Idaho Code § 41-1940

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code > Title 41 Insurance (Chs. 1 — 65) > Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1940. *Annuity* consumer protections act.

(1) Sections 41-1940 through 41-1943, Idaho Code, shall be known and may be cited as the "***Annuity*** Consumer Protections Act."

(2) As used in the ***annuity*** consumer protections act:

(a) "***Annuity***" means an ***annuity*** that is an insurance product under state law that is individually solicited, whether classified as an individual or group ***annuity***.

(b) "***Best interest*** obligations" means that a producer, when making a recommendation of an ***annuity***, shall act in the ***best interest*** of the consumer under the circumstances known at the time the recommendation is made without placing the producer's or the insurer's financial ***interest*** ahead of the consumer's ***interest***.

(c) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an ***annuity*** from an insurer, intermediary, or directly from the consumer.

(d) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

(i) Age;

(ii) Annual income;

(iii) Financial situation and needs, including debts and other obligations;

(iv) Financial experience;

(v) Insurance needs;

(vi) Financial objectives;

(vii) Intended use of the ***annuity***;

(viii) Financial time horizon;

(ix) Existing assets or financial products, including investment, ***annuity***, and insurance holdings;

(x) Liquidity needs;

(xi) Liquid net worth;

(xii) Risk tolerance, including but not limited to willingness to accept non-guaranteed elements in the ***annuity***;

(xiii) Financial resources used to fund the ***annuity***; and

(xiv) Tax status.

(e) "Continuing education provider" or "CE provider" means an individual or entity approved by the department to offer continuing education courses.

(f) “Contract owner” means the owner named in the ***annuity*** contract or the certificate holder in the case of a group ***annuity*** contract.

(g) “Determinable elements” means elements that are derived from processes or methods that are guaranteed at issue and that are not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements may include the premiums, credited ***interest*** rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these. An element is considered determinable only if it is calculated from underlying determinable elements or from both determinable and guaranteed elements.

(h) “FINRA” means the financial industry regulatory authority or succeeding agency.

(i) “Generic name” means a short title descriptive of the ***annuity*** contract being applied for or illustrated, such as “single premium deferred ***annuity***.”

(j) “Guaranteed elements” means the premiums, credited ***interest*** rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these that are promised and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(k) “Insurance producer” or “producer” has the same meaning as provided in chapter 10, title 41, Idaho Code. For purposes of the ***annuity*** consumer protections act, “producer” includes an insurer where no producer is involved.

(l) “Insurer” means a company required to be licensed under the laws of this state to provide insurance products, including ***annuities***.

(m) “Intermediary” means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s ***annuities*** by producers.

(n) “Material conflict of ***interest***” means a financial ***interest*** of the producer in the sale of an ***annuity*** that a reasonable person would expect to influence the impartiality of a recommendation. It does not include cash compensation or noncash compensation.

(o) “Noncash compensation” means any form of compensation that is not cash, including but not limited to health insurance, office rent, office support, and retirement benefits.

(p) “Non-guaranteed elements” means the premiums, credited ***interest*** rates including any bonus, benefits, values, dividends, noninterest-based credits, charges, or elements of formulas used to determine any of these that are subject to company discretion and that are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(q) “Recommendation” means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, exchange, or replacement of an ***annuity*** in accordance with that advice. It does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(r) “Replacement” means a transaction in which a new policy or contract is purchased and in which it is known or should be known to the proposing producer or insurer that, by reason of the transaction, an existing policy or contract has been or is to be:

> **(i)** Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or terminated;
>
> **(ii)** Converted to reduced paid-up insurance, continued as extended term insurance, or reduced in value by the use of nonforfeiture benefits or other policy values;
>
> **(iii)** Amended to effect either a reduction in benefits or in the term for which coverage would remain in force or for which benefits would be paid;

(iv) Reissued with any reduction in cash value; or

(v) Used in a financed purchase.

(s) "SEC" means the United States securities and exchange commission.

