

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.4151 Definitions.

Sec. 4151. As used in this chapter:

(a) "Annuity" means an annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity.

(b) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer or intermediary, or directly from the consumer.

(c) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

(i) Age.

(ii) Annual income.

(iii) Financial situation and needs, including debts and other obligations.

(iv) Financial experience.

(v) Insurance needs.

(vi) Financial objectives.

(vii) Intended use of the annuity.

(viii) Financial time horizon.

(ix) Existing assets or financial products, including investment, annuity, and insurance holdings.

(x) Liquidity needs.

(xi) Liquid net worth.

(xii) Risk tolerance, including, but not limited to, willingness to accept nonguaranteed elements in the annuity.

(xiii) Financial resources used to fund the annuity.

(xiv) Tax status.

(d) "Insurance producer" or "producer" means insurance producer as defined in section 1201 and includes a business entity described in section 1205(2) that is licensed as an insurance producer under this act. Insurance producer or producer includes an insurer if no producer is involved.

(e) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

(f) "Material conflict of interest" means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. Material conflict of interest does not include cash compensation or noncash compensation.

(g) "Noncash compensation" means a form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support, and retirement benefits.

(h) "Nonguaranteed elements" means the premiums, credited interest rates, including any bonus, benefits, values, dividends, noninterest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(i) "Recommendation" means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, exchange, or replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(j) "Replacement" or "replace" means a transaction in which a new annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer whether or not a producer is involved, that by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

(i) Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated.

(ii) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values.

(iii) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid.

(iv) Reissued with any reduction in cash value.

(v) Used in a financed purchase.

History: Add. 2006, Act 399, Imd. Eff. Sept. 29, 2006;—Am. 2012, Act 544, Eff. June 1, 2013;—Am. 2020, Act 266, Eff. June 29, 2021.