

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 620

Introduced by Senator Scott

(Coauthors: Senators Bowen, Ortiz, and Romero)

(Coauthors: Assembly Members ~~Laird, Lieber, and Lowenthal~~ Benoit, Calderon, Chavez, Frommer, Koretz, Laird, Lieber, Lowenthal, Maddox, Mountjoy, Nakano, and Vargas)

February 20, 2003

An act to amend Sections 787, 1725.5, 10127.10, ~~10127.13~~, and 10509.8 of, and to add Sections 789.9, 789.10, 1724, ~~1749.8~~, and ~~10127.17~~ and 1749.8 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 620, as amended, Scott. Annuities: life insurance: required disclosures and prohibited sales practices.

Existing law imposes a special duty of honesty, good faith, and fair dealing on an insurer, broker, agent, and all others engaged in the transaction of insurance with a prospective insured who is 65 years of age or older, except for specified types of insurance transactions. Under existing law, the Insurance Commissioner is authorized to assess an administrative penalty for the violation of this duty and other provisions relating to senior insurance. Existing law establishes a 30-day period



following the purchase of an individual life insurance policy or an individual annuity contract by a senior citizen, during which time the policy or contract may be canceled and all premiums and fees refunded, and requires certain disclosures in that regard.

Existing law regulates viatical settlements, as defined, and imposes certain requirements on a person entering into or soliciting viatical settlements.

This bill would enact additional restrictions on advertising practices that target senior citizens and would expand the scope of existing restrictions, currently applicable to disability insurance, to life insurance and annuities. The bill would ~~provide that insurers and life agents owe a special duty of suitability, as defined, to seniors who apply to purchase annuities~~ *prohibit the sale of annuities to seniors in certain circumstances*. The bill would prohibit insurance agents, brokers, and solicitors who are not attorneys from sharing commissions or other compensation with attorneys. The bill would require, effective January 1, 2005, specific training for life agents in order for these producers to sell annuities. The bill would limit the investment of premiums during the 30-day cancellation period, *except as specified*, and would revise the disclosure requirements applicable to the sale of life insurance and annuity products to seniors, ~~and would impose certain additional disclosure requirements applicable to life insurance policies and annuities~~. The bill would impose restrictions on the sale of life insurance policies and annuities in the home of a senior citizen. The bill would prohibit an agent or insurer from recommending the unnecessary replacement, as defined, of an annuity by a senior citizen. The bill would impose certain duties on the Insurance Commissioner in this regard, and enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 787 of the Insurance Code is amended
- 2 to read:
- 3 787. Any advertisement or other device designed to produce
- 4 leads based on a response from a potential insured which is
- 5 directed towards persons age 65 or older shall disclose, *in type size*
- 6 *no smaller than the largest listed telephone number*, that an agent
- 7 may contact the applicant if that is the fact. In addition, an agent



1 who makes contact with a person as a result of acquiring that
2 person's name from a lead generating device shall disclose that fact
3 in the initial contact with the person.

4 (a) No insurer, agent, broker, solicitor, or other person or other
5 entity shall solicit persons age 65 and older in this state for the
6 purchase of disability insurance, life insurance, or annuities
7 through the use of a true or fictitious name which is deceptive or
8 misleading with regard to the status, character, or proprietary or
9 representative capacity of the entity or person, or to the true
10 purpose of the advertisement.

11 (b) For the purposes of this section, an advertisement includes
12 envelopes, stationery, business cards, or other materials designed
13 to describe and encourage the purchase of a policy or certificate of
14 disability insurance, life insurance, or an annuity.

15 (c) Advertisements shall not employ words, letters, initials,
16 symbols, or other devices which are so similar to those used by
17 governmental agencies, a nonprofit or charitable institution,
18 senior organization, or other insurer that they could have the
19 capacity or tendency to mislead the public. Examples of
20 misleading materials, include, but are not limited to, those which
21 imply any of the following:

22 (1) The advertised coverages are somehow provided by or are
23 endorsed by any governmental agencies, nonprofit or charitable
24 institution or senior organizations.