(3) Unless otherwise specifically included, the ***annuity*** consumer protections act shall not apply to transactions involving:

(a) Contracts used to fund:

(i) An employee pension or welfare benefit plan that is covered by the employee retirement and income security act of 1974 (ERISA);

(ii) A plan described by sections 401(a), 401(k), *403(b)*, *408(k)*, or *408(p) of the Internal Revenue Code*, as amended, if established or maintained by an employer;

(iii) A governmental or church plan defined in *section 414 of the Internal Revenue Code*, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under *section 457 of the Internal Revenue Code*; or

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(b) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(c) Formal prepaid funeral contracts, also known as prepaid prearrangement sales or prearrangement sales contracts, as defined under section 54-1131(7), Idaho Code, and as regulated in chapter 11, title 54, Idaho Code.

(4) The director may promulgate rules implementing the provisions of the ***annuity*** consumer protections act for the protection of consumers in ***annuity*** transactions.

(5) Nothing in the ***annuity*** consumer protections act shall be construed to create or imply a private cause of action for a violation of the ***annuity*** consumer protections act or rules promulgated pursuant thereto.

History

I.C., § 41-1940, as added by *2021, ch. 41, § 2*, p. 110.

End of Document

[Idaho Code § 41-1940A]

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code > Title 41 Insurance (Chs. 1 — 65) > Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1940A. *Annuity* consumer protections — Suitability duties.

(1) This section through section 41-1940E, Idaho Code, shall apply to any sale or recommendation of an ***annuity***.

(a) The purpose of these sections is to require producers, as defined in the ***annuity*** consumer protections act, to act in the ***best interest*** of the consumer when making a recommendation of an ***annuity*** and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

(b) Nothing in the ***annuity*** consumer protections act shall be construed to subject a producer to civil liability under the ***best interest*** standard of care outlined in this section or under standards governing the conduct of a fiduciary or a fiduciary relationship.

(2) Unless otherwise specifically included, this section through section 41-1940E, Idaho Code, shall not apply to transactions involving:

(a) Contracts excluded by section 41-1940(3), Idaho Code; or

(b) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this section.

(3) ***Best interest*** obligations. A producer, when making a recommendation of an ***annuity***, shall act in the ***best interest*** of the consumer under the circumstances known at the time the recommendation is made without placing the producer's or the insurer's financial ***interest*** ahead of the consumer's ***interest***. A producer has acted in the ***best interest*** of the consumer if he has satisfied the following obligations regarding care, disclosure, conflict of ***interest***, and documentation:

(a) Care obligation. The producer, in making a recommendation, shall exercise reasonable diligence, care, and skill to:

(i) Know the consumer's financial situation, insurance needs, and financial objectives;

(ii) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;

(iii) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

(iv) Communicate the basis or bases of the recommendation.

(b) The requirements under paragraph (a) of this subsection include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an ***annuity***.

(c) The requirements under paragraph (a) of this subsection require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(d) The requirements under this subsection do not create a fiduciary obligation or relationship and create only a regulatory obligation as established in this section.

(e) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an ***annuity*** effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this subsection may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(f) The requirements under paragraph (a) of this subsection include having a reasonable basis to believe the consumer would benefit from certain features of the ***annuity***, such as annuitization, death or living benefit, or other insurance-related features.

(g) The requirements under paragraph (a) of this subsection apply to the particular ***annuity*** as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an ***annuity*** and to riders and similar producer enhancements, if any.

(h) The requirements under paragraph (a) of this subsection do not mean the ***annuity*** with the lowest onetime or multiple occurrence compensation structure shall necessarily be recommended.

(i) The requirements under paragraph (a) of this subsection do not mean the producer has ongoing monitoring obligations under the care obligation pursuant to this subsection, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.

(j) In the case of an exchange or replacement of an ***annuity***, the producer shall consider the whole transaction, which includes taking into consideration whether:

(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits such as 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 replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(iii) The consumer has had another ***annuity*** exchange or replacement and, in particular, an exchange or replacement within the preceding sixty (60) months.

