



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 880 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Senator Gerald Van Woerkom

Committee: Banking and Financial Institutions

CONTENT

The bill would create Chapter 41a ("Annuity Recommendation to Senior Consumer") of the Insurance Code to require an insurance producer or insurer to have reasonable grounds to believe that a recommendation to a senior consumer to purchase or exchange an annuity was suitable to the consumer based on his or her financial situation. Before executing a purchase or exchange, an insurance producer or insurer would have to make reasonable efforts to obtain the senior consumer's financial status, tax status, and investment objectives.

The bill also would require an insurer to establish and maintain a system to supervise recommendations, designed to achieve compliance with the bill, or assure that such a system was established and maintained. An insurer could contract with a third party, including an insurance producer, to meet this requirement. An insurer that complied with National Association of Securities Dealers rules pertaining to suitability, or rules at least as stringent as those rules, would satisfy the requirements of Chapter 41a for the recommendation of variable annuities.

In addition to penalties provided for under the Code, the bill would allow the Commissioner of the Office of Financial and Insurance Services to order an insurer or insurance producer to take corrective action for a senior consumer harmed by a violation of Chapter 41a. If corrective action were taken promptly after a violation was discovered, the Commissioner could reduce a penalty for a violation of the requirements to assure, adopt, or establish a system to supervise recommendations.

The bill would not apply to any recommendation to purchase or exchange an annuity involving direct response solicitations, where there was no recommendation based on information collected from the senior consumer. The bill also would not apply to a recommendation involving contracts used to fund: an employee pension or welfare benefit plan covered by the Federal Employee Retirement and Income Security Act; certain employer-established or -maintained pension, profit-sharing, deferred compensation, or stock bonus plans, including 401(k) plans; certain government or church pension or deferred compensation plans, or deferred compensation plans of a State or local government or tax-exempt organization; a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; settlements of, or assumptions of liabilities associated with, personal injury litigation or any dispute or claim resolution process; or formal prepaid funeral contracts.

MCL 500.4151-500.4165

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 2-8-06

Fiscal Analyst: Elizabeth Pratt, Maria Tyszkiewicz

[floor\sb880](#)

Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

