

SENATE COMMERCE COMMITTEE

AMENDMENTS

to

SENATE, No. 1165

(Sponsored By Senators ADLER and SINGER)

REPLACE TITLE TO READ:

AN ACT concerning ¹[insurance producers, and] licensing and trade practices for certain insurance products,¹ amending and supplementing P.L.2001, c.210 ¹, and supplementing chapter 30 of Title 17B of the New Jersey Statutes¹.

REPLACE SECTION 3 TO READ:

3. Section 15 of P.L.2001, c.210 (C.17:22A-40) is amended to read as follows:

15. a. The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with subsection c. of section 20 of this act or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance regulator;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract, policy or application for insurance;

(6) Having been convicted of a felony or crime of the fourth degree or higher;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial

P

R

O

P

O

S

E

D

irresponsibility in the conduct of insurance business in this State or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material to complete an examination for an insurance producer license;

(12) Knowingly accepting insurance business from an unlicensed insurance producer;

(13) Failing to comply with an administrative or court order imposing a child support obligation;

(14) Failing to pay income tax or comply with any administrative or court order directing payment of income tax pursuant to Title 54A of the New Jersey Statutes;

(15) Intentionally withholding material information or making a material misstatement in an application for a license;

(16) Committing any fraudulent act;

(17) Knowingly facilitating or assisting another person in violating any insurance laws; [or]

(18) Failing to notify the commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; or failing to obtain the written consent pursuant to [18 U.S.C.] sections 1033 and 1034 of title 18, United States Code (18 U.S.C. ss.1033 and 1034); or failing to supply any documentation that the commissioner may request in connection therewith; ¹or¹

(19) Using a business title or designation in any marketing advertisement, announcement, or statement, including, but not limited to, a business card, notice, circular, pamphlet, letter, or poster, or over any radio or television station, or broadcast in any other way, that indicates or tends to indicate that the insurance producer:

(a) completed any pre-licensing, continuing, or other voluntary or mandatory supplemental education course of study ¹not approved by the commissioner¹ ;

(b) is qualified for a particular line of authority not associated with the insurance producer's license;

(c) is certified or licensed to practice any other profession, or engage in any other occupation, governed or regulated pursuant to State law, including, but not limited to, the provisions of Title 45 of the Revised Statutes, unless that insurance producer holds a current State issued or recognized certification or license for that other practice or profession; or

P

R

O

P

O

S

E

D

(d) is affiliated with, or endorsed by, any federal, State, or local government entity or subdivision thereof, any business entity, or any person, unless that insurance producer is employed, contracted, or otherwise actually affiliated with or endorsed by, as evidenced through verifiable documentation, the government entity or subdivision, business entity, or person ¹; or

(20) Failing, whenever selling or recommending the purchase of an annuity subject to the provisions of N.J.S.17B:25-1 et seq.:

(a) to establish reasonable grounds, as documented by the insurance producer on a form prescribed by the commissioner, to demonstrate that the annuity is suitable for the prospective or actual purchaser on the basis of facts disclosed by the purchaser through reasonable inquiries, which information shall include, but not be limited to:

(i) the purchaser's financial status;

(ii) the purchaser's tax status;

(iii) the purchaser's investment objectives, generally and with respect to the specific annuity contract sold or recommended for purchase; and

(iv) any other information as required by the commissioner; and

(b) to provide the actual purchaser with a 10-day right to cancel the annuity contract ¹.

b. If the action by the commissioner is to nonrenew or to deny an application for an insurance producer license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the license. The applicant or licensee may make written demand upon the commissioner for a hearing before the commissioner, or his designee, to determine the reasonableness of the commissioner's action. The hearing shall be held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The insurance producer license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.

d. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of this act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law.

(cf: P.L.2001, c.210, s.15)

OMIT SECTION 4 IN ITS ENTIRETY

P
R
O
P
O
S
E
D

INSERT NEW SECTION 4 TO READ:

¹⁴. Section 1 of P.L.1980, c.38 (C.17B:25-2.1) is amended to read as follows:

1. No policy of life insurance or annuity, other than group life or annuity insurance, shall be delivered or issued for delivery in this State unless such policy contains in substance a provision or has attached to it a notice stating that during a period of no less than 10 days after the date the policyholder receives the policy, the policyholder may cancel the policy and receive from the insurer a prompt refund of any premium paid therefor, including any policy fees or other charges, by mailing or otherwise surrendering the policy to the insurer together with a written request for cancellation.

(cf: P.L.1980, c.38, s.1)

INSERT NEW SECTION 5 TO READ:

¹⁵. (New section) A person shall not sell any annuity contract to an individual, unless that person:

a. Establishes reasonable grounds, as documented by the person on a form prescribed by the commissioner, to demonstrate that the annuity is suitable for the prospective or actual individual purchaser on the basis of facts disclosed by the purchaser through reasonable inquiries, which information shall include, but not be limited to:

(1) the purchaser's financial status;

(2) the purchaser's tax status;

(3) the purchaser's investment objectives, generally and with respect to the specific annuity contract sold or recommended for purchase; and

(4) any other information as required by the commissioner.¹

INSERT NEW SECTION 6 TO READ:

¹⁶. (New section) A person shall be liable to any aggrieved party for damages, reasonable attorney's fees, and costs of suit in a civil cause of action brought in the Superior Court or other court of competent jurisdiction for any violation of the provisions of N.J.S.17B:30-1 et seq. in relation to any trade practice concerning an individual annuity. The person may additionally be liable to the aggrieved party for punitive damages.¹

REPLACE SYNOPSIS TO READ:

Concerns licensing and trade practices for certain insurance products.

P
R
O
P
O
S
E
D