25 (2) The advertiser is the same as, is connected with, or is
26 endorsed by governmental agencies, nonprofit or charitable
27 institutions or senior organizations.

28 (d) No advertisement may use the name of a state or political
29 subdivision thereof in a policy name or description.

30 (e) No advertisement may use any name, service mark, slogan,
31 symbol, or any device in any manner that implies that the insurer,
32 or the policy or certificate advertised, or that any agency who may
33 call upon the consumer in response to the advertisement, is
34 connected with a governmental agency, such as the Social Security
35 Administration.

36 (f) No advertisement may imply that the reader may lose a
37 right, or privilege, or benefits under federal, state, or local law if
38 he or she fails to respond to the advertisement.



1 (g) An insurer, agent, broker, or other entity may not use an
2 address so as to mislead or deceive as to the true identity, location,
3 or licensing status of the insurer, agent, broker, or other entity.

4 (h) No insurer may use, in the trade name of its insurance policy
5 or certificate, any terminology or words so similar to the name of
6 a governmental agency or governmental program as to have the
7 capacity or the tendency to confuse, deceive, or mislead a
8 prospective purchaser.

9 (i) All advertisements used by agents, producers, brokers,
10 solicitors, or other persons for a policy of an insurer shall have
11 written approval of the insurer before they may be used.

12 (j) No insurer, agent, broker, or other entity may solicit a
13 particular class by use of advertisements which state or imply that
14 the occupational or other status as members of the class entitles
15 them to reduced rates on a group or other basis when, in fact, the
16 policy or certificate being advertised is sold on an individual basis
17 at regular rates.

18 (k) ~~No~~ *In addition to any other prohibition on untrue,*
19 *deceptive, or misleading advertisements, no* advertisement for an
20 event where insurance products will be offered for sale may use the
21 terms “seminar,” “class,” “informational meeting,” or
22 substantially equivalent terms to characterize the purpose of the
23 public gathering or event unless it adds the words “and insurance
24 sales presentation” immediately following those terms in the same
25 type size and font as those terms.

26 ~~(l) No advertisement for a gathering or event where leads for~~
27 ~~future sales of insurance products will be solicited or gathered may~~
28 ~~use the terms “seminar,” “class,” “informational meeting,” or~~
29 ~~substantially equivalent terms to characterize the purpose of the~~
30 ~~gathering or event unless it also states the following: “Information~~
31 ~~for future insurance sales will be gathered at this event.” This~~
32 ~~statement shall appear in a prominent location on the~~
33 ~~advertisement in the same type size and font as the terms~~
34 ~~“seminar,” “class,” “informational meeting,” or substantially~~
35 ~~equivalent term used to characterize the nature of the gathering or~~
36 ~~event.~~

37 ~~(m) A person or entity using a title or designation, other than~~
38 ~~the insurance license held by the person or entity, in the~~
39 ~~advertisement or sale of disability insurance, life insurance, or~~
40 ~~annuities shall act with the utmost good faith for the benefit of~~



1 insureds and prospective insureds, and in a manner consistent with
2 the level of expertise, care, and experience indicated by the title or
3 designation.

4 SEC. 2. Section 789.9 is added to the Insurance Code, to read:

5 ~~789.9. (a) Insurers and life agents owe a special duty of~~
6 ~~suitability to seniors 65 years and older who apply to purchase~~
7 ~~annuities. For purposes of this section, “duty of suitability” means~~
8 ~~a responsibility to recommend the purchase or replacement of an~~
9 ~~annuity only when the insurer or life agent has reasonable grounds~~
10 ~~to believe, based upon information provided by the senior to the~~
11 ~~insurer or life agent about the senior’s investments, insurance~~
12 ~~coverage, and financial situation, that the annuity meets the~~
13 ~~senior’s financial objectives and insurance needs. This duty is in~~
14 ~~addition to any other duty, whether express or implied, that may~~
15 ~~exist.~~