(k) Nothing in this section shall be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this section; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(4) Disclosure obligation.

(a) Prior to the recommendation or sale of an ***annuity***, the producer shall prominently disclose to the consumer on a form prescribed by the director or substantially similar thereto the following:

(i) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

(ii) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

1. Fixed ***annuities***;

2. Fixed indexed ***annuities***;

3. Variable ***annuities***;

4. Life insurance;

5. Mutual funds;

6. Stocks and bonds; and

7. Certificates of deposit;

(iii) An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

1. From one (1) insurer;

2. From two (2) or more insurers; or

3. From two (2) or more insurers although primarily contracted with one (1) insurer;

(iv) A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended ***annuity*** by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and

(v) A notice of the consumer's right to request additional information regarding cash compensation described in paragraph (b) of this subsection.

(b) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

(i) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

(ii) Whether the cash compensation is a onetime or multiple occurrence amount and, if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.

(c) Prior to or at the time of the recommendation or sale of an ***annuity***, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the ***annuity***, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the ***annuity***, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the ***annuity***, limitations on ***interest*** returns, potential changes in non-guaranteed elements of the ***annuity***, insurance and investment components, and market risk. The disclosure requirements under this subsection are intended to supplement and not replace the disclosure requirements under section 41-1941, Idaho Code.

(5) Conflict of ***interest*** obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of ***interest***, including material conflicts of ***interest*** related to an ownership ***interest***.

(6) Documentation obligation. A producer shall at the time of recommendation or sale:

(a) Make a written record of any recommendation and the basis for the recommendation subject to this section;

(b) Obtain a consumer-signed statement on a form prescribed by the director or substantially similar to such form, documenting:

(i) A customer's refusal to provide the consumer profile information, if any; and

(ii) A customer's understanding of the ramifications of not providing his consumer profile information or providing insufficient consumer profile information; and

(c) Obtain a consumer-signed statement on a form prescribed by the director or substantially similar to such form, acknowledging the ***annuity*** transaction is not recommended if a customer decides to enter into an ***annuity*** transaction that is not based on the producer's recommendation.

(7) Application of the ***best interest*** obligation. Any requirement applicable to a producer under this section shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

(8) Transactions not based on a recommendation.

(a) Except as provided under paragraph (b) of this subsection, a producer shall have no obligation to a consumer under subsection (3) of this section related to any ***annuity*** transaction if:

(i) No recommendation is made;

(ii) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(iii) A consumer refuses to provide relevant consumer profile information and the ***annuity*** transaction is not recommended; or

(iv) A consumer decides to enter into an ***annuity*** transaction that is not based on a recommendation of the producer.

(b) An insurer's issuance of an ***annuity*** subject to paragraph (a) of this subsection shall be reasonable under all the circumstances actually known to the insurer at the time the ***annuity*** is issued.

(9) Prohibited practices. Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

(a) Truthfully responding to an insurer's request for confirmation of the consumer profile information;

(b) Filing a complaint; or

(c) Cooperating with the investigation of a complaint.

(10) Safe harbor for financial professionals.

(a) Recommendations and sales of ***annuities*** made in compliance with comparable standards shall satisfy the requirements under this section. This subsection applies to all recommendations and sales of ***annuities*** made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection shall limit the insurance director's ability to investigate and enforce the provisions of this section.

(b) Nothing in paragraph (a) of this subsection shall limit the insurer's obligation to comply with section 41-1940B(1), Idaho Code, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

(c) For paragraph (a) of this subsection to apply, an insurer shall:

(i) Monitor the relevant conduct of the financial professional seeking to rely on paragraph (a) of this subsection or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws, using information collected in the normal course of an insurer's business; and

(ii) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph (a) of this subsection, such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

(d) For purposes of this subsection, "financial professional" means a producer that is regulated and acting as:

(i) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(ii) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(iii) A plan fiduciary under section 3(21) of the employee retirement income security act of 1974 (ERISA) or a fiduciary under *section 4975(e)(3) of the Internal Revenue Code* or any amendments or successor statutes thereto.

