

IN THE SENATE

SENATE BILL NO. 1326

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING SECTION 41-1940, IDAHO CODE,
TO PROVIDE THAT AN ANNUITY SOLD TO CERTAIN PERSONS MAY NOT IMPOSE A
SURRENDER CHARGE OR OTHER WITHDRAWAL PENALTY AFTER A SPECIFIED TIME.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-1940, Idaho Code, be, and the same is hereby
amended to read as follows:

41-1940. SUITABILITY OF ANNUITY SALES TO CONSUMERS. (1) In
recommending to a consumer the purchase of an annuity or the exchange
of an annuity that results in an insurance transaction or a series of
insurance transactions, the insurance producer, or the insurer where no
producer is involved, shall have reasonable grounds for believing that
the recommendation is suitable for the consumer on the basis of the facts
disclosed by the consumer as to the consumer's investments and other
insurance products and as to the consumer's age, financial situation and
needs.

(2) Prior to the execution of a purchase or exchange of an annuity
resulting from a recommendation, an insurance producer, or an insurer where
no producer is involved, shall make reasonable efforts to obtain information
concerning:

(a) The consumer's financial status;

(b) The consumer's tax status;

(c) The consumer's investment objectives; and

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

(3) Neither an insurance producer, nor an insurer where no producer is
involved, shall have any obligation to a consumer under this section related
to any recommendation if a consumer:

(a) Refuses to provide relevant information requested by the insurer or
insurance producer;

(b) Decides to enter into an insurance transaction that is not based
upon a recommendation of the insurer or insurance producer; or

(c) Fails to provide complete and accurate information.

(4) This section shall not apply to recommendations involving:

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

(b) Contracts used to fund employee retirement or benefit plans
established or maintained by an employer;

(c) Settlements of or assumptions of liabilities associated with
personal injury litigation or any dispute or claim resolution process;

or

1 (d) Contracts or transactions exempted pursuant to rules promulgated
2 by the director, where the director has determined the protections of
3 this law are not necessary.

4 (5) Notwithstanding any other provision of this chapter, an annuity
5 sold to a person who at the time of the purchase is age sixty (60) years or
6 older may not impose any surrender charge or other withdrawal penalty after
7 ten (10) years from the date the annuity was purchased.

8 (6) The director may promulgate rules pursuant to this section for the
9 protection of consumers in annuity transactions.

10 (67) Nothing in this section shall be construed to create or imply a
11 private cause of action for a violation of this section or rules promulgated
12 pursuant to this section.