

Senate Bill 536

Sponsored by Senator SOLLMAN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes best interest standard for recommendations or sales of annuities to prospective purchasers. Specifies contents of and requirements for compliance with standard.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to annuities; creating new provisions; amending ORS 731.156; and prescribing an effective
3 date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 743.255 to**
6 **743.273.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **“Cash compensation” means a discount, concession, fee, service fee, commission,**
9 **sales charge, loan, override or cash benefit that a producer receives from an insurer, from**
10 **an intermediary or directly from a purchaser as compensation for the producer’s recom-**
11 **mendation or sale of an annuity.**

12 (b) **“Comparable to the requirements of this section” means:**

13 (A) **For broker-dealers and registered representatives of broker-dealers, regulations that**
14 **the United States Securities and Exchange Commission and the Financial Industry Regula-**
15 **tory Authority promulgate as best interest obligations and use to supervise annuity recom-**
16 **mendations and sales, including but not limited to Regulation Best Interest, 17 C.F.R.**
17 **240.151-1, as in effect on the operative date specified in section 5 of this 2023 Act.**

18 (B) **For investment advisers registered under federal or state securities laws, and for**
19 **investment adviser representatives, the fiduciary duties and all other requirements to which**
20 **investment advisers and investment adviser representatives are subject under ORS chapter**
21 **59 and the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 to 80b-21, including but not lim-**
22 **ited to Form ADV, 17 C.F.R. parts 275 and 279, and related interpretations.**

23 (C) **For fiduciaries and plan fiduciaries, the duties, obligations, prohibitions and other**
24 **requirements to which fiduciaries and plan fiduciaries are subject under the Internal Re-**
25 **venue Code and the Employee Retirement Income Security Act, 29 U.S.C. 1001 et seq., both**
26 **as in effect on the operative date specified in section 5 of this 2023 Act.**

27 (c) **“Elements that are not guaranteed” means:**

28 (A) **A provision in an annuity contract that may vary, such as a premium, credited in-**
29 **terest rate or bonus, benefit, value, dividend, credit that is not based on interest or other**
30 **charge;**

31 (B) **A formula that an insurer uses at the insurer’s discretion to calculate an item de-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 described in subparagraph (A) of this paragraph and does not guarantee when issuing the an-
2 nuity; or

3 (C) Any provision in the annuity contract the calculation of which depends on another
4 provision that is not guaranteed.

5 (d) “Financial professional” means a producer that is regulated and is acting as:

6 (A) A broker-dealer that is registered under federal or state securities laws, or a regis-
7 tered representative of a broker-dealer;

8 (B) An investment adviser registered under federal or state securities laws or an in-
9 vestment adviser representative affiliated with the registered investment adviser; or

10 (C) A fiduciary, as described in 29 U.S.C. 1002(21) or as defined in 26 U.S.C. 4975(e)(3), both
11 as in effect on the operative date specified in section 5 of this 2023 Act.

12 (e) “Intermediary” means a person that for compensation contracts directly with an
13 insurer, or with another person that contracts with the insurer, for the purpose of facili-
14 tating a producer’s sale of the insurer’s annuities.

15 (f)(A) “Material conflict of interest” means a producer’s financial interest in the sale of
16 an annuity that a reasonable person would expect to influence the impartiality of the
17 producer’s recommendation of an annuity.

18 (B) “Material conflict of interest” does not include cash compensation or non-cash com-
19 pensation.

20 (g) “Non-cash compensation” means a form of compensation that is not cash compen-
21 sation, such as health insurance, office rent, office support or retirement benefits.

22 (h) “Producer” means a person that is licensed under ORS 744.052 to 744.089 or an
23 insurer, if the insurer solicits, negotiates or sells an annuity without involving a producer.

24 (i) “Prospective purchaser profile” means information that is reasonably necessary to
25 determine whether a recommendation for an annuity is appropriate for a prospective pur-
26 chaser, such as the prospective purchaser’s:

27 (A) Age;

28 (B) Annual income;

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

30 (D) Financial experience;

31 (E) Insurance needs;

32 (F) Financial objectives;

33 (G) Intended use for an annuity;

34 (H) Financial time horizon;

35 (I) Existing assets, including investment, annuity and other insurance holdings;

36 (J) Liquidity needs;

37 (K) Liquid net worth;

38 (L) Risk tolerance, including but not limited to the prospective purchaser’s willingness
39 to accept elements in the annuity that are not guaranteed;

40 (M) Financial resources for funding an annuity; and

41 (N) Tax status.

42 (j)(A) “Recommendation” means a producer’s advice to a prospective purchaser that the
43 producer intends as an inducement to sell, exchange or replace an annuity or that results
44 in a sale, exchange or replacement of an annuity.

45 (B) “Recommendation” does not include a general communication to the public, general-

1 ized customer service, administrative support, general educational information and tools,
2 prospectuses or other product material or sales material.

