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Article 1: Protection of Senior Citizens

Overview

This article contains a variety of measures to protect senior citizens from financial exploitation.

1 **Department of commerce; assistance to financially exploited senior citizens.** Requires the commissioner of commerce to establish a toll-free telephone hotline for senior citizens to report situations in which they think they may been financially exploited. Permits senior citizens to make the report confidentially. Defines a senior citizen as a person who is at least age 60. Requires the commissioner to publicize the existence of the hotline. Requires the commissioner to try to resolve the complaints appropriately, including by referral to law enforcement or other sources of assistance.

2 **Financial institutions; cooperation with state and local agencies.** Permits banks, credit unions, and other financial institutions to "initiate contact with, communicate with, and disclose customer records to" law enforcement agencies in cases of suspected financial exploitation of a senior citizen who is a customer of the financial institution. Provides that a financial institution is not liable for damages as a result of doing so.

3 **Improvident transfers of title.** This section deals with situations in which a person who is at least 60 years old and is dependent on another person due to a temporary or permanent disability transfers property, without receiving fair value in exchange, to a person with whom the dependent person has a "confidential or fiduciary relationship." That type of

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relationship is defined as consisting of one of the nine categories listed in subdivision 2, paragraph (b), of this section. In this situation, the dependent person, or a guardian or personal representative of the person's estate, may sue to get the property back or otherwise undo the transaction, on the grounds of undue influence. In such a lawsuit, this section provides that the combination of a dependent senior citizen, transfer of property for less than fair value in exchange, and a confidential and fiduciary relationship creates a legal presumption of undue influence, unless the dependent person was represented in the transaction by independent legal counsel. That presumption of undue influence shifts the burden of proof to the person who received the property, to prove that there was no undue influence. Permits an elderly dependent person to receive damages from the person to whom the property was transferred equal to twice the value of the property if it is returned, or three times the value if it was not returned. Protects the interests of subsequent good faith purchasers of the property and provides that real estate titles are not affected by the existence of this section.

4 **Appropriation.** Provides an appropriation from the general fund of a currently unspecified amount to the commissioner of commerce for purposes of the hotline required by section 1.

Article 2: Consumer Protection in Annuity Transactions

Overview

This article enacts the Annuity Disclosure Model Regulation recommended to states by the National Association of Insurance Commissioners (NAIC). It requires that annuity purchasers be given a disclosure document and a Buyer's Guide prepared by the NAIC. The goal is to help annuity purchasers understand the often complex product they are buying.

1 1 **Consumer protection in annuity transactions.**

Subd. 1. Applicability and scope. States which types of annuity contracts and certificates this section does apply to. (An annuity certificate is a document evidencing rights of an individual under a group annuity contract.). The section applies to all annuity contracts and certificates, except registered or variable annuities, annuities that contain no non-guaranteed elements, annuities used to fund employer-sponsored pension and retirement plans (with an exception for a certain type of employee-funded plan providing a choice of annuity providers), structured settlement annuities, charitable gift annuities, and funding agreements.

Subd. 2. Definitions. Defines terms used in this section, including many used in the preceding subdivision. Defines "Buyer's Guide" as the buyer's guide provided as an appendix to the National Association of Insurance Commissioners model regulation upon which this article is based. The Buyer's Guide, which is 15 pages long, is not reproduced in this statute, but is incorporated by reference and includes its appendix and any future amendments to the Buyer's Guide.

Subd. 3. Standards for disclosure document and buyer's guide. (a) and (b) Specifies how and when the disclosure documents and Buyer's Guide must be

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provided to purchasers or prospective purchasers of annuities, depending upon whether the application is taken by the insurer in a face-to-face meeting, received as a result of a direct solicitation through the mail, or submitted over the internet.

(c) Requires that if the disclosure document and Buyer's Guide are not provided at or before the time of application for the annuity, the purchaser gets at least a 15-day "free look" period. A "free look" means the customer gets time to examine the annuity contract and return it without penalty during that period if the customer decides not to keep it.

(d) Specifies the disclosures that must be included in the disclosure document. These disclosures are an attempt to explain what an annuity contract is and the key things the buyer should (try to) understand about the specific annuity contract the customer is considering buying.

Subd. 4. Report to contract owners. Requires the insurer to provide an annual report to the annuity owner about the status of the annuity. This applies to annuities that are in the accumulation period and to those in the payout period if there are changes in the non-guaranteed elements. Specifies the information that must be in the annual report.

Subd. 5. Penalties. Provides that a violation of this section is a violation of the state's unfair trade practices act, which is a set of laws providing for enforcement by the commissioner of commerce for violation of insurance laws.