

**SUBSTITUTE FOR
HOUSE BILL NO. 6115**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 4165 (MCL 500.4165), as amended by 2012 PA 544,
and by adding section 4166.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4165. (1) Subject to subsection (2), a **recommendation or**
2 sale made in compliance with ~~financial industry regulatory~~
3 ~~authority requirements pertaining to suitability and supervision of~~
4 ~~annuity transactions~~ **comparable standards** satisfies the
5 requirements of this chapter. This subsection applies to a
6 ~~financial industry regulatory authority broker-dealer sale of a~~
7 ~~variable annuity or fixed annuity if the suitability and~~
8 ~~supervision are similar to those applied to variable annuity sales.~~



1 recommendation or sale of an annuity made by a financial
 2 professional in compliance with business rules, controls, and
 3 procedures that satisfy a comparable standard even if the standard
 4 would not otherwise apply to the product or recommendation at
 5 issue. However, this subsection does not limit the ~~commissioner's~~
 6 **director's** ability to **investigate and enforce** and ~~investigate~~ this
 7 chapter.

8 (2) Subsection (1) applies if the insurer does both of the
 9 following:

10 (a) Monitors the ~~financial industry regulatory authority~~
 11 ~~member broker-dealer~~ **relevant conduct of the financial professional**
 12 **seeking to rely on subsection (1) or the entity responsible for**
 13 **supervising the financial professional, such as the financial**
 14 **professional's broker-dealer or an investment adviser registered**
 15 **under federal securities laws** using information collected in the
 16 normal course of the insurer's business.

17 (b) Provides to the ~~financial industry regulatory authority~~
 18 ~~member broker-dealer~~ **entity responsible for supervising the**
 19 **financial professional seeking to rely on subsection (1), such as**
 20 **the financial professional's broker-dealer or investment adviser**
 21 **registered under federal securities laws,** information and reports
 22 that are reasonably appropriate to assist the ~~financial industry~~
 23 ~~regulatory authority member broker-dealer~~ **entity** to maintain its
 24 supervision system.

25 (3) Subsection (1) does not limit an insurer's obligation to
 26 comply with section 4155(6). However, an insurer may base its
 27 analysis on information received from either the financial
 28 professional or the entity supervising the financial professional.

29 (4) As used in this section:



1 (a) "Comparable standards" means all of the following, as
2 applicable:

3 (i) With respect to broker-dealers and registered
4 representatives of broker-dealers, applicable United States
5 Securities and Exchange Commission and Financial Industry
6 Regulatory Authority rules pertaining to best interest obligations
7 and supervision of annuity recommendations and sales, including,
8 but not limited to, Regulation Best Interest.

9 (ii) With respect to investment advisers registered under
10 federal securities laws or investment adviser representatives, the
11 fiduciary duties and all other requirements imposed on the
12 investment advisers or investment adviser representatives by
13 contract or under the Investment Advisers Act of 1940, including,
14 but not limited to, the Form ADV.

15 (iii) With respect to plan fiduciaries or fiduciaries, the
16 duties, obligations, prohibitions, and all other requirements
17 attendant to such status under the employee retirement income
18 security act of 1974, Public Law 93-406, or the internal revenue
19 code of 1986, 26 USC 1 to 9834.

20 (b) "Financial professional" means a producer that is
21 regulated and acting as any of the following:

22 (i) A broker-dealer registered under federal securities laws or
23 a registered representative of a broker-dealer.

24 (ii) An investment adviser registered under federal securities
25 laws or an investment adviser representative associated with the
26 federal registered investment adviser.

27 (iii) A plan fiduciary under section 3(21) of the employee
28 retirement income security act of 1974 or fiduciary under section
29 4975(e) (3) of the internal revenue code of 1986, 26 USC 4975.



1 Sec. 4166. (1) An insurer is responsible for compliance with
2 this chapter. If a violation occurs, either because of the action
3 or inaction of the insurer or its producer, the director may order
4 any of the following:

5 (a) The insurer to take reasonably appropriate corrective
6 action for any consumer harmed by a failure to comply with this
7 chapter by the insurer, an entity contracted to perform the
8 insurer's supervisory duties, or the producer.

9 (b) The producer to take reasonably appropriate corrective
10 action for any consumer harmed by the producer's violation of this
11 chapter.

12 (c) Appropriate sanctions.

13 (2) Any order under subsection (1) for a violation of this
14 chapter may be reduced or eliminated by the director if corrective
15 action for the consumer was taken promptly after a violation was
16 discovered or the violation was not part of a pattern or practice.

17 Enacting section 1. This amendatory act takes effect 6 months
18 after the date it is enacted into law.

19 Enacting section 2. This amendatory act does not take effect
20 unless all of the following bills of the 100th Legislature are
21 enacted into law:

22 (a) House Bill No. 6112.

23 (b) House Bill No. 6113.

24 (c) House Bill No. 6114.

