMER HAS THE RIGHT TO CANCEL AN  
10 ANNUITY WITHIN 15 DAYS AFTER ITS DELIVERY AND TO HAVE THE ENTIRE  
11 PREMIUM REFUNDED IF, AFTER EXAMINATION OF THE ANNUITY, THE CONSUMER  
12 IS NOT SATISFIED FOR ANY REASON. AN ANNUITY SHALL HAVE A NOTICE  
13 PROMINENTLY PRINTED [ ] ON THE FIRST  
14 PAGE OF THE POLICY AND ON THE SUMMARY OF COVERAGE AND THE CONSUMER  
15 SHALL ALSO BE PROVIDED A SEPARATE NOTICE [

16 ] ENTITLED "RIGHT TO CANCEL". THE NOTICES SHALL STATE IN PLAIN  
17 ENGLISH THAT THE CONSUMER HAS THE RIGHT TO RETURN THE ANNUITY  
18 WITHIN 15 DAYS AFTER ITS DELIVERY AND TO HAVE THE ENTIRE PREMIUM  
19 REFUNDED IF, AFTER EXAMINATION OF THE POLICY, THE APPLICANT IS NOT  
20 SATISFIED FOR ANY REASON AND SHALL CONTAIN AN ADDRESS WHERE A  
21 NOTICE OF CANCELLATION CAN BE SENT. THE CONSUMER SHALL ACKNOWLEDGE  
22 IN WRITING THE RECEIPT OF THE SEPARATE RIGHT TO CANCEL NOTICE.  
23 CANCELLATION OCCURS WHEN THE CONSUMER MAILES A WRITTEN NOTICE OF  
24 CANCELLATION TO THE ADDRESS STATED IN THE NOTICE OF CANCELLATION.

25 Sec. 4165. (1) ~~An insurer or insurance producer that complies~~  
26 ~~with the national association of securities dealers rules "NASD~~  
27 ~~Manual, Conduct Rules section 2310 (CCH, 1966)" or rules at least~~

1 ~~as stringent as section 2310 pertaining to suitability satisfies~~  
2 ~~this chapter's requirements for the recommendation of variable~~  
3 ~~annuities.~~ SUBJECT TO SUBSECTION (2), SALES MADE IN COMPLIANCE WITH  
4 FINANCIAL INDUSTRY REGULATORY AUTHORITY REQUIREMENTS PERTAINING TO  
5 SUITABILITY AND SUPERVISION OF ANNUITY TRANSACTIONS THAT ARE NOT  
6 LESS STRINGENT THAN THIS CHAPTER SATISFY THIS CHAPTER. THIS  
7 SUBSECTION APPLIES TO FINANCIAL INDUSTRY REGULATORY AUTHORITY  
8 BROKER-DEALER SALES OF VARIABLE ANNUITIES AND FIXED ANNUITIES IF  
9 THE SUITABILITY AND SUPERVISION ARE SIMILAR TO THOSE APPLIED TO  
10 VARIABLE ANNUITY SALES. HOWEVER, NOTHING IN THIS SUBSECTION LIMITS  
11 THE COMMISSIONER'S ABILITY TO ENFORCE AND INVESTIGATE THIS CHAPTER.

12 (2) FOR SUBSECTION (1) TO APPLY, AN INSURER SHALL DO BOTH OF  
13 THE FOLLOWING:

14 (A) MONITOR THE FINANCIAL INDUSTRY REGULATORY AUTHORITY MEMBER  
15 BROKER-DEALER USING INFORMATION COLLECTED IN THE NORMAL COURSE OF  
16 AN INSURER'S BUSINESS.

17 (B) PROVIDE TO THE FINANCIAL INDUSTRY REGULATORY AUTHORITY  
18 MEMBER BROKER-DEALER INFORMATION AND REPORTS THAT ARE REASONABLY  
19 APPROPRIATE TO ASSIST THE FINANCIAL INDUSTRY REGULATORY AUTHORITY  
20 MEMBER BROKER-DEALER TO MAINTAIN ITS SUPERVISION SYSTEM.

