



# ROB STAFSHOLT

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TO: Committee on Insurance, Licensing and Forestry  
FROM: Senator Rob Stafsholt  
DATE: January 12, 2022  
SUBJECT: Testimony in Favor of Senate Bill 644

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Thank you, Chair Felzkowski and fellow members of the Senate Committee on Insurance, Licensing and Forestry for allowing me to testify in favor of Senate Bill 644.

After working with and seeking input from stakeholders and regulators, Representative Petersen and I introduced 'Best Interest' legislation. This legislation strengthens state statutes by requiring that before an annuity is sold, it is determined to be in the best interest of the consumer. Updating these laws governing state annuity sales will improve consumer protections for those considering the purchase of an annuity.

Our bill states that to satisfy the best interest obligations, when making a recommendation, a financial professional must:

- Know the consumer's financial situation, insurance needs and financial objectives;
- Understand the available recommendation options;
- Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives;
- Communicate the basis of the recommendation to the consumer;
- Disclose their role in the transaction, their compensation, and any material conflicts of interest; and
- Document, in writing, any recommendation and the justification for such recommendation.

These requirements ensure that customers understand the products and are aware of any material conflicts of interest. Uniform adoption of the model provides consistent protections for consumers regardless of where they reside. The requirements in the legislation align well with federal SEC standards for securities recommendations.

Thank you, members. I ask your support for this bipartisan legislation and would be happy to have further discussions if need be.



Date: January 11, 2022

To: Senator Mary Felzkowski, Chair  
Senator Rob Stafsholt, Vice Chair  
Members of the Senate Committee on Insurance, Licensing and Forestry

From: Richard Wicka, Chief Legal Counsel  
Office of the Commissioner of Insurance

Subject: Senate Bill 644

The Office of the Commissioner of Insurance (OCI) submits the following comments for your consideration in support of Senate Bill 644 related to the modification of annuity suitability requirements to adopt a best interest standard for annuity sales. The changes are based on a model regulation of the National Association of Insurance Commissioners (NAIC) and similar changes have been adopted by 18 states and have been proposed for adoption in an additional 5 jurisdictions. This memo provides a summary of the Act's provisions.

### **Best Interest Standard**

The proposed changes to the current annuity sales standards require that an insurance intermediary act in the best interest of the consumer when recommending an annuity sale. An intermediary satisfies this standard by complying with the Act's care obligations, disclosure obligations, conflict of interest obligations, and documentation obligations.

An intermediary complies with the Act's care obligations by exercising reasonable diligence in knowing a consumer's financial needs and recommending products which address those needs. The essence of the best interest standard is that the product recommended meets the consumer's needs and the intermediary place the interests of the consumer above their own.

To comply with the disclosure requirement, the Act requires a disclosure of the intermediary's role in the transaction, a description of the type of products the intermediary is authorized to sell, a description of the number of insurers the intermediary is authorized to sell products for, and a description of the sources of the intermediary's compensation. The NAIC has adopted a model form to provide these disclosures which the Act requires OCI to adopt in substantially the same form. This standard form will provide uniformity and make it easier for intermediaries to comply with these disclosure requirements.

The conflict of interest requirement requires intermediaries to identify and avoid or manage and disclose any material conflict of interests related to the transaction.

Finally, an intermediary meets the documentation requirement by making a written record of the recommendation and the basis of the recommendation. The Act also provides procedures for obtaining consumer acknowledgements where a consumer refuses to provide relevant financial information or an annuity is not recommended.

### **Other Provisions**

The Act makes changes to an insurer's duty to supervise annuity sales and to establish and maintain procedures to detect inappropriate sales in line with the other changes to the law. The Act also includes language that recognizes that sales made under comparable standards comply with the act. This provision removes confusion for professionals who may be operating under state or federal securities law standards and state insurance law standards and recognizes that sales need not be subject to multiple standards that are similar in nature.

OCI was a member of the NAIC committee that drafted the model best interest standards working in conjunction with the life insurance industry, insurance intermediaries, financial professionals, and consumer representatives. OCI believes that these changes provide important safeguards for consumers without imposing an undue burden on annuity sales. The vast majority of insurance intermediaries make annuity recommendations in the consumer's best interest and this Act codifies that standard. The provisions of this bill will allow OCI to take action against those intermediaries who make inappropriate sales and put their own interest above those of the consumer.

Thank you for your consideration of OCI's comments.



## **Please Support SB 644 / AB 654 Best Interest Standard for Annuity Sales**

The National Association of Insurance Commissioners (NAIC) revised the model regulation on annuity sales in February 2020, after two years of work with stakeholders. NAIFA (National Association of Insurance and Financial Advisors) was an active participant in those discussions.

The model bill provides a uniform regulatory framework for states to adopt, as well as consistency with federal regulations. So far, 19 states have adopted the model bill and 10 more are considering it, including Wisconsin.

NAIFA-Wisconsin thanks Sen. Rob Stafsholt and Rep. Kevin Petersen, as well as the bipartisan cosponsors, for introducing the model here. We also appreciate the support of the Office of the Commissioner of Insurance and thank Sen. Felzkowski for scheduling the hearing. ***We strongly support quick passage by the Wisconsin Legislature to increase consumer protection and help ensure a standardized sales process across the country.***

### **Requirements Under the Bill**

The best interest standard requires insurance agents to act in the best interest of the consumer when recommending or selling annuity products. In other words, they must consider the consumer's needs and financial interests ahead of their own.

The model bill clearly defines the requirements for agents, including:

- Knowing the consumer's financial situation, insurance needs and financial objectives.
- Understanding the available recommendation options.
- Having a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives.
- Communicating the basis of the recommendation to the consumer.
- Disclosing the agent's role in the transaction, products they are licensed and authorized to sell, source of their compensation, and any material conflicts of interest.
- Documenting, in writing, any recommendation and the justification for such recommendation.

The bill also sets enhanced continuing education requirements for annuity sales, including the new best interest obligations.

*Please contact Bill McClenahan at Schreiber GR Group with any questions (414.405.1051 or [bill@sgrwi.com](mailto:bill@sgrwi.com)).*