

Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 263 (Dodd) – As Amended June 21, 2023

Policy Committee: Insurance

Vote: 13 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill revises, beginning January 1, 2025, procedures and standards for the recommendation and issuance of annuity products.

Specifically, this bill:

- 1) Requires a life agent selling certain types of life insurance policies to complete training, approved by the Insurance Commissioner (IC), related to the policies sold.
- 2) Requires an insurance producer to act in the best interest of the consumer when making a recommendation of an annuity and specifies duties and obligations, such as those related to disclosure, conflict of interest, and documentation, to ensure a producer acts accordingly.
- 3) Requires an insurance producer to complete an annuity training course approved by the IC before transacting annuities.
- 4) Requires an insurer to establish a supervision system for producer compliance with these requirements and provide a buyer's guide to all consumers who purchase an annuity.

**FISCAL EFFECT:**

Costs of approximately \$25,000 in fiscal year (FY) 2023-24, \$2.8 million in FY 2024-25, and \$4.0 million ongoing thereafter to the Department of Insurance (CDI) to approve training courses and ensure compliance with specified producer and insurer fiduciary duties (Insurance Fund).

**COMMENTS:**

- 1) **Purpose.** According to the author:

SB 263 will protect consumers, including vulnerable seniors, from potential abuse and exploitation by curtailing harmful sales of annuities by requiring producers to consider the best interest of the consumer in making a recommendation and complying with the obligations set forth in SB 263...[which] exceeds the requirements of the NAIC model through additional required training, stronger enforcement mechanisms and other obligations that increase consumer awareness of their purchase of an annuity.

- 2) **Support and Opposition.** This bill is sponsored by IC Ricardo Lara, who argues adopting the updated National Association of Insurance Commissioners' (NAIC) Suitability in Annuity Transactions Model Regulation (Model #275) will “provide more consumer protections with higher standards of conduct, more rigorous communication requirements between the consumer, producers, and insurance company, and additional required training for producers selling life insurance policies.” IC Lara adds that “As an active member of the NAIC and representing the state in which the most fixed annuities are sold nationwide, I, along with my Department staff, worked with several other states and consumer advocates to push for as much of a consumer protection standard as possible.”

This bill is opposed by a coalition of consumer organizations led by the Life Insurance Consumer Advocacy Center unless amended to more closely model legislation in New York, which “has taken strong action in this area; California should use that as the model and not the [NAIC] model that the insurance industry strongly prefers.” The coalition adds that this “bill does a grave disservice to consumers by making it appear that consumers are protected (and allowing agents to say that consumers are protected), when in fact that is not the case.”

3) **Background.**

**Annuities.** Annuities are specialized insurance contracts that pay out invested funds in a fixed income stream, generally to help retirees address the risk of outliving their savings. Annuities require no individual underwriting for insurers and are often accompanied by high commissions for producers. However, annuities come in many complex forms and upfront premium monies invested in these products are unavailable to a retiree for many years, with early withdrawal of funds subject to large penalties.

**NAIC Model Law.** Model #275 was initially created in 2003 to set standards and procedures that insurance producers must follow when recommending annuity products to consumers. Model #275 was revised in 2010 to require producers to collect information from consumers to better establish reasonable grounds for recommendations. AB 689 (Blumenfeld), Chapter 295, Statutes of 2011, adopted Model #275 in California with additional consumer protections.

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 confirmed state authority to regulate the sale of fixed annuities and provided an exemption for such annuities from federal securities regulation under certain conditions, including when a state has adopted requirements that “substantially meet or exceed the minimum requirements” established in the 2010 version of Model #275 or successor modifications to the model regulation within five years of adoption by the NAIC. Model #275 was subsequently updated in 2020. Thus, to avoid dual regulation of fixed annuities by CDI and the federal government, existing state law must be updated to meet or exceed the 2020 version of Model #275 by 2025. The author intends this bill to satisfy this threshold.

**Recent Amendments.** This bill was previously opposed by a coalition of insurers led by the Association of California Life and Health Insurance Companies unless amended due to “a number of deviations from the NAIC standard that imperil the workability of the statute, create confusion for consumers and producers, and have the potential to be litigation traps for our members.” However, this coalition moved to a neutral position following the June 21, 2023 amendments. For its part, the coalition of consumer organizations opposed to this bill argue “consumers and their representatives have largely been excluded from the actual

crafting of the bill” and each round of amendments “harms consumers a bit more and hews more closely to what the insurance industry wants.”

- 4) **Prior Legislation.** SB 927 (Archuleta), of the 2021-2022 Legislative Session, would have enacted consumer protections for life insurance policies and annuities. SB 927 was held on the Senate Appropriations Committee’s suspense file.

**Analysis Prepared by:** Irene Ho / APPR. / (916) 319-2081