(e) For purposes of this subsection, "comparable standards" means:

(i) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to ***best interest*** obligations and supervision of ***annuity*** recommendations and sales, including but not limited to regulation ***best interest*** and any amendments or successor regulations thereto;

(ii) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the investment advisers act of 1940, including but not limited to the form ADV and interpretations; and

(iii) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the Internal Revenue Code and any amendments or successor statutes thereto.

History

I.C., § 41-1940A, as added by *2021, ch. 41, § 3*, p. 110.

End of Document

[Idaho Code § 41-1940B]

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code* > *Title 41 Insurance (Chs. 1 — 65)* > *Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1940B. *Annuity* consumer protection — Supervision system.

(1) Except as permitted under section 41-1940A(8), Idaho Code, an insurer may not issue an ***annuity*** recommended to a consumer unless there is a reasonable basis to believe the ***annuity*** would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

(2) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with the ***annuity*** consumer protections act, including but not limited to the following:

(a) The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of the ***annuity*** consumer protections act and shall incorporate the requirements of such act into relevant producer training manuals;

(b) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of section 41-1940C, Idaho Code;

(c) The insurer shall provide product-specific training and training materials that explain all material features of its ***annuity*** products to its producers;

(d) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an ***annuity*** that are designed to ensure there is a reasonable basis to determine that the recommended ***annuity*** would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means, including but not limited to physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(e) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with section 41-1940A, Idaho Code. This may include but is not limited to confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this paragraph prevents an insurer from complying with this paragraph by applying sampling procedures or by confirming the consumer profile information or other required information under that section after issuance or delivery of the ***annuity***;

(f) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an ***annuity***, whether a producer has provided to the consumer the information required to be provided under the ***annuity*** consumer protections act;

(g) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(h) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific

annuities within a limited period of time. The requirements of this paragraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based on the volume of sales of a specific ***annuity*** within a limited period of time; and

(i) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which report shall detail a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(3) Nothing in this section restricts an insurer from contracting for performance of a function, including maintenance of procedures, required under this section.

(a) An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section 41-1940D, Idaho Code, regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with paragraph (b) of this subsection.

(b) An insurer's supervision system under this section shall include supervision of contractual performance under this section. This includes but is not limited to the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

(4) An insurer is not required to include in its system of supervision:

(a) A producer's recommendations to consumers of products other than the ***annuities*** offered by the insurer; or

(b) Consideration of or comparison to options available to the producer or compensation relating to those options other than ***annuities*** or other products offered by the insurer.

History

I.C., § 41-1940B, as added by *2021, ch. 41, § 4*, p. 110.

End of Document

Idaho Code § 41-1940C

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code > Title 41 Insurance (Chs. 1 — 65) > Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1940C. *Annuity* consumer protection — Producer training.

(1) A producer shall not solicit the sale of an ***annuity*** product unless the producer has adequate knowledge of the product to recommend the ***annuity*** and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(2) A producer who engages in the sale of ***annuity*** products shall complete a onetime four (4) credit training course approved by the department and provided by the department-approved education provider. Individuals who obtain a life insurance line of authority on or after July 1, 2021, may not engage in the sale of ***annuities*** until the ***annuity*** training course required under this section has been completed.

(a) The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) continuing education credits but may be longer.

(b) The training required under this subsection shall include information on the following topics:

(i) The types of ***annuities*** and various classifications of ***annuities***;

(ii) Identification of the parties to an ***annuity***;

(iii) How product-specific ***annuity*** contract features affect consumers;

(iv) The application of income taxation of qualified and nonqualified ***annuities***;

(v) The primary uses of ***annuities***; and

(vi) Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

(c) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(d) A provider of an ***annuity*** training course intended to comply with this subsection shall register as a continuing education provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth by the department.

