

# Texas at Forefront of Adopting Measures to Maintain Consumer Confidence in the Annuity Market

In the past two years, the Texas Legislature and the Texas Department of Insurance (TDI) have placed the state at the forefront of national legislative and regulatory efforts aimed at strengthening consumer protections in the marketing and sales of annuity products not only for Texas seniors, but for all Texas consumers.

No one better understands the essential nature of sustaining confidence and stability in the insurance market than the insurance industry. It is for that reason that the Texas Association of Life and Health Insurers and the American Council of Life Insurers are pleased to have been partners in supporting the state's actions in passing national model acts and providing the Texas Insurance Commissioner authority to curb fraudulent acts and the potential for abuse in the sale of annuity products.

## 2007

### **Ensuring Annuity Products are Suitable for the Consumer's Financial Objectives**

HB 2762: NAIC Suitability in Annuity Transactions Model Regulation

Adopted by the 80th Texas Legislature

Establishes standards and procedures for recommendations made by an insurer or agent to a consumer regarding an annuity product to ensure the insurance and financial needs of the purchaser are met at the time of the transaction. The law provides the Insurance Commissioner authority to order an insurer or agent to take corrective action for any consumer harmed as a result of a violation of the suitability law. The Commissioner's authority includes ordering complete restitution to a Texas resident or canceling or revoking the insurer's certificate of authority or the agent's license.

### **Providing Consumer Protections for the Replacement of Life Insurance Policies and Annuities**

HB 2761: NAIC Life Insurance and Annuities Replacement Model Regulation

Adopted by the 80th Texas Legislature

Establishes minimum standards of conduct to be observed by insurers and agents in a transaction involving the replacement of a life insurance policy or annuity contract and includes requirements ensuring the purchaser receives appropriate information on which to base their decision. In response to a violation of the law, the act provides the Insurance Commissioner authority to order complete restitution to a Texas resident, cancellation or revoking the insurer's certificate of authority or the agent's license.

## 2009

### **Prohibiting the Use of Misleading Agent Certifications and Designations**

HB 1294: NAIC Senior Certifications and Professional Designations Model Regulation

Adopted by the 81st Texas Legislature

Provides protections for consumers from a Texas agent's use of designations and certifications that were not earned, are self-conferred or that imply a level of professional qualifications that the agent does not possess and that would mislead consumers.

### **Requiring Training for Agents that Provide Annuity Products**

HB 1294

Adopted by the 81st Texas Legislature

In response to language contained in HB 1294, the TDI has adopted permanent rules that will phase in a requirement for four hours of initial training and four hours of annual continuing education requirements for agents that sell, solicit or negotiate annuity products or who represent an insurer in doing so.

### **Requiring Detail Disclosure of Key Information on Annuities and Annuity Rates**

HB 1293: NAIC Annuity Disclosure Model Regulation

Vetoed by the Governor/TDI Rules Pending

Although the bill was passed unanimously by the Legislature, it was vetoed by Governor Perry because it created a new private cause of action. The Governor's veto message indicated that he was in support of the bill's consumer protections and directed the TDI to promulgate rules adopting those provisions. As considered by the Legislature, the bill would have required detailed disclosure of annuity rates including key information explaining how they change and a summary of options and restrictions. It also required the delivery of an Annuity Buyers Guide for annuity applicants. TDI is currently drafting rules to adopt similar consumer protections through rule-making.

Striking a balance between appropriate oversight and fostering an attractive market can challenge those who seek to develop sound public policy. Overregulation can impede market dynamics and have an adverse affect on consumers. **We encourage the state to allow time to assess the effect of these new standards before introducing additional regulations.**

# Buying An Annuity

## Agent Meets With the Consumer

- Protects consumers from misleading agent certifications and designations that do not reflect genuine expertise or experience
- Requires additional training for agents who sell annuities

**(Adopted by the 81st Legislature, 2009)**

## Agent Makes Recommendation

- Ensures that a process is in place to determine that annuity is appropriate and suitable for the purchaser's financial needs

**(Adopted by the 80th Legislature, 2007)**

## Life of the Contract

- Require that insurers provide at least annual reports to annuity owners on key financial information regarding the annuity

**(Rules being drafted by TDI, 2010)**

## After the Sale

- Requires that insurers have in place process to track annuity recommendations from agents to identify any sales trends outside the usual range for the company or its agents

**(Adopted by the 80th Legislature, 2007)**

## Point of Sale

- Require detailed disclosure of key annuity information
- Require that an Annuity Buyer's Guide be provided to annuity applicants

**(Rules being drafted by TDI, 2010)**

