

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 476

Introduced by Senator Steinberg

February 21, 2013

An act to ~~amend Section 10127.17 of the Insurance Code, relating to life insurance; repeal and add Sections 1872.81, 1874.8, and 10127.17 of the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 476, as amended, Steinberg. ~~Life insurance: consumer protection. Insurance: special assessments.~~

(1) Existing law, until January 1, 2015, imposes on an insurer a \$0.30 special purpose assessment on each vehicle insured under an insurance policy issued in this state by the insurer. Existing law specifies that \$0.20 of each \$0.30 special purpose assessment shall be used to fund specified consumer service functions of the Department of Insurance relating to motor vehicle insurance. Existing law further specifies that the remaining \$0.10 of each \$0.30 special purpose assessment shall be used to fund the improvement of certain consumer functions of the department.

This bill would revise and recast those provisions, delete the date of repeal, and require a special purpose assessment of \$0.25 until January 1, 2015, and not exceeding \$0.25 thereafter, on each vehicle insured under an insurance policy issued in this state by the insurer. The bill would also specify that, upon appropriation, $\frac{2}{3}$ of the special purpose assessment be used for the purpose of funding the consumer service functions of the department related to regulating automobile insurers, as provided, and $\frac{1}{3}$ of the special purpose assessment be used for the

purpose of improving consumer functions of the department, related to regulating automobile insurers, as specified.

The bill would authorize the department, upon appropriation by the Legislature, to use up to \$0.05 of the \$0.25 special purpose assessment revenues collected to notify insurers and other members of the public about the existence of any low-cost automobile insurance program.

(2) Existing law provides that each insurer doing business in this state shall pay an annual special purpose assessment to be determined by the Insurance Commissioner, but not to exceed \$0.50 annually for each vehicle insured under an insurance policy the insurer issues in this state, in order to fund the Fraud Division and the Organized Automobile Fraud Activity Interdiction Program. Under existing law, of the funds collected, 42.5% are required to be distributed to district attorneys, 42.5% are required to be distributed to the department's Fraud Division, and 15% are required to be distributed to the Department of the California Highway Patrol, to be used as provided. Existing law provides that this assessment be repealed on January 1, 2015.

This bill would revise and recast those provisions, delete the date of repeal, and make the distribution of funds by the commissioner upon appropriation by the Legislature.

Existing

(3) Existing law creates the Life and Annuity Consumer Protection Fund as a special account within the Insurance Fund. Existing law requires each insurer admitted to transact insurance in this state to pay a fee determined by the ~~Insurance Commissioner~~ commissioner, not to exceed \$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 \$15,000 or more. If an insurer elects to charge the purchaser of a life insurance policy or annuity product this fee, the fee is required to be set forth as a separate charge in the contract schedule or premium notice. The moneys in the Life and Annuity Consumer Protection Fund are to be distributed, as provided, and are required to be used exclusively for the purpose of protecting consumers of life insurance and annuity products in this state. Existing law requires that 50% of the moneys in the fund be distributed within the department for functions related to individual life insurance and annuity products, including, but not limited to, 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.

~~This bill would make technical, nonsubstantive changes to those provisions.~~

The bill would revise and recast those provisions, delete the date of repeal, and require that the moneys distributed by the commissioner, upon appropriation by the Legislature, fund the reasonable costs incurred in regulating entities transacting life insurance and annuity products in this state. The bill would also require that instead of consumer education, the moneys in the fund distributed within the department for functions related to individual life insurance and annuity products be used to disseminate information to insurers, insureds, and others regarding the applicable regulation of life insurance and annuity products, including consumer protection, purchasing and using insurance and annuity products, claim filing, benefit delivery, and dispute resolution.

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Automobile insurance rates are approved by the Insurance*
- 4 *Commissioner, who is required to ensure that automobile insurance*
- 5 *is fair, available, and affordable to all Californians. Several factors*
- 6 *guide the commissioner’s rate-setting powers, including factors*
- 7 *that have a substantial relationship to the risk of loss. The*
- 8 *California Low Cost Automobile Insurance Program makes*
- 9 *automobile insurance available to low-income drivers, thereby*
- 10 *reducing the number of uninsured motorists on California’s roads.*
- 11 *Since the program’s inception in 2005, 59 percent of those*
- 12 *receiving insurance coverage through the program were previously*
- 13 *uninsured, and the program has covered \$7.56 million in property*
- 14 *damage claims and \$8.5 million in bodily injury claims, directly*
- 15 *protecting insurers and insureds from the risk of loss associated*
- 16 *with the full cost of injuries and damages had those motorists*
- 17 *remained uninsured.*
- 18 (b) *The Organized Automobile Fraud Activity Interdiction*
- 19 *Program merges the resources of the Department of Insurance,*
- 20 *the Department of the California Highway Patrol, and district*
- 21 *attorneys to combat automobile insurance fraud, which includes*