#### 21 CHAPTER 41B

#### 22 ANNUITY DISCLOSURES

23 SEC. 4175. AS USED IN THIS CHAPTER:

24 (A) "ANNUITY" MEANS A GROUP OR INDIVIDUAL ANNUITY CONTRACT OR  
25 CERTIFICATE.

26 (B) "DETERMINABLE ELEMENTS" MEANS ELEMENTS THAT ARE DERIVED  
27 FROM PROCESSES OR METHODS THAT ARE GUARANTEED AT ISSUE AND NOT

1 SUBJECT TO INSURANCE COMPANY DISCRETION, BUT WHERE THE VALUES OR  
2 AMOUNTS CANNOT BE DETERMINED UNTIL SOME POINT AFTER ISSUE. THESE  
3 ELEMENTS INCLUDE THE PREMIUMS, CREDITED INTEREST RATES INCLUDING  
4 ANY BONUS, BENEFITS, VALUES, NON-INTEREST-BASED CREDITS, CHARGES,  
5 OR ELEMENTS OF FORMULAS USED TO DETERMINE ANY OF THESE. THESE  
6 ELEMENTS MAY BE DESCRIBED AS GUARANTEED BUT NOT DETERMINED AT  
7 ISSUE. AN ELEMENT IS CONSIDERED DETERMINABLE IF IT WAS CALCULATED  
8 FROM UNDERLYING DETERMINABLE ELEMENTS ONLY, OR FROM BOTH  
9 DETERMINABLE AND GUARANTEED ELEMENTS.

10 (C) "GENERIC NAME" MEANS A SHORT TITLE DESCRIPTIVE OF THE  
11 ANNUITY CONTRACT BEING APPLIED FOR OR ILLUSTRATED.

12 (D) "GUARANTEED ELEMENTS" MEANS THE PREMIUMS, CREDITED  
13 INTEREST RATES INCLUDING ANY BONUS, BENEFITS, VALUES, NON-INTEREST-  
14 BASED CREDITS, CHARGES, OR ELEMENTS OF FORMULAS USED TO DETERMINE  
15 ANY OF THESE, THAT ARE GUARANTEED AND DETERMINED AT ISSUE. AN  
16 ELEMENT IS CONSIDERED GUARANTEED IF ALL OF THE UNDERLYING ELEMENTS  
17 THAT GO INTO ITS CALCULATION ARE GUARANTEED.

18 (E) "INSURANCE PRODUCER" OR "PRODUCER" MEANS INSURANCE  
19 PRODUCER AS DEFINED IN SECTION 1201 AND INCLUDES A BUSINESS ENTITY  
20 DESCRIBED IN SECTION 1205(2) THAT IS LICENSED AS AN INSURANCE  
21 PRODUCER UNDER THIS ACT.

22 (F) "NONGUARANTEED ELEMENTS" MEANS THE PREMIUMS, CREDITED  
23 INTEREST RATES INCLUDING ANY BONUS, BENEFITS, VALUES, NON-INTEREST-  
24 BASED CREDITS, CHARGES, OR ELEMENTS OF FORMULAS USED TO DETERMINE  
25 ANY OF THESE, THAT ARE SUBJECT TO COMPANY DISCRETION OR ARE NOT  
26 GUARANTEED AT ISSUE. AN ELEMENT IS CONSIDERED NONGUARANTEED IF ANY  
27 OF THE UNDERLYING NONGUARANTEED ELEMENTS ARE USED IN ITS

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1 CALCULATION.

2 (G) "STRUCTURED SETTLEMENT ANNUITY" MEANS A QUALIFIED FUNDING  
3 ASSET AS DEFINED IN SECTION 130(D) OF THE INTERNAL REVENUE CODE OF  
4 1986, 26 USC 130, OR AN ANNUITY THAT WOULD BE A QUALIFIED FUNDING  
5 ASSET UNDER SECTION 130(D) OF THE INTERNAL REVENUE CODE OF 1986, 26  
6 USC 130, BUT FOR THE FACT THAT IT IS NOT OWNED BY AN ASSIGNEE UNDER  
7 A QUALIFIED ASSIGNMENT.

8 SEC. 4177. (1) THIS CHAPTER APPLIES TO ALL ANNUITIES EXCEPT  
9 [THE FOLLOWING:

10 (A) REGISTERED OR NONREGISTERED VARIABLE ANNUITIES OR OTHER  
11 REGISTERED PRODUCTS.

