

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

***** 500.4158.amended THIS AMENDED SECTION IS EFFECTIVE JUNE 29, 2021 *****

500.4158.amended Insurer's supervision system.

Sec. 4158. (1) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this chapter, including, but not limited to, all of the following:

(a) Establish and maintain reasonable procedures to inform its producers of the requirements of this chapter and incorporate the requirements of this chapter into relevant producer training manuals.

(b) Establish and maintain standards for producer product training and maintain reasonable procedures to require its producers to comply with section 4160.

(c) Provide product-specific training and training materials that explain all material features of its annuity products to its producers.

(d) Establish and maintain procedures for review of each recommendation before issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means, including, but not limited to, physical review. An electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria.

(e) Establish and maintain reasonable procedures to detect recommendations that are not in compliance with section 4155. These may include, but are not limited to, confirmation of the consumer's profile information, systematic consumer surveys, producer and consumer interviews, confirmation letters, producer statements and attestations, and programs of internal monitoring. This subdivision does not prevent an insurer from complying with this subdivision by applying sampling procedures or by confirming the consumer profile information or other required information under this section after issuance or delivery of the annuity.

(f) Establish and maintain reasonable procedures to assess, before or on issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under section 4155.

(g) Establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.

(h) Establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subdivision are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees if those benefits are not based on the volume of sales of a specific annuity within a limited period of time.

(i) Annually provide a written report to senior management, including to the senior manager responsible for audit functions, that details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(2) This section does not restrict an insurer from contracting for performance of a function, including maintenance of procedures, required under subsection (1). An insurer shall take appropriate corrective action and may be subject to sanctions and penalties under this act regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subsection (3).

(3) An insurer's supervision system under this section must include supervision of contractual performance. This includes, but is not limited to, the following:

(a) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed.

(b) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

(4) An insurer is not required to include either of the following in its system of supervision:

(a) A producer's recommendations to consumers of products other than the annuities offered by the insurer.

(b) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

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