1 *the staging of automobile accidents and the filing of fraudulent*
2 *automobile accidents or damage claims. The program provides a*
3 *direct benefit to insurers by prioritizing the remediation of*
4 *automobile insurance fraud, resulting in reduced claims costs for*
5 *insurers.*

6 *(c) The Department of Insurance is responsible for investigating*
7 *violations of the Insurance Code related to life insurance policies*
8 *and annuity products. The role of district attorneys in prioritizing*
9 *the prosecution of fraudulent activities involving insurance and*
10 *annuity products, including the economic abuse of consumers,*
11 *enables the department to take prompt and decisive action to*
12 *restrict or terminate the licenses of persons criminally convicted*
13 *of financial abuse crimes. The department's regulatory purposes*
14 *of deterring insurance and annuity fraud are also furthered by*
15 *warning consumers, particularly seniors, about unsavory sales*
16 *practices and by helping consumers understand the types of*
17 *fraudulent activities being perpetrated.*

18 *SEC. 2. Section 1872.81 of the Insurance Code is repealed.*

19 ~~1872.81. (a) In addition to the special purpose assessment~~
20 ~~imposed pursuant to Section 1872.8, an insurer doing business in~~
21 ~~this state shall pay to the commissioner an annual special purpose~~
22 ~~assessment of thirty cents (\$0.30) for each vehicle insured under~~
23 ~~an insurance policy it issues in this state, for expenditure as follows:~~

24 ~~(1) An amount equivalent to twenty cents (\$0.20) of the special~~
25 ~~purpose assessment imposed per insured vehicle by this subdivision~~
26 ~~shall be used for the purpose of paying for consumer service~~
27 ~~functions of the department that are related to automobile~~
28 ~~insurance. The revenues under this paragraph shall be used to~~
29 ~~improve service to consumers through the rating and underwriting~~
30 ~~services bureau, the claims services bureau, the investigations~~
31 ~~bureau, or any successor bureaus of the department that may~~
32 ~~assume the consumer service functions of these bureaus, and legal~~
33 ~~services in support of these bureaus. The department shall develop~~
34 ~~a plan for the use of the revenues available under this paragraph~~
35 ~~for the purposes authorized, and shall submit the plan to the~~
36 ~~Assembly and Senate Committees on Insurance.~~

37 ~~(2) An amount equivalent to ten cents (\$0.10) of the special~~
38 ~~purpose assessment imposed per insured vehicle by this subdivision~~
39 ~~shall be used for the purpose of improving consumer functions of~~
40 ~~the department related to automobile insurance. Revenues available~~

1 under this paragraph shall be used to improve consumer functions
2 through one or more of the following:

- 3 (A) ~~The rating and underwriting services bureau.~~
- 4 (B) ~~The claims services bureau.~~
- 5 (C) ~~The investigations bureau.~~
- 6 (D) ~~Any successor bureau of the department that may assume~~
7 ~~automobile insurance consumer functions of these bureaus, and~~
8 ~~legal services in support of these bureaus. These revenues also~~
9 ~~may be used for improving the ability of the department to respond~~
10 ~~to consumer complaints and information requests through the~~
11 ~~department's toll-free telephone number, and for improving the~~
12 ~~ability of the department to offer information about automobile~~
13 ~~insurance rates to the public. The department shall develop a plan~~
14 ~~for the use of the revenues available under this paragraph for the~~
15 ~~purpose authorized, and shall submit the plan to the Assembly and~~
16 ~~Senate Committees on Insurance.~~