12 (B) IMMEDIATE AND DEFERRED ANNUITIES THAT CONTAIN NO NONGUARANTEED  
13 ELEMENTS.

14 (C) ANNUITIES USED TO FUND ANY OF THE FOLLOWING:

15 (i) AN EMPLOYEE PENSION OR WELFARE BENEFIT PLAN THAT IS COVERED BY  
16 THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, PUBLIC LAW 93-406.

17 (ii) A PLAN DESCRIBED BY 26 USC 401(A), 26 USC 401(K), OR 26 USC  
18 403(B) IF ESTABLISHED OR MAINTAINED BY AN EMPLOYER.

19 (iii) A GOVERNMENT OR CHURCH PLAN DEFINED IN 26 USC 414 OR A DEFERRED  
20 COMPENSATION PLAN OF A STATE OR LOCAL GOVERNMENT OR TAX-EXEMPT  
21 ORGANIZATION UNDER 26 USC 457.

(iv) A NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENT ESTABLISHED OR  
MAINTAINED BY AN EMPLOYER OR PLAN SPONSOR.

(v) STRUCTURED SETTLEMENT ANNUITIES.]

22 (2) NOTWITHSTANDING SUBSECTION (1), THIS CHAPTER DOES APPLY TO  
23 ANNUITIES USED TO FUND A PLAN OR ARRANGEMENT THAT IS FUNDED SOLELY  
24 BY CONTRIBUTIONS AN EMPLOYEE ELECTS TO MAKE WHETHER ON A PRETAX OR  
25 AFTER-TAX BASIS, AND WHERE THE INSURER HAS BEEN NOTIFIED THAT PLAN  
26 PARTICIPANTS MAY CHOOSE FROM AMONG 2 OR MORE FIXED ANNUITY  
27 PROVIDERS AND THERE IS A DIRECT SOLICITATION OF AN INDIVIDUAL

1 EMPLOYEE BY AN INSURANCE PRODUCER FOR THE PURCHASE OF AN ANNUITY  
2 CONTRACT. AS USED IN THIS SUBSECTION, DIRECT SOLICITATION DOES NOT  
3 INCLUDE ANY MEETING HELD BY AN INSURANCE PRODUCER SOLELY FOR THE  
4 PURPOSE OF EDUCATING OR ENROLLING EMPLOYEES IN THE PLAN OR  
5 ARRANGEMENT.

6 SEC. 4178. (1) IF THE APPLICATION FOR AN ANNUITY CONTRACT IS  
7 TAKEN IN A FACE-TO-FACE MEETING, THE APPLICANT SHALL AT OR BEFORE  
8 THE TIME OF APPLICATION BE GIVEN BOTH THE DISCLOSURE DOCUMENT  
9 DESCRIBED IN SECTION 4179 AND THE BUYER'S GUIDE DESCRIBED IN  
10 SECTION 4181.

11 (2) IF THE APPLICATION FOR AN ANNUITY CONTRACT IS TAKEN BY  
12 MEANS OTHER THAN IN A FACE-TO-FACE MEETING, THE APPLICANT SHALL BE  
13 SENT BOTH THE DISCLOSURE DOCUMENT DESCRIBED IN SECTION 4179 AND THE  
14 BUYER'S GUIDE DESCRIBED IN SECTION 4181 BY NO LATER THAN 5 BUSINESS  
15 DAYS AFTER THE COMPLETED APPLICATION IS RECEIVED BY THE INSURER,  
16 SUBJECT TO THE FOLLOWING:

17 (A) FOR AN APPLICATION RECEIVED AS A RESULT OF A DIRECT  
18 SOLICITATION THROUGH THE MAIL, BOTH OF THE FOLLOWING APPLY:

19 (i) PROVIDING A BUYER'S GUIDE IN A MAILING INVITING PROSPECTIVE  
20 APPLICANTS TO APPLY FOR AN ANNUITY CONTRACT SATISFIES THE  
21 REQUIREMENT THAT THE BUYER'S GUIDE BE PROVIDED NO LATER THAN 5  
22 BUSINESS DAYS AFTER RECEIPT OF THE APPLICATION.

