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[Calif. annuity legislation must pass by 2025 to avoid ‘dual regulation’](https://uphelp.org/calif-annuity-legislation-must-pass-by-2025-to-avoid-dual-regulation/)

Insurance News Net

California Senate Bill 263, which would make California the 41st state to adopt best-interest annuity sales rules, has stalled amid pushback from consumer groups. It is currently in the suspense file with the Assembly Appropriations Committee, and five consumer associations want it to stay that way unless revisions are made.

Those groups are concerned that the bill excludes cash and non-cash compensation as a conflict of interest that advisors and brokers would have to disclose to their clients.

Dodd-Frank Act cited
However, the committee has called out section 989J of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, which gives a state authority to regulate the sale of fixed and fixed indexed annuities under two specific circumstances.

The first is when the state in which the contract is issued or in which the provider is based has “adopted requirements that substantially meet or exceed the minimum requirements established by the 2010 version of the National Association of Insurance Commissioners” model.

The second is when that state “adopts rules that substantially meet or exceed the minimum requirements of any successor modifications to the model regulation within five years of the adoption by the NAIC.” This second interpretation is the focus of the committee.

“NAIC [National Association of Insurance Commissioners] Model #275 was updated again in 2020… Therefore, by 2025, California needs to adopt the updates to California law which contain consumer protections that are at least as stringent as NAIC Model #275 to avoid dual regulation of fixed annuities by the California Department of Insurance and the federal government,” the Assembly Appropriations

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Committee said.

Lawmakers have from January to August 2024 to pass either SB 263, or other legislation that addresses the disparity with Model #275. The bill's author, Sen. Bill Dodd, D-Napa, told InsuranceNewsNet that he has every intention to pass SB 263 next year.

"SB 263 advances important new consumer protections that don't currently exist in California. It's my intention and expectation to pass the bill once the Legislature reconvenes," he said.

Amendments sought to SB 263
No groups or lawmakers oppose the annuities sales regulation bill altogether. Instead, five consumer groups have taken the position of "oppose unless amended."

Those five groups include the Center for Economic Justice, the Consumer Federation of America, the Consumer Federation of California, the Life Insurance Consumer Advocacy Center and United Policyholders.

"Nearly all conflicts of interest between agents and consumers stem from cash or noncash compensation," the Life Insurance Consumer Advocacy Center said in a statement.

"Cash and non-cash compensation can impact the recommendations that an agent makes and should be disclosed to consumers as conflicts of interest."

For industry trade groups, a major concern was that the initial version of the bill would have subjected every seller to "absolutely undefined and open-ended liabilities" by making their primary fiduciary duty to clients rather than to insurance companies.

"We felt it was going to create an environment in which there was a completely undefined fiduciary relationship as a matter of law created into every single relationship that an insurance agent or broker would have in selling these annuity-like products," Stephen Young, general counsel of the Independent Insurance Agents and Brokers of California said.

"We're concerned about that because notions of fiduciary duty do not easily mesh under the law of agency the way insurance is sold."

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However, this concern was addressed in an amendment in June. Consequently, groups including the Association of California Life and Health Insurance Companies, the American Council of Life Insurers, the Federation of Americans for Consumer Choice, Finseca, IIABCal, the Insured Retirement Institute, the National Association for Fixed Annuities and others have dropped their opposition.

"I don't know that we're really ever eager for new laws and regulations, but at least the biggest concerns that we had with the bill upon introduction have all been addressed," Young said.

SB 263 has the support of Insurance Commissioner Ricardo Lara of the California Department of Insurance, which sponsors the bill, and the California Commission on Aging.

The CDI noted that the bill is necessary to "avoid federal pre-emption as well as create additional consumer protections to ensure California's insurance companies and licensed producers who sell annuities are following the highest standards of conduct."

Discussions underway

While Dodd did not comment on what kind of revisions will be made to SB 263 in the upcoming year, a representative from his office said discussions will be held with relative groups during the interim period until the start of the new legislative year.

"Insurance Commissioner Lara and I will continue working with all stakeholders, including my colleagues in the Legislature, consumer advocates and the industry to refine and advance the bill," Dodd said.

Although the Life Insurance Consumer Advocacy Center claimed that the "consumer group coalition was excluded from discussion" on SB 263 amendments, it also urged collaboration in the future to get the bill right.

"A true stakeholder process should involve not just the insurance industry and CDI but also consumer groups, so that meaningful reforms can be adopted to protect California consumers," it said.

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