17 (3) ~~Notwithstanding paragraph (2), the Department of Insurance,~~
18 ~~after January 1, 2006, and the Department of Motor Vehicles, after~~
19 ~~that date, may propose to the budget committees of the Legislature~~
20 ~~a proposed use of up to five cents (\$0.05) of the ten-cent (\$0.10)~~
21 ~~special purpose assessment levied pursuant to paragraph (2) related~~
22 ~~to informing consumers about the existence of any low-cost~~
23 ~~automobile insurance program authorized in law pursuant to~~
24 ~~Section 11629.7 or other statutes that also establish a program of~~
25 ~~the type identified in Section 11629.7. Funds for this purpose shall~~
26 ~~not be expended without prior budget approval. The total amount~~
27 ~~of funds authorized to both departments in total, or to one~~
28 ~~department in total, for this purpose shall not exceed five cents~~
29 ~~(\$0.05). The departments shall explain, with as much specificity~~
30 ~~as is reasonably possible, the objectives for the use of the funds~~
31 ~~and quantitative criteria by which the Legislature may evaluate~~
32 ~~the effectiveness of the department's use of funds.~~

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

36 *SEC. 3. Section 1872.81 is added to the Insurance Code, to*
37 *read:*

38 *1872.81. In addition to the special purpose assessment imposed*
39 *pursuant to Section 1872.8, an insurer doing business in this state*
40 *shall, until January 1, 2015, pay to the commissioner an annual*

1 *special purpose assessment of twenty-five cents (\$0.25), and*
2 *thereafter pay to the commissioner an annual special purpose*
3 *assessment in an amount not to exceed twenty-five cents (\$0.25),*
4 *as determined by the commissioner, for each vehicle insured under*
5 *an insurance policy it issues in this state, for expenditure, upon*
6 *appropriation by the Legislature, as follows:*

7 *(a) Two-thirds of the special purpose assessment shall be used*
8 *for the purpose of funding the consumer service functions of the*
9 *department that are related to regulating automobile insurers,*
10 *including those functions performed by the rating and underwriting*
11 *service bureau, the claims service bureau, the investigations*
12 *bureau, or any successor bureaus of the department that may*
13 *assume the consumer service functions of these bureaus, and legal*
14 *services in support of these bureaus.*

15 *(b) One-third of the special purpose assessment shall be used*
16 *for the purpose of improving consumer functions identified in*
17 *subdivision (a) of the department that are related to regulating*
18 *automobile insurers, including, for improving the ability of the*
19 *department to respond to consumer complaints and information*
20 *requests through the department's toll-free telephone number, and*
21 *for improving the ability of the department to offer information*
22 *about automobile insurance rates to the public.*

23 *(c) Upon appropriation by the Legislature, the Department of*
24 *Insurance may use up to five cents (\$0.05) of the special purpose*
25 *assessment revenues collected pursuant to this section to notify*
26 *insurers and other members of the public about the existence of*
27 *any low-cost automobile insurance program established pursuant*
28 *to Section 11629.7 or other statutes that establish a program of*
29 *the type identified in Section 11629.7. In requesting an*
30 *appropriation for this purpose under its proposed departmental*
31 *budget submitted to the Department of Finance, the Department*
32 *of Insurance shall explain, with as much specificity as is reasonably*
33 *possible, the objectives for the use of the funds and the quantitative*
34 *criteria by which the Legislature may evaluate the effectiveness*
35 *of the department's use of the funds.*

36 *SEC. 4. Section 1874.8 of the Insurance Code is repealed.*

37 ~~1874.8. (a) Each insurer doing business in this state shall pay~~
38 ~~an annual special assessment to be determined by the~~
39 ~~commissioner, but not to exceed fifty cents (\$0.50) annually for~~
40 ~~each vehicle insured under an insurance policy it issues in this~~

1 state, in order to fund the Fraud Division and an Organized
2 Automobile Fraud Activity Interdiction Program. The
3 commissioner shall award 3 to 10 grants for a coordinated program
4 targeted at the successful prosecution and elimination of organized
5 automobile fraud activity. The grants may only be awarded to
6 district attorneys.

7 (b) In determining whether to award a district attorney a grant,
8 the commissioner shall consider factors indicating organized
9 automobile fraud activity in the district attorney's county,
10 including, but not limited to, the county's level of general criminal
11 activity, population density, automobile insurance claims
12 frequency, number of suspected fraudulent claims, and prior and
13 current evidence of organized automobile fraud activity. Funding
14 priority shall be given to those grant applications with the potential
15 to have the greatest impact on organized automobile insurance
16 fraud activity.