23 (ii) PROVIDING A DISCLOSURE DOCUMENT IN A MAILING INVITING A  
24 PROSPECTIVE APPLICANT TO APPLY FOR AN ANNUITY CONTRACT SATISFIES  
25 THE REQUIREMENT THAT THE DISCLOSURE DOCUMENT BE PROVIDED NO LATER  
26 THAN 5 BUSINESS DAYS AFTER RECEIPT OF THE APPLICATION.

27 (B) FOR AN APPLICATION RECEIVED VIA THE INTERNET, BOTH OF THE



1 FOLLOWING APPLY:

2 (i) TAKING REASONABLE STEPS TO MAKE THE BUYER'S GUIDE AVAILABLE  
3 FOR VIEWING AND PRINTING ON THE INSURER'S WEBSITE SATISFIES THE  
4 REQUIREMENT THAT THE BUYER'S GUIDE BE PROVIDED NO LATER THAN 5  
5 BUSINESS DAYS OF RECEIPT OF THE APPLICATION.

6 (ii) TAKING REASONABLE STEPS TO MAKE THE DISCLOSURE DOCUMENT  
7 AVAILABLE FOR VIEWING AND PRINTING ON THE INSURER'S WEBSITE  
8 SATISFIES THE REQUIREMENT THAT THE DISCLOSURE DOCUMENT BE PROVIDED  
9 NO LATER THAN 5 BUSINESS DAYS AFTER RECEIPT OF THE APPLICATION.

10 (C) A SOLICITATION FOR AN ANNUITY CONTRACT PROVIDED IN OTHER  
11 THAN A FACE-TO-FACE MEETING SHALL INCLUDE A STATEMENT THAT THE  
12 PROPOSED APPLICANT MAY CONTACT THE OFFICE OF FINANCIAL AND  
13 INSURANCE REGULATION FOR A FREE ANNUITY BUYER'S GUIDE OR MAY  
14 INCLUDE A STATEMENT THAT THE PROSPECTIVE APPLICANT MAY CONTACT THE  
15 INSURER FOR A FREE ANNUITY BUYER'S GUIDE.

16 (3) IF THE BUYER'S GUIDE AND DISCLOSURE DOCUMENT ARE NOT  
17 PROVIDED AT OR BEFORE THE TIME OF APPLICATION, A FREE LOOK PERIOD  
18 OF NO LESS THAN 15 DAYS SHALL BE PROVIDED FOR THE APPLICANT TO  
19 RETURN THE ANNUITY CONTRACT WITHOUT PENALTY. THIS FREE LOOK SHALL  
20 RUN CONCURRENTLY WITH ANY OTHER FREE LOOK PROVIDED UNDER STATE LAW  
21 OR REGULATION.

22 SEC. 4179. A DISCLOSURE DOCUMENT REQUIRED TO BE PROVIDED UNDER  
23 SECTION 4178 SHALL USE TERMS DEFINED IN LANGUAGE THAT FACILITATES  
24 THE UNDERSTANDING BY A TYPICAL PERSON WITHIN THE SEGMENT OF THE  
25 PUBLIC TO WHICH THE DISCLOSURE DOCUMENT IS DIRECTED AND SHALL  
26 CONTAIN ALL OF THE FOLLOWING INFORMATION AT A MINIMUM:

27 (A) THE GENERIC NAME OF THE CONTRACT, THE COMPANY PRODUCT

1 NAME, IF DIFFERENT, AND FORM NUMBER, AND THE FACT THAT IT IS AN  
2 ANNUITY.

3 (B) THE INSURER'S NAME AND ADDRESS.

4 (C) A DESCRIPTION OF THE CONTRACT AND ITS BENEFITS,  
5 EMPHASIZING ITS LONG-TERM NATURE, INCLUDING EXAMPLES WHERE  
6 APPROPRIATE OF ALL OF THE FOLLOWING:

7 (i) THE GUARANTEED, NONGUARANTEED, AND DETERMINABLE ELEMENTS OF  
8 THE CONTRACT, AND THEIR LIMITATIONS, IF ANY, AND AN EXPLANATION OF  
9 HOW THEY OPERATE.