(e) A producer who has completed an ***annuity*** training course approved by the department of insurance prior to July 1, 2021, shall, within six (6) months after July 1, 2021, complete either:

(i) A new four (4) credit training course approved by the department of insurance after July 1, 2021; or

(ii) An additional onetime one (1) credit training course approved by the department and provided by the department-approved education provider on appropriate sales practices, replacement, and disclosure requirements under the ***annuity*** consumer protections act.

(f) Providers of ***annuity*** training shall comply with the reporting requirements and shall issue certificates of completion as set forth by the department.

(g) The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

(h) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

(i) An insurer shall verify that a producer has completed the ***annuity*** training course required under this subsection before allowing the producer to sell an ***annuity*** product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by director-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

History

I.C., § 41-1940C, as added by *2021, ch. 41, § 5*, p. 110.

End of Document

Idaho Code § 41-1940D

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code > Title 41 Insurance (Chs. 1 — 65) > Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1940D. *Annuity* consumer protection — Compliance mitigation.

An insurer is responsible for compliance with the ***annuity*** consumer protections act. If a violation occurs, either because of the action or inaction of the insurer or its producer, the director may order:

(1) An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this regulation by the insurer, by an entity contracted to perform the insurer's supervisory duties, or by the producer;

(2) A general agency, an independent agency, or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this regulation; and

(3) Appropriate penalties and sanctions.

History

I.C., § 41-1940D, as added by *2021, ch. 41, § 6*, p. 110.

End of Document

Idaho Code § 41-1940E

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code > Title 41 Insurance (Chs. 1 — 65) > Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1940E. *Annuity* consumer protection — Recordkeeping.

(1) Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the director records of the information collected from the consumer, disclosures made to the consumer including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for five (5) years after the natural life of the contract. An insurer is permitted but shall not be required to maintain documentation on behalf of a producer.

(2) Records required to be maintained by the ***annuity*** consumer protections act may be maintained in paper, photographic, micro-process, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

History

I.C., § 41-1940E, as added by *2021, ch. 41, § 7*, p. 110.

End of Document

Idaho Code § 41-1941

Statutes current through all legislation from the 2022 Regular Session.

Idaho Code > Title 41 Insurance (Chs. 1 — 65) > Chapter 19 Life Insurance Policies and Annuity Contracts (§§ 41-1901 — 41-1965)

41-1941. *Annuity* consumer protections — disclosures.

(1) The provisions of this section shall apply to all group and individual ***annuity*** contracts and certificates except:

(a) Registered or nonregistered variable ***annuities*** or other registered products;

(b) Immediate and deferred ***annuities*** that contain no non-guaranteed elements; and

(c) Contracts excluded by section 41-1940(3), Idaho Code.

(2) If the application for an ***annuity*** contract is taken in a face-to-face meeting, the applicant, at or before the time of application and at the time of contract delivery, shall be given both the disclosure document and the buyer's guide in the form prescribed by the director. The disclosure document shall be dated and signed by the prospective ***annuity*** owner and producer and the company shall maintain a signed copy for a period of five (5) years after the natural life of the contract.

(3) If the application for an ***annuity*** contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide at the time of application and at the time of contract delivery. The producer and the company shall maintain a signed copy of the disclosure document for a period of five (5) years after the natural life of the contract.

(4) A solicitation for an ***annuity*** contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurer for a free ***annuity*** buyer's guide.

(5) At a minimum, the following information shall be included in the disclosure document required to be provided under this section in a form or forms prescribed by the director or substantially similar to such form or forms:

(a) The generic name of the contract, the company product name, if different, the form number and the fact that it is an ***annuity***;

(b) The insurer's name and address;

(c) A description of the contract and its benefits, emphasizing its long-term nature and including the following examples where appropriate:

(i) The guaranteed, non-guaranteed and determinable elements of the contract, their limitations, if any, and an explanation of how they operate;

(ii) An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

(iii) The periodic income options both on a guaranteed and non-guaranteed basis;

(iv) Any value reductions caused by withdrawals from or surrender of the contract;

(v) How values in the contract can be accessed;

(vi) The death benefit, if available, and how it will be calculated;

(vii) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(viii) The impact of any rider, such as a long-term care rider.