16 ~~(b) Before issuing or delivering an annuity to a senior, the~~
17 ~~issuer shall make reasonable efforts to obtain relevant information~~
18 ~~from the senior about the senior’s financial status, tax status,~~
19 ~~investment objectives, and any other information used or~~
20 ~~considered to be reasonable to ensure that the annuity meets the~~
21 ~~senior’s insurance needs and financial objectives. No unsuitable~~
22 ~~annuity product shall be issued or delivered to a senior in this state.~~

23 ~~(c) In addition to any other reasons that an individual annuity~~
24 ~~may be determined to be unsuitable for a senior, an annuity shall~~
25 ~~be unsuitable in all~~

26 *789.9. (a) In addition to any other reasons that a sale of an*
27 *individual annuity to a senior may violate any provision of law, an*
28 *annuity shall not be sold to a senior in any of the following*
29 *circumstances:*

30 (1) The senior’s purpose in purchasing the annuity is to affect
31 Medi-Cal eligibility and ~~the~~ *either of the following is true:*

32 (A) *The purchaser’s assets are equal to or less than the*
33 *community spouse resource allowance established annually by the*
34 *State Department of Health Services pursuant to the Medi-Cal Act*
35 *(Chapter 7 (commencing with Section 14000) of Part 3 of Division*
36 *9 of the Welfare and Institutions Code); or the.*

37 (B) *The senior would otherwise qualify for Medi-Cal.*

38 (2) The senior’s purpose in purchasing the annuity is to affect
39 Medi-Cal eligibility and, after the purchase of the annuity, the
40 senior or the senior’s spouse would not qualify for Medi-Cal.



1 ~~(3) The annuity includes a surrender penalty that may be~~
2 ~~triggered by the annuitant's death.~~

3 ~~(d) Each issuer of annuity products shall make reasonable~~
4 ~~efforts to train its agents on how to recognize indicators that a~~
5 ~~prospective annuitant may lack the short-term memory or~~
6 ~~judgment to knowingly purchase an insurance product, and what~~
7 ~~to do if those indicators are observed.~~

8 ~~(e) In the event that an annuity specified in subdivision (e) is~~
9 ~~(b) In the event that a fixed annuity specified in subdivision (a)~~
10 ~~issued to a senior, the issuer shall rescind the contract, and refund~~
11 ~~to the purchaser all premiums paid for the annuity, subject to the~~
12 ~~provisions of Section 10127.10, and refund to the purchaser all~~
13 ~~fees and costs plus interest at a rate of 10 percent per annum.~~

14 ~~(f) Every issuer of annuity products shall retain all records and~~
15 ~~documentation demonstrating the evaluation of the suitability of~~
16 ~~a particular product to an individual senior and shall make this~~
17 ~~documentation available to the commissioner upon request., fees,~~
18 ~~and costs paid for the annuity.~~

19 SEC. 3. Section 789.10 is added to the Insurance Code, to
20 read:

21 789.10. (a) This section applies to the sale, offering for sale,
22 or generation of leads for the sale of life insurance, including
23 annuities, to senior insureds or prospective insureds by any person.

24 (b) Any person who meets with a senior in the senior's home
25 is required to deliver a notice in writing to the senior no less than
26 24 hours prior to that individual's initial meeting in the senior's
27 home, ~~unless the senior initiated contact with an agent with whom~~
28 ~~the senior has an existing insurance relationship and requested a~~
29 ~~meeting with the agent in his or her home that same day. In that~~
30 ~~case, a notice shall be delivered to the senior prior to the meeting.~~

31 *If the senior has an existing insurance relationship with an agent*
32 *and requests a meeting with the agent in the senior's home the same*
33 *day, a notice shall be delivered to the senior prior to the meeting.*

34 The notice shall be in substantially the following form, with the
35 appropriate information inserted, in 14-point type:

36 "(1) During this visit or a followup visit, you will be given a
37 sales presentation on the following [indicate all that apply]:

- 38 () Life insurance, including annuities
- 39 () Other insurance products [specify]: _____.



1 (2) You have the right to have other persons present at the
2 meeting, including family members, financial advisors or
3 attorneys.