17 (c) All participants of a grant referred to in subdivision (a) shall
18 coordinate their efforts and work in conjunction with the bureau,
19 other participating agencies, and all interested insurers in this
20 regard. Of the funds collected pursuant to this section, 42.5 percent
21 shall be distributed to district attorneys, 42.5 percent shall be
22 distributed to the Fraud Division, and 15 percent shall be
23 distributed to the Department of the California Highway Patrol.
24 Funds distributed pursuant to this section to the Fraud Division
25 and to the Department of the California Highway Patrol shall be
26 used to fund bureau and Department of the California Highway
27 Patrol investigators who shall be assigned to work solely in
28 conjunction with district attorneys who are awarded grants. Each
29 grantee shall be notified by the Fraud Division of the investigators
30 assigned to work with the grantee. Nothing shall prohibit the
31 referral of any cases developed by the Fraud Division to any
32 appropriate prosecutorial entity.

33 (d) A grant under this section shall be awarded on the basis of
34 a single application for a period of three years and shall be subject
35 where applicable to the requirements of subdivision (b) of Section
36 1872.8, except for the requirement that grants be awarded according
37 to population. Continued funding of a grant shall be contingent
38 upon a grantee's successful performance as determined by an
39 annual review by the commissioner. Any redirection of grant funds
40 under this section shall be made only for good cause. The

1 Department of the California Highway Patrol shall submit to the
2 commissioner, for informational purposes only, an annual report
3 on its expenditure of funds under this section in the same format
4 as is required of grantees under this section.

5 (e) There shall be no prohibition against a joint application by
6 two or more district attorneys for a grant award under this section.

7 (f) The Fraud Division shall report to the Governor, the
8 Legislature, and to the committees of the Senate and Assembly
9 having jurisdiction over insurance on the results of the grant
10 program established by this section, including funding distributed
11 to the Department of the California Highway Patrol in the annual
12 report submitted pursuant to Section 12922.

13 (g) For purposes of this section, “organized automobile fraud
14 activity” means two or more persons who conspire, aid and abet,
15 or in any other manner act together, to engage in economic
16 automobile theft as defined in subdivision (f) of Section 1872.8,
17 or to violate any of the following provisions in relation to an
18 automobile insurance claim:

19 (1) Section 650 or 6152 of the Business and Professions Code.

20 (2) Section 750 of the Insurance Code.

21 (3) Section 549, 550, or 551 of the Penal Code.

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

25 *SEC. 5. Section 1874.8 is added to the Insurance Code, to*
26 *read:*

27 *1874.8. (a) Each insurer doing business in this state shall pay*
28 *an annual special purpose assessment to be determined by the*
29 *commissioner in an amount not to exceed fifty cents (\$0.50) for*
30 *each vehicle insured under an insurance policy it issues in this*
31 *state, in order to fund the Fraud Division and the Organized*
32 *Automobile Fraud Activity Interdiction Program.*

33 *(b) (1) From the funds to be distributed to district attorneys*
34 *under this section, the commissioner shall fund between three and*
35 *10 grants at any one time for a coordinated program targeted at*
36 *the successful prosecution and elimination of organized automobile*
37 *fraud activity. These grants may be awarded only to district*
38 *attorneys.*

39 *(2) In determining whether to award a district attorney a grant*
40 *pursuant to this subdivision, the commissioner shall consider*

1 factors indicating organized automobile fraud activity in the district
2 attorney's county, including, but not limited to, the county's level
3 of general criminal activity, population density, automobile
4 insurance claims frequency, number of suspected fraudulent claims,
5 and prior and current evidence of organized automobile fraud
6 activity. Funding priority shall be given to those grant applications
7 with the potential to have the greatest impact on reducing
8 organized automobile insurance fraud activity committed by
9 insurers, insureds, and others, and lessening the economic losses
10 realized by insurers from that fraud.

11 (3) All participants of a grant under this subdivision shall
12 coordinate their efforts and work in conjunction with the Fraud
13 Division, other participating agencies, and all interested insurers
14 in this regard.

15 (c) Of the funds collected pursuant to this section, upon
16 appropriation by the Legislature, 42.5 percent shall be distributed
17 to district attorneys, 42.5 percent shall be distributed to the Fraud
18 Division, and 15 percent shall be distributed to the Department
19 of the California Highway Patrol. Funds distributed pursuant to
20 this section to the Fraud Division and to the Department of the
21 California Highway Patrol shall be used to fund Fraud Division
22 and Department of the California Highway Patrol investigators
23 to work in conjunction with district attorneys who are awarded
24 grants. Each grantee shall be notified by the Fraud Division of
25 the identity of the investigators assigned to work with the grantee.
26 Each grantee shall provide the Fraud Division with any
27 information requested by the division relative to a prosecution
28 prior to filing a case. This section does not prohibit the referral
29 of any cases developed by the Fraud Division to any appropriate
30 prosecutorial entity.