3 (k) "Replacement" means a purchase of a new annuity that an insurer or producer knows
4 or should know will cause an existing annuity or other insurance policy to:

5 (A) Lapse, become forfeit, be surrendered or partially surrendered, become assigned to
6 the replacing insurer or terminate;

7 (B) Convert to paid-up insurance, continue as extended term insurance or otherwise re-
8 duce in value using nonforfeiture benefits or other policy values;

9 (C) Reduce through amendment the annuity's or other insurance policy's benefits or the
10 term during which coverage remains effective or in which an insurer pays benefits;

11 (D) Be reissued with a reduction in cash value; or

12 (E) Be used in a financed purchase.

13 (2)(a) Except as provided in paragraph (b) of this subsection, this section applies to any
14 sale or recommendation of an annuity.

15 (b) This section does not apply to a transaction that involves:

16 (A) A direct-response solicitation, if a producer does not make a recommendation based
17 on a prospective purchaser profile;

18 (B) A contract that funds:

19 (i) An employee pension or welfare benefit plan that is covered under the Employee Re-
20 tirement and Income Security Act, 29 U.S.C. 1001 et seq., as in effect on the operative date
21 specified in section 5 of this 2023 Act;

22 (ii) A plan that an employer establishes or maintains in accordance with sections 401(a),
23 403(b) or 408(k) or (p) of the Internal Revenue Code;

24 (iii) A governmental plan or church plan, as defined in section 414(d) and (e) of the
25 Internal Revenue Code;

26 (iv) A deferred compensation plan that a state or local government establishes or main-
27 tains in accordance with section 457 of the Internal Revenue Code;

28 (v) A nonqualified deferred compensation arrangement that an employer or sponsor es-
29 tablishes or maintains;

30 (vi) A settlement or assumption of liability associated with personal injury litigation or
31 a dispute or claim resolution process; or

32 (vii) A formal prepaid funeral contract.

33 (3)(a) A producer, in making a recommendation of an annuity, shall act in the best in-
34 terest of a prospective purchaser under the circumstances the producer knows at the time
35 the producer makes the recommendation, without placing the producer's or insurer's inter-
36 ests ahead of the interests of the prospective purchaser. A producer acts in the prospective
37 purchaser's best interest if the producer:

38 (A) Exercises reasonable skill, diligence and care to:

39 (i) Know and understand the prospective purchaser's financial situation, insurance needs
40 and financial objectives after making a reasonable effort to compile a prospective purchaser
41 profile;

42 (ii) Know and understand the options the producer may recommend to the prospective
43 purchaser, which requires considering the products that in accordance with the producer's
44 license the producer may sell in order to address the needs and objectives described in sub-
45 subparagraph (i) of this subparagraph, knowing and understanding the options do not require

1 the producer to analyze or consider products that are outside the scope of the producer's
2 license, to analyze or consider other products that are available in the insurance market at
3 the time the producer makes the recommendation, or to meet any other obligation that a
4 producer with a similar license does not have to meet;

5 (iii) Form a reasonable belief that the annuity that the producer intends to recommend
6 will effectively address the prospective purchaser's insurance needs and financial objectives
7 during the life of the annuity and that specific features of the annuity, such as annuitization,
8 death or living benefits and other insurance-related features would benefit the prospective
9 purchaser, which requires the producer to consider the prospective purchaser profile, the
10 insurer's characteristics and the cost, rates, benefits and features of the annuity and might
11 not result in a recommendation of an annuity with the lowest single-instance or multiple-
12 instance compensation structure, but in forming the reasonable belief the producer does not
13 need to assign a particular level of importance to each consideration and may make a rec-
14 ommendation based on the facts or circumstances of each case, except that the producer
15 may not weigh any one consideration in isolation; and

16 (iv) Communicate to the prospective purchaser the basis for the producer's recommen-
17 dation.

18 (B) Discloses clearly, conspicuously and affirmatively before making a recommendation
19 of or selling an annuity to a prospective purchaser, and in accordance with rules the Director
20 of the Department of Consumer and Business Services adopts:

21 (i) The producer's role in the transaction and the producer's relationship with the pro-
22 spective purchaser;

23 (ii) Whether the producer has a license and authority to sell fixed annuities, fixed indexed
24 annuities, variable annuities, life insurance, mutual funds, stocks, bonds or certificates of
25 deposit;

26 (iii) Whether the producer may recommend or sell insurance products under contract
27 or otherwise from one insurer, from two or more insurers or from two or more insurers
28 while remaining under a primary contract with one insurer;

29 (iv) The sources and nature of the cash compensation and non-cash compensation the
30 producer will receive for making a recommendation of or selling an annuity, including
31 whether the compensation is a commission that is part of a premium or other remuneration
32 the producer receives from the insurer, an intermediary or another producer or whether the
33 compensation is a fee that results from a contract for advice or consulting services;

34 (v) The prospective purchaser's right to request additional information about the
35 producer's cash compensation; and

36 (vi) A reasonable estimate, at the request of the prospective purchaser or a designated
37 representative of the prospective purchaser, of the cash compensation that the producer will
38 receive from recommending or selling the annuity, how often the producer will receive the
39 cash compensation and, if the compensation occurs more than once, the amount of each
40 payment, all of which the producer may disclose as a range or a percentage.