4 (3) You have the right to end the meeting at any time.

5 (4) You have the right to contact the Department of Insurance
6 or the Department of Corporations for information, or to file a
7 complaint. [The notice shall include the consumer assistance
8 telephone numbers at those departments]

9 (5) The following individuals will be coming to your home:
10 [list all attendees, and insurance license information, if
11 applicable]”

12 (c) Upon contacting the senior in the senior’s home, the person
13 shall, before making any statement other than a greeting, or asking
14 the senior any other questions, state that the purpose of the contact
15 is to talk about insurance, or to gather information for a followup
16 visit to sell insurance, if that is the case, and state all of the
17 following information:

18 (1) The name and titles of all persons arriving at the senior’s
19 home.

20 (2) The name of the insurer represented by the person, if
21 known.

22 (d) Each person attending a meeting with a senior shall provide
23 the senior with a business card or other written identification
24 stating the person’s name, business address, telephone number,
25 and any insurance license number.

26 (e) The persons attending a meeting with a senior shall end all
27 discussions and leave the home of the senior immediately after
28 being asked to leave by the senior.

29 ~~(f) Any person attending a meeting with a senior shall~~
30 ~~immediately terminate the meeting if the person knows or should~~
31 ~~know that the senior lacks the short-term memory or judgment to~~
32 ~~knowingly purchase an insurance product.~~

33 ~~(g)~~

34 (f) A person may not solicit a sale or order for the sale of an
35 annuity or life insurance policy at the residence of a senior, in
36 person or by telephone, by using any plan, scheme, or ruse that
37 misrepresents the true status or mission of the contact.

38 SEC. 4. Section 1724 is added to the Insurance Code, to read:

39 1724. An agent, broker, or solicitor who is not an active
40 member of the State Bar of California may not share a commission



1 or other compensation with an active member of the State Bar of
2 California. For purposes of this section, “commission or other
3 compensation” means pecuniary or nonpecuniary compensation
4 of any kind relating to the sale or renewal of an insurance policy
5 or certificate or an annuity, including, but not limited to, a bonus,
6 gift, prize, award, or finder’s fee.

7 SEC. 5. Section 1725.5 of the Insurance Code is amended to
8 read:

9 1725.5. (a) For purposes of Sections 32.5, 1625, 1626,
10 1724.5, 1758.1, 1765, 1800, 14020, 14021, and 15006, every
11 licensee shall prominently affix, type, or cause to be printed on
12 business cards, written price quotations for insurance products,
13 and print advertisements distributed exclusively in this state for
14 insurance products its license number in type the same size as any
15 indicated telephone number, address, or fax number. If the licensee
16 maintains more than one organization license, one of the
17 organization license numbers is sufficient for compliance with this
18 section.

19 (b) Effective January 1, 2005, for purposes of Sections 32.5,
20 1625, 1626, 1724.5, 1758.1, 1765, 1800, 14020, 14021, and
21 15006, every licensee shall prominently affix, type, or cause to be
22 printed on business cards, written price quotations for insurance
23 products, and print advertisements, distributed in this state for
24 insurance products, the words “Insurance Agent,” or “Insurance
25 Broker-Agent,” as applicable to the licensee, in type size no word
26 “Insurance” in type size no smaller than the largest indicated
27 telephone number. ~~If the licensee maintains more than one type~~
28 ~~of license, one of the types is sufficient for compliance with this~~
29 ~~section. If the licensee prominently uses the term “insurance” on~~
30 ~~the materials specified in this subdivision, the licensee may satisfy~~
31 ~~this requirement by using the terms “Insurance License” or~~
32 ~~“Insurance Lic.” immediately prior to, and in type size no smaller~~
33 ~~than, its license number as required by subdivision (a).~~

34 (c) In the case of transactors, or agent and broker licensees, who
35 are classified for licensing purposes as solicitors, working as
36 exclusive employees of motor clubs, organizational licensee
37 numbers shall be used.