(d) The specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply;

(e) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change;

(f) Whenever projections for non-guaranteed elements of a contract are provided in the disclosure document, equal prominence shall be given to guaranteed elements; and

(g) Terms used in the disclosure document shall be defined in clear and concise language that facilitates the understanding of a typical person within the segment of the public to which the disclosure document is directed.

(6) For ***annuities*** in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred ***annuity***, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract. Such report shall contain at a minimum the following information:

(a) The beginning and end dates of the current report period;

(b) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(c) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

(d) The amount of outstanding loans, if any, as of the end of the current report period.

History

I.C., § 41-1941, as added by *2010, ch. 238, § 1*, p. 617; *am. 2012, ch. 107, § 6*, p. 284; *am. 2020, ch. 290, § 1*, p. 837; *am. 2021, ch. 41, § 8*, p. 110.

APPENDIX A

INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES

Do Not Sign Unless You Have Read and Understand the Information in this Form

Date: ______________________

INSURANCE AGENT (PRODUCER) INFORMATION ("Me", "I", "My")

First Name: ______________________ Last Name: ______________________

Business\Agency Name: ______________________ Website: ______________________

Business Mailing Address: ______________________

Business Telephone Number: ______________________

Email Address: ______________________

National Producer Number in [state]: ______________________

CUSTOMER INFORMATION ("You", "Your")

First Name: ______________________ Last Name: ______________________

What Types of Products Can I Sell You?
I am licensed to sell annuities to You in accordance with state law. <u>If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.</u>

I offer the following products:

- ☐ Fixed or Fixed Indexed Annuities
- ☐ Variable Annuities
- ☐ Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- ☐ Mutual Funds
- ☐ Stocks/Bonds
- ☐ Certificates of Deposits

Whose Annuities Can I Sell to You?

I am authorized to sell:

☐ Annuities from Only One (1) Insurer	☐ Annuities from Two or More Insurers
☐ Annuities from Two or More Insurers although I primarily sell annuities from: ______________	

How I'm Paid for My Work:

It's important for You to understand how I'm paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

- ☐ Commission, which is usually paid by the insurance company or other sources. If other sources, describe: ___________________.
- ☐ Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.
- ☐ Other (Describe): ____.

If You have questions about the above compensation I will be paid for this transaction, please ask me.

I may also receive other indirect compensation resulting from this transaction (sometimes called "non-cash" compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

Drafting Note *This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.*

Drafting Note: *The acknowledgement and signature should be in immediate proximity to the disclosure language.*

By signing below, You acknowledge that You have read and understand the information provided to You in this document.

____
Customer Signature

____
Date

____
Agent (Producer) Signature

____
Date

APPENDIX B

CONSUMER REFUSAL TO PROVIDE INFORMATION

Do Not Sign Unless You Have Read and Understand the Information in this Form

Why are You being given this form?

You're buying a financial product – an annuity.

To recommend a product that effectively meets Your needs, objectives and situation, the agent, broker, or company needs information about You, Your financial situation, insurance needs and financial objectives.

If You sign this form, it means You have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets Your needs, objectives and situation. You may lose protections under the Insurance Code of [this state] if You sign this form or provide inaccurate information.

Statement of Purchaser:

☐ I **REFUSE** to provide this information at this time.

☐ I have chosen to provide LIMITED information at this time.

____
Customer Signature

____
Date

APPENDIX C

Consumer Decision to Purchase an Annuity NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

Why are You being given this form? You are buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about You, your financial situation, insurance needs and financial objectives.

If You sign this form, it means You know that you're buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without a recommendation,** I understand I may lose protections under the Insurance Code of [this state].

____
Customer Signature

____
Date

____
Agent/Producer Signature

____
Date