

Assembly Bill No. 76

CHAPTER 75

An act to amend Section 10127.17 of the Insurance Code, relating to life insurance and annuity products.

[Approved by Governor August 5, 2009. Filed with
Secretary of State August 6, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 76, Yamada. Life and Annuity Consumer Protection Fund.

Existing law creates the Life and Annuity Consumer Protection Fund as a special account within the Insurance Fund and requires that the moneys deposited therein, from a \$1 fee levied against insurers based upon each individual life insurance and annuity product worth \$15,000 or more issued to a resident of this state, be dedicated to protecting consumers of insurance products. Under existing law, that provision is repealed as of January 1, 2010.

This bill would extend the operation of that provision to January 1, 2015. This bill would also require the Insurance Commissioner to annually publish on its Internet Web site a report detailing certain specified aspects of protections for the consumers of insurance products.

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

SECTION 1. Section 10127.17 of the Insurance Code is amended to read:

10127.17. (a) The Life and Annuity Consumer Protection Fund is hereby created as a special account within the Insurance Fund. Each insurer admitted to transact insurance in this state shall pay a fee to be determined by the commissioner, not to exceed one dollar (\$1), for each individual life insurance policy and each individual annuity product that it issues to a resident of this state with a value of fifteen thousand dollars (\$15,000) or more. If an insurer elects to charge the purchaser of a life insurance policy or annuity product this fee, the fee shall be set forth as a separate charge in the contract schedule or premium notice. Life insurance or annuity forms are not required to be filed again for review as a consequence of this provision. This fee shall be assessed on all new individual life insurance policies and annuity products issued during the prior 12 months, and shall be deposited into the Life and Annuity Consumer Protection Fund.

(b) Moneys in the Life and Annuity Consumer Protection Fund shall be distributed by the commissioner and shall be exclusively dedicated to

protecting consumers of life insurance and annuity products in this state. Moneys in the fund shall not be used for any other purpose.

(c) Fifty percent of these funds shall be distributed within the department for consumer protection functions related to individual life insurance and annuity products, including, but not limited to:

(1) Investigating and prosecuting financial abuse by insurance licensees, or persons holding themselves out to be insurance licensees, or any person purporting to be engaged in the business of insurance.

(2) Responding to consumer inquiries and complaints related to life insurance or annuity products.

(3) Educating consumers in all aspects of life insurance and annuity products, consumer protection, purchasing and using insurance and annuity products, claim filing, benefit delivery, and dispute resolution.

(4) Regulating and overseeing life insurance and annuity products and advertising for these products directed toward consumers.

(d) Fifty percent of the funds shall be distributed to district attorneys for investigating and prosecuting individual life insurance and annuity product financial abuse cases involving insurance licensees, or persons holding themselves out to be insurance licensees, or any person purporting to be engaged in the business of insurance, and for other projects beneficial to insurance consumers.

(1) The commissioner shall distribute funds to district attorneys who are able to show a likely positive outcome that will benefit consumers in the local jurisdiction based on specific criteria promulgated by the commissioner. Each local district attorney desiring a portion of those funds shall submit to the commissioner an application, including, at a minimum:

(A) The proposed use of the moneys and the anticipated outcome.

(B) A list of all prior relevant cases or projects and a copy of the final accounting for each. If cases or projects are ongoing, the most recent accounting shall be provided.

(C) A detailed budget, including salaries, and general expenses, and specifically identifying the cost of purchase or rental of equipment or supplies.

(2) Each district attorney that receives funds pursuant to this section shall submit a final detailed accounting at the conclusion or closure of each case or project. For cases or projects that continue longer than six months, interim accountings shall be submitted every six months, or as otherwise directed by the commissioner.

(3) Each district attorney that receives funds pursuant to this section shall submit a final report to the commissioner, that may be made public, as to the success of the case or project conducted. The report shall provide information and statistics on the number of active investigations, arrests, indictments, and convictions. The applications for moneys, the distribution of moneys, and the annual reports shall be public documents.

(4) Notwithstanding any other provision of this section, information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential.

(5) The commissioner may conduct a fiscal audit of the programs administered under this subdivision. This fiscal audit shall be conducted by an internal audit unit of the department. The cost of any fiscal audits shall be paid for from the Life and Annuity Consumer Protection Fund established by this section.

(6) If the commissioner determines that a district attorney is unable or unwilling to investigate or prosecute a relevant financial abuse case, the commissioner may discontinue distribution of funds allocated for that matter and may redistribute those funds to other eligible district attorneys.

(e) The funds received under this section shall be deposited in the Life and Annuity Consumer Protection Fund within the Insurance Fund, and shall be expended and distributed as appropriated by the Legislature for the purposes of this section. The total amount contained in the Life and Annuity Consumer Protection Fund shall not exceed five million dollars (\$5,000,000) annually. If, as of June 30 of any calendar year, the moneys in the fund exceed this amount, the commissioner shall adjust the amount of the assessment for the following year. An insurer, upon receipt of an invoice, shall transmit payment to the department for deposit in the Life and Annuity Consumer Protection Fund. Any balance remaining in the Life and Annuity Consumer Protection Fund at the end of the fiscal year shall be retained in the account and carried forward to the next fiscal year.

(f) The commissioner may develop guidelines for implementing or clarifying these provisions, including guidelines for the allocation, distribution, and potential return of unused funds. The commissioner may, from time to time, issue regulations for implementing or clarifying these provisions.

(g) The Commissioner shall provide a consolidated report annually on the department's Internet Web site, which shall include, but is not limited to, the following information:

(1) The number of opened consumer complaints related to life insurance or annuity products.

(2) The number of opened investigations related to life insurance or annuity products.

(3) The number of investigations related to life insurance or annuity products referred to and reported by prosecuting agencies.

(4) The number of administrative or regulatory cases related to life insurance or annuity products referred to the department's legal division.

(5) The number of administrative or regulatory enforcement actions taken in cases related to life insurance or annuity products.

(6) Descriptions of education programs and efforts by the department to educate consumers in all aspects of life insurance and annuity products, consumer protection, purchasing and using insurance and annuity products, claim filing, benefit delivery, and dispute resolution.

(h) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.