38 (d) Any person in violation of this section shall be subject to a
39 fine levied by the commissioner in the amount of two hundred
40 dollars (\$200) for the first offense, five hundred dollars (\$500) for



1 the second offense, and one thousand dollars (\$1,000) for the third
2 and subsequent offenses. The penalty shall not exceed one
3 thousand dollars (\$1,000) for any one offense. These fines shall be
4 deposited into the Insurance Fund.

5 (e) A separate penalty shall not be imposed upon each piece of
6 printed material that fails to conform to the requirements of this
7 section.

8 (f) If the commissioner finds that the failure of a licensee to
9 comply with the provisions of subdivision (a) or (b) is due to
10 reasonable cause or circumstance beyond the licensee's control,
11 and occurred notwithstanding the exercise of ordinary care and in
12 the absence of willful neglect, the licensee may be relieved of the
13 penalty in subdivision (d).

14 (g) A licensee seeking to be relieved of the penalty in
15 subdivision (d) shall file with the department a statement with
16 supporting documents setting forth the facts upon which the
17 licensee bases its claims for relief.

18 (h) This section does not apply to any person or entity that is not
19 currently required to be licensed by the department or that is
20 exempted from licensure.

21 (i) This section does not apply to general advertisements of
22 motor clubs that merely list insurance products as one of several
23 services offered by the motor club, and do not provide any details
24 of the insurance products.

25 (j) This section does not apply to life insurance policy
26 illustrations required by Chapter 5.5 (commencing with Section
27 10509.950) of Part 2 of Division 2 or to life insurance cost indexes
28 required by Chapter 5.6 (commencing with Section 10509.970) of
29 Part 2 of Division 2.

30 (k) This section shall become operative January 1, 1997.

31 SEC. 6. Section 1749.8 is added to the Insurance Code, to
32 read:

33 1749.8. (a) Effective January 1, 2005, every life agent who
34 sells annuities shall satisfactorily complete eight hours of training
35 prior to soliciting individual consumers in order to sell annuities.

36 ~~Effective~~

37 (b) *Effective* January 1, 2005, every life agent who sells
38 annuities shall satisfactorily complete four hours of training every
39 two years prior to license renewal. For resident agents, this



1 requirement shall be part of, and not in addition to, the continuing
2 education requirements of Section 1749.3.

3 (c) The training required by this section shall be approved by
4 the commissioner and shall consist of topics related to annuities,
5 and California law, regulations, and requirements related to
6 annuities, prohibited sales practices, *the recognition of indicators*
7 *that a prospective insured may lack the short-term memory or*
8 *judgment to knowingly purchase an insurance product,* and
9 fraudulent and unfair trade practices. Subject matter determined
10 by the commissioner to be primarily intended to promote the sale
11 or marketing of annuities shall not qualify for credit towards the
12 training requirement. Any course or seminar that is disapproved
13 under the provisions of this section shall be presumed invalid for
14 credit towards the training requirement of this section unless it is
15 approved in writing by the commissioner.

16 SEC. 7. Section 10127.10 of the Insurance Code is amended
17 to read:

18 10127.10. (a) Every policy of individual life insurance and
19 every individual annuity contract that is initially delivered or
20 issued for delivery to a senior citizen in this state on and after
21 January 1, 2004, shall have printed thereon or attached thereto a
22 notice stating that, after receipt of the policy by the owner, the
23 policy may be returned by the owner for cancellation by delivering
24 it or mailing it to the insurer or agent from whom it was purchased.
25 The period of time set forth by the insurer for return of the policy
26 by the insured shall be clearly stated on the notice and this period
27 shall be not less than 30 days. The insured may return the policy
28 to the insurer by mail or otherwise at any time during the period
29 specified in the notice. ~~In the case of individual life insurance~~
30 ~~policies and individual annuity contracts (other than certain~~
31 ~~variable contracts and modified guaranteed contracts), return of~~
32 *During the 30-day cancellation period, the premium for a variable*
33 *annuity may be invested only in fixed-income investments and*
34 *money-market funds, unless the investor specifically directs that*
35 *the premium be invested in the mutual funds underlying the*
36 *variable annuity contract. Return of the policy within the 30-day*
37 *cancellation period shall have one of the following effects:*

