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## Financial Institutions & Insurance Committee

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### HB 1563

**Brief Description:** Requiring annuities sold in Washington to be suitable to the age and financial situation of the purchaser.

**Sponsors:** Representatives Kirby, Williams, Hasegawa, Simpson and Morrell; by request of Insurance Commissioner.

#### Brief Summary of Bill

- Requires insurers and insurance producers meet suitability and disclosure standards adopted by rule of the Insurance Commissioner (Commissioner)
- Grants the Commissioner rule-making authority.

**Hearing Date:** 2/3/09

**Staff:** Jon Hedegard (786-7127)

#### Background:

The Commissioner oversees insurers and insurance producers and the market practices of those persons and entities in this state. This includes the sale of fixed and variable annuities.

The Department of Financial Institutions (DFI) oversees the sale of securities in this state. A security is defined to include variable annuities but specifically excludes "any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period."

Both the Insurance Code (Title 48 RCW) and the Securities Act of Washington (chapter 21.20 RCW), recognize this overlap.

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The DFI has a number of requirements for broker-dealers, salespersons, investment advisers, and investment adviser representatives (licensees). One legal requirement is the suitability of a security recommendation made by a licensee. Prior to making a transaction, a licensee must make reasonable efforts to obtain information concerning:

- the customer's financial status;
- the customer's tax status;
- the customer's investment objectives; and
- other information used or considered to be reasonable in making recommendations to the customer.

The licensee must have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs.

The Financial Industry Regulatory Authority (FINRA), is the largest non-governmental regulator for securities firms in the United States. FINRA was established in 2007 in a merger between the National Association of Securities Dealers and portions of the New York Stock Exchange. As a self-regulatory organization, FINRA must be registered with the Securities and Exchange Commission (SEC). FINRA rules must be reviewed and approved by the SEC. FINRA has rules regarding suitability, including the suitability of annuities.

#### **Summary of Bill:**

Prior to issuing an annuity, an insurer must obtain sufficient information from the purchaser to verify the suitability of the proposed sale and to enable the prospective owner to make an informed purchase.

Insurers and insurance producers must:

- conform to sales practices standards;
- not recommend annuities that are not suitable for the specific purchaser; and
- provide a summary of the annuity to the purchaser.

The summary must follow a disclosure form required adopted by rule of the Commissioner. The summary must be provided to the purchaser at the time of solicitation. If an annuity is not sold by direct marketing, the summary must be provided to the purchaser no later than at the time the contract is delivered to the purchaser.

The Commissioner must considering relevant standards adopted by the National Association of Insurance Commissioners, other states, and other agencies of this state that regulate the sale of annuities, the Commissioner must adopt rules regarding suitability and disclosure standards for annuity products.

The new suitability requirements:

- only apply to insurers and producers required to be licensed under the insurance code; and
- do not affect the application of chapter 21.20 RCW.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.