

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

500.4165 Applicability of subsections; definitions.

Sec. 4165. (1) Subject to subsection (2), a recommendation or sale made in compliance with comparable standards satisfies the requirements of this chapter. This subsection applies to a recommendation or sale of an annuity made by a financial professional in compliance with business rules, controls, and procedures that satisfy a comparable standard even if the standard would not otherwise apply to the product or recommendation at issue. However, this subsection does not limit the director's ability to investigate and enforce this chapter.

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

(a) Monitors the relevant conduct of the financial professional seeking to rely on subsection (1) or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of the insurer's business.

(b) Provides to the entity responsible for supervising the financial professional seeking to rely on subsection (1), such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist the entity to maintain its supervision system.

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

(4) As used in this section:

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

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

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

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

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

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

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

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

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.