38 (1) *In the case of individual life insurance policies and variable*
39 *annuity contracts for which the owner has not directed that the*
40 *premium be invested in the mutual funds underlying the contract*



1 *during the cancellation period, return of the policy during the*
2 *cancellation period shall have the effect of voiding the policy from*
3 *the beginning, and the parties shall be in the same position as if no*
4 *policy had been issued. All premiums paid and any policy fee paid*
5 *for the policy shall be refunded by the insurer to the owner within*
6 *30 days from the date that the insurer is notified that the owner has*
7 *canceled the policy. ~~During the 30-day cancellation period, the~~*
8 *~~premium may be invested only in fixed-income investments and~~*
9 *~~money market funds. Return of the contract during the~~*
10 *~~cancellation period shall void the policy from the beginning, and~~*
11 *~~the parties shall be in the same position as if no policy had been~~*
12 *~~issued, unless the insured knowingly signed a written waiver~~*
13 *~~allowing the premium to be invested during the 30-day~~*
14 *~~cancellation period. After executing a valid waiver, cancellation~~*
15 *~~during the 30-day period shall entitle the owner to a refund of~~*
16 *~~account value and any policy fee paid for the policy. The account~~*
17 *~~value or~~ The premium and policy fee shall be refunded by the*
18 *insurer to the owner within 30 days from the date that the insurer*
19 *is notified that the owner has canceled the policy.*

20 *(2) In the case of a variable annuity for which the owner has*
21 *directed that the premium be invested in the mutual funds*
22 *underlying the contract during the 30-day cancellation period,*
23 *cancellation shall entitle the owner to a refund of the account*
24 *value. The account value shall be refunded by the insurer to the*
25 *owner within 30 days from the date that the insurer is notified that*
26 *the owner has canceled the contract.*

27 (b) This section applies to all individual policies issued or
28 delivered to senior citizens in this state on or after January 1, 2004.
29 All policies subject to this section which are in effect on January
30 1, 2003, shall be construed to be in compliance with this section,
31 and any provision in any policy which is in conflict with this
32 section shall be of no force or effect.

33 (c) Every individual life insurance policy and every individual
34 annuity contract, other than variable contracts and modified
35 guaranteed contracts, subject to this section, that is delivered or
36 issued for delivery in this state shall have the following notice
37 either printed on the cover page or policy jacket in 12-point bold
38 print with one inch of space on all sides or printed on a sticker that
39 is affixed to the cover page or policy jacket:

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YOU HAVE PURCHASED A LIFE INSURANCE POLICY OR ANNUITY CONTRACT. CAREFULLY REVIEW IT FOR LIMITATIONS.

THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT FOR A FULL REFUND BY RETURNING IT TO THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY. AFTER 30 DAYS, CANCELLATION MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE.”

The phrase “after 30 days, cancellation may result in a substantial penalty, known as a surrender charge” may be deleted if the policy does not contain those charges or penalties.

(d) Every individual variable annuity contract, variable life insurance contract, or modified guaranteed contract subject to this section, that is delivered or issued for delivery in this state, shall have the following notice either printed on the cover page or policy jacket in 12-point bold print with one inch of space on all sides or printed on a sticker that is affixed to the cover page or policy jacket:

“IMPORTANT

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YOU HAVE PURCHASED A VARIABLE ANNUITY CONTRACT (VARIABLE LIFE INSURANCE CONTRACT, OR MODIFIED GUARANTEED CONTRACT). CAREFULLY REVIEW IT FOR LIMITATIONS.

THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT ~~FOR~~. DURING THAT 30-DAY PERIOD, YOUR MONEY WILL BE PLACED IN FIXED-INCOME OR MONEY-MARKET FUNDS, UNLESS YOU DIRECT THAT THE PREMIUM BE INVESTED IN A STOCK OR BOND FUND UNDERLYING THE CONTRACT DURING THE 30-DAY PERIOD. IF YOU DO NOT DIRECT THAT THE PREMIUM BE INVESTED IN A STOCK OR BOND FUND, AND



1 *IF YOU RETURN THE POLICY WITHIN THE 30-DAY PERIOD,*
2 *YOU WILL BE ENTITLED TO A REFUND OF THE PREMIUM*
3 *AND POLICY FEES. IF YOU DIRECT THAT THE PREMIUM*
4 *BE INVESTED IN A STOCK OR BOND FUND DURING THE*
5 *30-DAY PERIOD, AND IF YOU RETURN THE POLICY*
6 *DURING THAT PERIOD, YOU WILL BE ENTITLED TO A*
7 REFUND OF THE POLICY’S ACCOUNT VALUE ON THE
8 DAY THE POLICY IS RECEIVED BY THE INSURANCE
9 COMPANY OR AGENT WHO SOLD YOU THIS POLICY,
10 *WHICH COULD BE SIGNIFICANTLY LESS THAN THE*
11 *PREMIUM YOU PAID FOR THE POLICY. A RETURN OF THE*
12 *POLICY AFTER 30 DAYS MAY RESULT IN A*
13 *SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER*
14 *CHARGE.”*

15
16 The words “known as a surrender charge” may be deleted if the
17 contract does not contain those charges.

18 (e) This section does not apply to life insurance policies issued
19 in connection with a credit transaction or issued under a
20 contractual policy-change or conversion privilege provision
21 contained in a policy. Additionally, this section shall not apply to
22 contributory and noncontributory employer group life insurance,
23 contributory and noncontributory employer group annuity
24 contracts, and group term life insurance, with the exception of
25 subdivision (f).

26 (f) When an insurer, its agent, group master policyowner, or
27 association collects more than one month’s premium from a senior
28 citizen at the time of application or at the time of delivery of a
29 group term life insurance policy or certificate, the insurer must
30 provide the senior citizen a prorated refund of the premium if the
31 senior citizen delivers a cancellation request to the insurer during
32 the first 30 days of the policy period.

33 (g) For purposes of this chapter, a senior citizen means an
34 individual who is 60 years of age or older on the date of purchase
35 of the policy.

36 ~~SEC. 8.—Section 10127.13 of the Insurance Code is amended~~
37 ~~to read:~~

38 ~~10127.13.—(a) Prior to the sale of any life insurance policy or~~
39 ~~annuity contract to a senior citizen, or the replacement of any life~~
40 ~~insurance policy or annuity contract held by a senior citizen, the~~



1 ~~life insurer and life agent shall either disclose the surrender period,~~
2 ~~all associated penalties, and the length of the deferral period, if~~
3 ~~any, in 12-point bold print on the cover sheet of the policy or~~
4 ~~disclose the location of the surrender information in bold 12-point~~
5 ~~print on the cover page of the policy, or printed on a sticker that is~~
6 ~~affixed to the cover page or to the policy jacket. The notice~~
7 ~~required by this section may appear on a cover sheet that also~~
8 ~~contains the disclosure required by subdivision (d) of Section~~
9 ~~10127.10.~~

10 ~~(b) Within 10 business days after an annuity has been issued to~~
11 ~~a senior citizen, the insurer shall send to the senior citizen by~~
12 ~~prepaid first-class mail a statement in 14-point type showing the~~
13 ~~account as it will be or is anticipated to be immediately after~~
14 ~~termination of the 30-day period in which the annuity may be~~
15 ~~cancelled without penalty, or any longer period during which the~~
16 ~~insurer allows cancellation without penalty. The statement shall~~
17 ~~set forth the dollar amounts of the initial premium paid, the~~
18 ~~account value, the surrender value, the surrender penalty amount~~
19 ~~and the death benefit lump-sum amount. The statement shall be~~
20 ~~titled “Account Statement Estimated as of [date immediately after~~
21 ~~expected termination of the period during which the annuity may~~
22 ~~be cancelled without penalty]” The statement shall also state that~~
23 ~~the purchaser has 30 days from the date the annuity is delivered to~~
24 ~~cancel the annuity without penalty and shall refer the purchaser to~~
25 ~~the documents provided with the annuity for more information.~~
26 ~~The statement shall also prominently identify the name, address,~~
27 ~~and customer service telephone number of the insurer, and~~
28 ~~information, such as the name of the annuitant and policy number,~~
29 ~~to identify the account.~~

