

Out of the Gate Fast

February 06, 2020

Arizona jumped out front of the pack with the introduction of Senate Bill No. 1557, titled "Annuity Transactions; Requirements," which would amend Arizona's suitability requirements for annuity transactions. Senate Bill No. 1557 was introduced on February 4, 2020, and changes Arizona's suitability requirements to be consistent with the NAIC's proposed revisions to the Suitability in Annuity Transactions Model Regulation #275. This includes a best interest standard.

The Arizona legislation does not track exactly the proposed revisions to the NAIC Suitability Model as it reorganizes several provisions and makes wording changes to a number of the requirements. In the end, however, the legislation materially mirrors the requirements of the proposed revisions to the NAIC Suitability Model.

Two interesting points:

1. The revised Arizona suitability requirements do not include an expressed disclosure obligation to communicate to the consumer the basis or bases of the recommendation. Perhaps Arizona believes that this requirement is subsumed in the other suitability requirements as it incorporates the duty on the producer to make a written record of any recommendation and the basis for the recommendation and duty to retain disclosures made to the consumer, including summaries of oral disclosures.
2. In incorporating the "comparable standards" safe harbor, Arizona elected to include state-registered broker-dealers and investment advisers, and their representatives.

As currently drafted, Senate Bill No. 1557 does not include an effective date. If no effective date is added and the Senate Bill No. 1557 is enacted as part of the Regular Session, the changes to the Arizona suitability requirements will be effective 90 days after the Legislature closes the Regular Session. It is likely that several other states will move quickly once the NAIC adopts the proposed changes to the NAIC Suitability Model, which is anticipated to occur on February 13, 2020, during a conference call of the NAIC Executive (EX) Committee and Plenary. It is off to the races, and insurers may wish to begin thinking how they will modify their suitability policies and procedures.

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