31 (d) A grant under this section shall be awarded on the basis of
32 a single application for a period of three years and shall be subject
33 where applicable to the requirements of subdivision (b) of Section
34 1872.8, except for the requirement that grants be awarded
35 according to population. Continued funding of a grant shall be
36 contingent upon a grantee's successful performance, as determined
37 by an annual review by the commissioner. The Department of the
38 California Highway Patrol shall submit to the commissioner, for
39 informational purposes only, an annual report on its expenditure

1 of funds under this section in the same format as is required of
2 grantees under this section.

3 (e) Two or more district attorneys may submit a joint application
4 for a grant award under this section.

5 (f) The Fraud Division shall report to the Governor, the
6 Legislature, and to the committees of the Senate and Assembly
7 having jurisdiction over insurance on the results of the grant
8 program established by this section, including funding distributed
9 to the Department of the California Highway Patrol in the annual
10 report submitted pursuant to Section 12922.

11 (g) For purposes of this section, “organized automobile fraud
12 activity” means two or more persons who conspire, aid and abet,
13 or in any other manner act together, to engage in economic
14 automobile theft as defined in subdivision (f) of Section 1872.8,
15 or to violate any of the following sections in a manner that involved
16 an automobile insurance claim:

17 (1) Section 650 or 6152 of the Business and Professions Code.

18 (2) Section 750.

19 (3) Section 549, 550, or 551 of the Penal Code.

20 SEC. 6. Section 10127.17 of the Insurance Code is repealed.

21 ~~10127.17. (a) The Life and Annuity Consumer Protection~~
22 ~~Fund is hereby created as a special account within the Insurance~~
23 ~~Fund. Each insurer admitted to transact insurance in this state shall~~
24 ~~pay a fee to be determined by the commissioner, not to exceed one~~
25 ~~dollar (\$1), for each individual life insurance policy and each~~
26 ~~individual annuity product that it issues to a resident of this state~~
27 ~~with a value of fifteen thousand dollars (\$15,000) or more. If an~~
28 ~~insurer elects to charge the purchaser of a life insurance policy or~~
29 ~~annuity product this fee, the fee shall be set forth as a separate~~
30 ~~charge in the contract schedule or premium notice. Life insurance~~
31 ~~or annuity forms are not required to be filed again for review as a~~
32 ~~consequence of this provision. This fee shall be assessed on all~~
33 ~~new individual life insurance policies and annuity products issued~~
34 ~~during the prior 12 months, and shall be deposited into the Life~~
35 ~~and Annuity Consumer Protection Fund.~~

36 ~~(b) Moneys in the Life and Annuity Consumer Protection Fund~~
37 ~~shall be distributed by the commissioner and shall be exclusively~~
38 ~~dedicated to protecting consumers of life insurance and annuity~~
39 ~~products in this state. Moneys in the fund shall not be used for any~~
40 ~~other purpose.~~

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

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

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

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

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

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

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

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

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

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

38 ~~(2) Each district attorney that receives funds pursuant to this~~
39 ~~section shall submit a final detailed accounting at the conclusion~~
40 ~~or closure of each case or project. For cases or projects that~~

1 ~~continue longer than six months, interim accountings shall be~~
2 ~~submitted every six months, or as otherwise directed by the~~
3 ~~commissioner.~~

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

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

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

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

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

39 ~~(f) The commissioner may develop guidelines for implementing~~
40 ~~or clarifying these provisions, including guidelines for the~~

1 allocation, distribution, and potential return of unused funds. The
2 commissioner may, from time to time, issue regulations for
3 implementing or clarifying these provisions.