30 ~~SEC. 9.—Section 10127.17 is added to the Insurance Code, to~~
31 ~~read:~~

32 ~~10127.17.—(a) In addition to the disclosure required pursuant~~
33 ~~to Section 10127.10, every policy of life insurance and every~~
34 ~~annuity that is proposed to be sold and issued to a senior citizen~~
35 ~~shall be accompanied by a one-page outline disclosure, to be~~
36 ~~completed by the agent and presented to the purchaser, consisting~~
37 ~~of the following information:~~

38 ~~(1) Relevant information about any surrender charges that~~
39 ~~would be paid by the purchaser if the purchaser were to replace or~~
40 ~~revoke the insurance contract before its maturity, including, but~~



1 not limited to, the amount, whether the charge is incurred at the
2 death of the annuitant or at some other time, and if there is an
3 annual surrender charge-free withdrawal available.

4 (2) The length of the deferral period, if any.

5 (3) The fact that the agent will receive a payment or
6 commission from the insurer issuing the policy, if that is the case,
7 and a statement that the amount of the payment or commission
8 may be affected by the price of the policy and the length of the
9 deferral period, if any.

10 (4) The fact that the sale or liquidation of any stock, bond, IRA,
11 certificate of deposit, mutual fund, annuity, or other asset to fund
12 the purchase of the product may have tax consequences, result in
13 early withdrawal penalties, or result in other costs or penalties as
14 a result of the sale or liquidation.

15 (5) A statement that the applicant should consult with an
16 independent advisor other than an insurance representative, such
17 as an attorney, accountant, or other professional, regarding the
18 legal and tax consequences of purchasing the annuity or using the
19 annuity to qualify for programs such as Medi-Cal.

20 (6) The right to return the policy within 30 days of its issuance
21 for a full refund.

22 (7) A statement that if the applicant has an existing annuity, that
23 he or she should contact the issuer of that annuity or the applicable
24 agent for an explanation of the surrender charges and the
25 ramifications of surrendering the existing annuity.

26 (b) The senior citizen receiving the one-page outline disclosure
27 shall acknowledge receipt of the document by signing a copy and
28 returning it to the agent.

29 ~~SEC. 10.~~

30 *SEC. 8.* Section 10509.8 of the Insurance Code is amended to
31 read:

32 10509.8. (a) A violation of this article shall occur if an agent
33 or insurer recommends the replacement or conservation of an
34 existing policy by use of a materially inaccurate presentation or
35 comparison of an existing contract's premiums and benefits or
36 dividends and values, if any, or recommends that an insured 65
37 years of age or older purchase an unnecessary replacement
38 annuity.

39 (b) For purposes of this section, "unnecessary replacement"
40 means the sale of an annuity to replace an existing annuity that



1 requires that the insured will pay a surrender charge for the annuity
2 that is being replaced and that does not confer a substantial
3 financial benefit over the life of the policy to the purchaser so that
4 a reasonable person would believe that the purchase is
5 unnecessary.

6 (c) Patterns of action by policyowners who purchase
7 replacement policies from the same agent after indicating on
8 applications that replacement is not involved, shall constitute a
9 rebuttable presumption of the agent’s knowledge that replacement
10 was intended in connection with the sale of those policies, and such
11 patterns of action shall constitute a rebuttable presumption of the
12 agent’s intent to violate this article.

13 (d) This article does not prohibit the use of additional material
14 other than that which is required that is not in violation of this
15 article or any other statute or regulation.

16 _____

17 CORRECTIONS

18 **Text — Pages 12 and 13.**

19 _____

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