

Frequently Asked Questions for Producers in Pennsylvania Regarding Annuity Suitability:

On June 28, 2018, Governor Wolf signed into law HB 152, which significantly increased the responsibilities insurers and producers have when making an annuity transaction. This bill created a number of new disclosure, recordkeeping and educational requirements to be put into place to ensure suitable sales are being made to consumers when purchasing an annuity. This law, known as [Act 48](#), will go into effect December 26, 2018 and this is what you need to know:

- 1. Is there a new license that I will need to apply for once this law takes effect?**
 - a. No, this law does not create a new license type for selling annuities. The current licenses that are sufficient for selling annuities, such as the producer license with the life and fixed annuities or a license with variable life/variable line of authority, will still be utilized in Pennsylvania.

- 2. Are there new training/continuing education (CE) requirements that I need to take related to annuities?**
 - a. Yes, under Section 403.1-B of Act 48, producers must complete at least four continuing education credits in an approved annuity training course. These credits can be completed at an approved CE provider site in Pennsylvania, which can be found by going to Sircon's website at www.sircon.com/pennsylvania. Additionally, the insurer must provide product specific training to producers on the annuities they will be marketing and selling.

- 3. Do all producers need to take this new CE requirement, or just producers selling annuities?**
 - a. All producers with the authority to sell annuities in Pennsylvania will need to satisfy this four credit annuity suitability CE requirement. This means that even if you are not actively selling annuities at the present time, but you have the authority to sell annuities through your current license type, you must still complete this annuity suitability CE requirement in the statutorily provided timeframes. If this CE requirement is not met, then the department could take an enforcement action against the noncompliant producer.

- 4. How long do I have to complete this CE requirement once the law goes into effect?**
 - a. If you already are licensed with the authority to sell annuities in Pennsylvania BEFORE the effective date of this law (12/26/18), then you have until the next complete license period occurring after the effective date of this law to satisfy the four credit CE requirement. This means that you are able to take the remaining time on your license period that began before the effective date and add another 2 years (one complete license period) to that time to determine the date in which this CE requirement must be completed.

- b. If you become licensed with the authority to sell annuities in Pennsylvania AFTER the effective date of this law (12/26/18), then you must complete the four credit annuity suitability CE requirement on or before the end of your first license period (2 years).
- 5. What if my company informs me that I need to have this CE requirement completed in less time than is statutorily provided?**
 - a. It is an insurer's prerogative to ensure that all of its licensees comply with the CE requirement established through Act 48's provisions; therefore, an insurer may require the completion of the annuity suitability CE requirement in less time than is statutorily permitted.
- 6. What if I have already taken a four credit annuity suitability CE course in another state? Will my credits transfer to Pennsylvania and satisfy the requirement in the law?**
 - a. In Act 48, it states that if the training requirements of another state have been successfully completed by the producer and those training requirements are substantially similar to the mandatory training requirements found in Pennsylvania's Act 48, then the producer will be deemed compliant. Therefore, if you have already completed the "NAIC Suitability in Annuity Transactions Model Regulation" course that complies with the NAIC Annuity Suitability Model Law (2010), then you will be deemed compliant with the four credit annuity suitability CE requirement.
- 7. What factors about my customer do I need to consider when recommending a purchase or replacement of an annuity?**
 - a. This law introduces specific suitability information about the customer that the producer needs to take into account when recommending the purchase or replacement of an annuity. The suitability information includes: age, annual income, financial situation and needs, including the financial resources used for the funding of the annuity, financial experience, financial objectives, intended use of the annuity, financial time horizon, existing assets, including investment and life insurance holdings, liquidity needs, liquid net worth, risk tolerance, and tax status.
 - b. The producer also needs to take into account whether or not:
 - i. The customer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, including death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements.
 - ii. The customer would benefit from the product enhancements.
 - iii. The consumer has had another annuity replacement, including a replacement within the preceding 36 months.

- 8. What are the general duties expected of me when making a recommendation to a customer for the purchase or replacement of an annuity?**
- a. Based on the provisions of Act 48, it is expected that if a producer recommends a purchase or replacement of an annuity to a customer, then that producer's recommendation is suitable for the customer based on the facts disclosed by the customer concerning the customer's investments and other insurance products, as well as the customer's suitability information.
 - b. Additionally, the producer must inform the customer of various features of the annuity, including the potential surrender period and surrender charge, potential tax penalty if the consumer sells, replaces, surrenders or annuitizes the annuity, morality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components and market risk.
 - c. Furthermore, the producer must believe the customer will benefit from certain features of the annuity, including tax-deferred growth, annuitization or death or living benefit.
 - d. Lastly, the producer must take into consideration the particular annuity as a whole. This includes the underlying subaccounts to which funds are allocated at the time of purchase or replacement of the annuity, and riders and similar product enhancements. These aspects of the annuity must be suitable, and, in the case of a replacement, the transaction as a whole must be suitable for the customer based on the customer's suitability information.
- 9. What documentation should I keep at the point of sale of an annuity in order to comply with this law?**
- a. At the time of the sale of an annuity, the producer must:
 - i. Make a record of each recommendation
 - ii. Obtain a customer-signed statement documenting a customer's refusal to provide suitability information, if any
 - iii. Obtain a customer-signed statement acknowledging that an annuity transaction is not recommended if the customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation
 - b. It is very important that the producer has well-kept documentation regarding annuity sales and replacements detailing the suitability of the annuity transaction for the customer.
- 10. Where should I look for more specific information into all the provisions of the law that I must comply with as a producer selling annuities in Pennsylvania?**
- a. Please reference the "Pennsylvania Insurer/Insurance Producer Responsibilities for Act 48" document for more specific requirements in Act 48.