10 (ii) AN EXPLANATION OF THE INITIAL CREDITING RATE, SPECIFYING  
11 ANY BONUS OR INTRODUCTORY PORTION, THE DURATION OF THE RATE, AND  
12 THE FACT THAT RATES MAY CHANGE FROM TIME TO TIME AND ARE NOT  
13 GUARANTEED.

14 (iii) PERIODIC INCOME OPTIONS BOTH ON A GUARANTEED AND  
15 NONGUARANTEED BASIS.

16 (iv) ANY VALUE REDUCTIONS CAUSED BY WITHDRAWALS FROM OR  
17 SURRENDER OF THE CONTRACT.

18 (v) HOW VALUES IN THE CONTRACT CAN BE ACCESSED.

19 (vi) THE DEATH BENEFIT, IF AVAILABLE, AND HOW IT WILL BE  
20 CALCULATED.

21 (vii) A SUMMARY OF THE FEDERAL TAX STATUS OF THE CONTRACT AND  
22 ANY PENALTIES APPLICABLE ON WITHDRAWAL OF VALUES FROM THE CONTRACT.

23 (viii) IMPACT OF ANY RIDER, SUCH AS A LONG-TERM CARE RIDER.

24 (D) SPECIFIC DOLLAR AMOUNT OR PERCENTAGE CHARGES AND FEES WITH  
25 AN EXPLANATION OF HOW THEY APPLY.

26 (E) INFORMATION ABOUT THE CURRENT GUARANTEED RATE FOR NEW  
27 CONTRACTS THAT CONTAINS A CLEAR NOTICE THAT THE RATE IS SUBJECT TO

1 CHANGE.

2 SEC. 4181. THE COMMISSIONER SHALL PREPARE AND, BEGINNING  
3 JANUARY 1, 2011 AND ANNUALLY THEREAFTER, SHALL PUBLISH A BUYER'S  
4 GUIDE TO ANNUITIES AS PROVIDED IN THIS SECTION. THE BUYER'S GUIDE  
5 TO ANNUITIES SHALL BE WRITTEN IN PLAIN ENGLISH AND SHALL CONTAIN AN  
6 EXPLANATION OF ALL OF THE FOLLOWING:

7 (A) WHAT AN ANNUITY IS.

8 (B) THE DIFFERENT KINDS OF ANNUITIES.

9 (C) HOW INTEREST RATES ARE SET.

10 (D) CHARGES THAT MAY BE SUBTRACTED FROM AN ANNUITY.

11 (E) TAX TREATMENT OF ANNUITIES.

12 (F) HOW TO DETERMINE WHETHER AN ANNUITY IS A RIGHT CHOICE.

13 SEC. 4182. FOR ANNUITIES IN THE PAYOUT PERIOD WITH CHANGES IN  
14 NONGUARANTEED ELEMENTS AND FOR THE ACCUMULATION PERIOD OF A  
15 DEFERRED ANNUITY, THE INSURER SHALL PROVIDE EACH CONTRACT OWNER  
16 WITH A REPORT, AT LEAST ANNUALLY, ON THE STATUS OF THE CONTRACT  
17 THAT CONTAINS AT LEAST ALL OF THE FOLLOWING INFORMATION:

18 (A) THE BEGINNING AND END DATE OF THE CURRENT REPORT PERIOD.

19 (B) THE ACCUMULATION AND CASH SURRENDER VALUE, IF ANY, AT THE  
20 END OF THE PREVIOUS REPORT PERIOD AND AT THE END OF THE CURRENT  
21 REPORT PERIOD.

22 (C) THE TOTAL AMOUNTS, IF ANY, THAT HAVE BEEN CREDITED,  
23 CHARGED TO THE CONTRACT VALUE, OR PAID DURING THE CURRENT REPORT  
24 PERIOD.

25 (D) THE AMOUNT OF OUTSTANDING LOANS, IF ANY, AS OF THE END OF  
26 THE CURRENT REPORT PERIOD.

27 Enacting section 1. Section 4157 of the insurance code of

1 1956, 1956 PA 218, MCL 500.4157, is repealed.

2 Enacting section 2. This amendatory act takes effect 9 months  
3 after the date it is enacted into law.