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

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

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

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

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

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

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

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

26 *SEC. 7. Section 10127.17 is added to the Insurance Code, to*
27 *read:*

28 *10127.17. (a) The Life and Annuity Consumer Protection Fund*
29 *is hereby created as a special account within the Insurance Fund.*
30 *Each insurer admitted to transact insurance in this state shall pay*
31 *a fee to be determined by the commissioner, not to exceed one*
32 *dollar (\$1), for each individual life insurance policy and each*
33 *individual annuity product that it issues to a resident of this state*
34 *with a value of fifteen thousand dollars (\$15,000) or more. If an*
35 *insurer elects to charge the purchaser of a life insurance policy*
36 *or annuity product this fee, the fee shall be set forth as a separate*
37 *charge in the contract schedule or premium notice. Life insurance*
38 *or annuity forms are not required to be filed again for review as*
39 *a consequence of this provision. The revenue from this fee shall*
40 *be deposited into the Life and Annuity Consumer Protection Fund.*

1 ***(b) Moneys in the Life and Annuity Consumer Protection Fund***
2 *shall be distributed by the commissioner, upon appropriation by*
3 *the Legislature, to fund the reasonable costs incurred in regulating*
4 *entities transacting life insurance and annuity products in this*
5 *state. Moneys in the fund shall not be used for any other purpose.*

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

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

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

15 ***(3) Disseminating information to insurers, insureds, and others***
16 *regarding the applicable regulation of life insurance and annuity*
17 *products, including consumer protection, purchasing and using*
18 *insurance and annuity products, claim filing, benefit delivery, and*
19 *dispute resolution.*

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

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

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

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

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

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

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

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

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

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

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

31 (e) If, as of June 30 of any calendar year, the total amount in
32 the Life and Annuity Consumer Protection Fund exceeds five
33 million dollars (\$5,000,000), the commissioner shall reduce the
34 amount of the assessment accordingly for the following year to
35 eliminate that excess. An insurer, upon receipt of an invoice, shall
36 transmit payment to the department for deposit in the Life and
37 Annuity Consumer Protection Fund. Any balance remaining in
38 the Life and Annuity Consumer Protection Fund at the end of the
39 fiscal year shall be retained in the account, to be available in the
40 next fiscal year.

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

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

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

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

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

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

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

20 (6) Descriptions of efforts by the department to disseminate
 21 information to insurers and others regarding the applicable
 22 regulation of life insurance and annuity products, including
 23 consumer protection, purchasing and using insurance and annuity
 24 products, claim filing, benefit delivery, and dispute resolution.

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

27 ~~10127.17. (a) The Life and Annuity Consumer Protection~~
 28 ~~Fund is hereby created as a special account within the Insurance~~
 29 ~~Fund. Each insurer admitted to transact insurance in this state shall~~
 30 ~~pay a fee to be determined by the commissioner, not to exceed one~~
 31 ~~dollar (\$1), for each individual life insurance policy and each~~
 32 ~~individual annuity product that it issues to a resident of this state~~
 33 ~~with a value of fifteen thousand dollars (\$15,000) or more. If an~~
 34 ~~insurer elects to charge the purchaser of a life insurance policy or~~
 35 ~~annuity product this fee, the fee shall be set forth as a separate~~
 36 ~~charge in the contract schedule or premium notice. Life insurance~~
 37 ~~or annuity forms are not required to be filed again for review as a~~
 38 ~~consequence of this provision. This fee shall be assessed on all~~
 39 ~~new individual life insurance policies and annuity products issued~~

1 during the prior 12 months, and shall be deposited into the Life
2 and Annuity Consumer Protection Fund.

3 ~~(b) Moneys in the Life and Annuity Consumer Protection Fund~~
4 ~~shall be distributed by the commissioner and shall be exclusively~~
5 ~~dedicated to protecting consumers of life insurance and annuity~~
6 ~~products in this state. Moneys in the fund shall not be used for any~~
7 ~~other purpose.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 ~~(e) The funds received under this section shall be deposited in~~
35 ~~the Life and Annuity Consumer Protection Fund within the~~
36 ~~Insurance Fund, and shall be expended and distributed upon~~
37 ~~appropriation by the Legislature for the purposes of this section.~~
38 ~~The total amount contained in the Life and Annuity Consumer~~
39 ~~Protection Fund shall not exceed five million dollars (\$5,000,000)~~
40 ~~annually. If, as of June 30 of any calendar year, the moneys in the~~

1 fund exceed this amount, the commissioner shall adjust the amount
2 of the assessment for the following year. An insurer, upon receipt
3 of an invoice, shall transmit payment to the department for deposit
4 in the Life and Annuity Consumer Protection Fund. Any balance
5 remaining in the Life and Annuity Consumer Protection Fund at
6 the end of the fiscal year shall be retained in the account and carried
7 forward to the next fiscal year.

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

13 ~~(g) The commissioner shall provide a consolidated report
14 annually on the department's Internet Web site that shall include,
15 but is not limited to, the following information:~~

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

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

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

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

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

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

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

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