

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 152

**PRINTER NO.** 3556

**AMOUNT**

No Fiscal Impact

**FUND**

Insurance Regulation and Oversight Fund

**DATE INTRODUCED**

January 23, 2017

**PRIME SPONSOR**

Representative M. Quinn

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 152 amends the Insurance Company Law of 1921 by repealing section 429 (relating to surplus or safety fund) and amending Article IV (relating to life insurance) to establish a database of life insurers.

HB 152 repeals section 429 which imposed a cap on the surplus fund of a domestic mutual life insurance company not to exceed 10% of its reserve, or \$100,000, whichever is greater, and the excess of the market value of its securities over its book value.

The bill amends Article IV by adding a subarticle (d), entitled "Provisions Relating to Locating Life Insurance Policies" which requires the Insurance Department (department) to maintain an electronic database of contact information for each life insurer that has a life insurance policy or annuity contract in force in the Commonwealth. Such life insurers shall provide and maintain a valid email address to the department.

The bill requires the department and all life insurers to participate in the life policy locator service adopted by the National Association of Insurance Commissioners (NAIC) in providing for and responding to search requests for life insurance policies or responding to search requests for life insurance policies or annuities in force in the Commonwealth covering a decedent.

The bill amends section 401-B (relating to definitions) as follows:

- The term "annuity" is amended to clarify that it is an insurance product.
- Defines "continuing education credit" as one continuing education credit under section 608-A of the Insurance Department Act of 1921.
- Defines "continuing education provider" as an individual or entity approved to offer continuing education courses under section 608-A of the Insurance Department Act.
- Defines "department" as the Insurance Department of the Commonwealth.
- Defines "FINRA" as the Financial Industry Regulatory Authority or its succeeding agency.
- Repeals the definition of "independent agent."
- Makes a technical correction to the definition of "insurance producer."

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- Defines “replace” or “replacement” as the purchase of a new policy or contract where it is known to the proposing producer or insurer that by reason of the transaction, an existing policy or contract has been or will be lapsed, forfeited, surrendered or assigned to the replacing insurer or otherwise terminated; converted to reduce paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values; amended to effect a reduction in benefits or in the term; reissued with a reduction in case value; or used in a financed purchase.
- Defines “suitability information” as information relating to an annuity that is appropriate to determine the suitability of a recommendation.

The bill amends section 402-B to clarify that Article IV-B applies to any recommendation to purchase or replace an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or replacement recommended.

The bill requires an insurance producer, when making a recommendation to a consumer for the purchase or replacement of an annuity, to have reasonable grounds for believing that the recommendation is suitable for the consumer; the consumer is reasonably informed of various features of the annuity; the consumer would benefit from certain features of the annuity; the particular annuity as a whole is suitable for the consumer; or, in the case of a replacement of an annuity, the replacement is suitable.

The “reasonable basis of suitability” standard does not apply to an annuity transaction if no recommendation is made; if a recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer; a consumer refuses to provide suitability information; or the consumer decides to enter into a transaction that is not based on a recommendation of the insurer or insurance producer.

Requires the insurance producer or the responsible insurer representative to:

- Make a record of each recommendation;
- Obtain a customer-signed statement documenting a customer’s refusal to provide suitability information, if applicable; and
- Obtain a customer-signed statement acknowledging that an annuity transaction is not recommended if the customer decides to enter into an annuity transaction that is not based on the insurer’s or producer’s recommendation.

The bill updates the requirements for establishing a supervision system to ensure compliance with the provisions of Article IV-B.

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The bill adds section 403.1-B (relating to insurance producer training) which requires an insurance producer who has the authority to sell annuities to complete at least four continuing education credits in an annuity training course or courses covering various topics regarding annuities. The continuing education requirement must be met by the end of the insurance producer's next complete license period occurring after the effective date of this legislation.

The bill prohibits continuing education courses from containing any marketing information, providing training on sales techniques, or providing specific information about a particular insurer's products.

The bill stipulates that the satisfaction of training requirements of another state that are substantially similar to the provisions of the section are deemed to satisfy the training requirements for resident and nonresident producers.

The bill allows the Insurance Commissioner to take appropriate corrective action if a violation of this article occurs.

The bill authorizes the department to promulgate regulations to administer the provisions of Article IV-B.

This act shall take effect in 180 days.

## **FISCAL IMPACT:**

House Bill 152 will have no fiscal impact to the Commonwealth. The Insurance Department already use the database that the National Association of Insurance Commissioners created for life insurer policy searches. In addition, the bill provides the authority to the Insurance Department to promulgate regulations which can be accomplished within existing staffing levels and funding provided to the department.