41 (C) Identifies and avoids, or reasonably manages and discloses, any material conflict of
42 interest, including a material conflict of interest that is related to a producer's ownership
43 interest.

44 (D) Records in writing at the time the producer makes a recommendation of or sells an
45 annuity, and in accordance with rules the director adopts:

1 (i) The substance of and basis for the producer's recommendation; and

2 (ii) A statement signed by a prospective purchaser who refuses to provide information
3 for a prospective purchaser profile that acknowledges that the prospective purchaser refused
4 to provide information for the prospective purchaser profile, that the prospective purchaser
5 understands the consequences of the refusal or the consequences of providing insufficient
6 information for the prospective purchaser profile and that the producer does not advise the
7 prospective purchaser to enter into a transaction for an annuity that the producer does not
8 recommend.

9 (b) The requirements set forth in paragraph (a) of this subsection:

10 (A) Do not create a fiduciary obligation for the producer or a fiduciary relationship be-
11 tween the producer and a prospective purchaser;

12 (B) Apply to a particular annuity as a whole, to the underlying subaccounts to which
13 funds are allocated at the time the annuity is purchased or exchanged and to any riders or
14 similar product enhancements; and

15 (C) Do not require of a producer an ongoing obligation to monitor compliance with the
16 requirements set forth in paragraph (a) of this subsection, unless a separate fiduciary, con-
17 sulting, investment advising or financial planning agreement provides otherwise.

18 (c) A producer shall consider the whole transaction if the transaction will exchange or
19 replace an existing annuity, which requires that the producer consider whether:

20 (A) The prospective purchaser will incur a surrender charge, be required to begin a new
21 surrender period, lose existing death, living or other contractual benefits or incur increased
22 fees, investment advisory fees or charges for riders or similar product enhancements;

23 (B) The new annuity, over the life of the new annuity, will substantially benefit the pro-
24 spective purchaser in comparison to the existing annuity; and

25 (C) The prospective producer had a previous annuity exchange or replacement, partic-
26 ularly within the preceding 60 months.

27 (d) This subsection does not require a producer to obtain any license other than a pro-
28 ducer license with appropriate authority to solicit, negotiate or sell insurance in this state
29 and does not require the producer to have or obtain a license to sell securities in this state
30 if the producer does not give advice or provide services that are subject to federal or state
31 securities laws or does not engage in any other activity that requires another professional
32 license.

33 (e) Before or at the time a producer makes a recommendation of or sells an annuity, the
34 producer shall have a reasonable basis for believing that a prospective purchaser was in-
35 formed of the annuity's features, such as the potential surrender period and surrender
36 charge, the potential tax penalty the prospective purchaser would incur from selling, ex-
37 changing, surrendering or annuitizing the annuity, any mortality and expense fees, invest-
38 ment advisory fees, annual fees, potential charges for and features of riders or other
39 enhancements, limitations on interest returns, potential charges for elements that are not
40 guaranteed, the annuity's insurance and investment components and the overall market risk.

41 (f) The requirements of this subsection apply to any producer who exercises material
42 control or influence over a recommendation or sale of an annuity and who receives direct
43 compensation as a result of the recommendation or sale, even if the producer did not have
44 direct contact with the prospective purchaser. Providing or delivering marketing or educa-
45 tional materials, product wholesaling or back office support for, or general supervision of, a

1 producer does not, alone, constitute material control or influence.

2 (4)(a) A producer does not have an obligation under subsection (3) of this section to a
3 person if:

4 (A) The producer does not make a recommendation of an annuity;

5 (B) The producer made a recommendation based on materially inaccurate information
6 from the person;

7 (C) The person refused to provide information for a prospective purchaser profile and the
8 producer did not recommend the annuity that was the subject of the person's transaction;
9 or

10 (D) The person enters into a transaction for an annuity that the producer did not re-
11 commend.

12 (b) Notwithstanding a producer's exemption from an obligation under paragraph (a) of
13 this subsection, an insurer's issuance of an annuity must be reasonable under all of the cir-
14 cumstances of which the insurer has actual knowledge at the time the insurer issues the
15 annuity.

16 (5)(a) Except as provided in subsection (4) of this section, an insurer may not issue an
17 annuity on the basis of a producer's recommendation to a prospective purchaser unless after
18 considering the prospective purchaser profile the insurer has a reasonable basis for believing
19 that the annuity would effectively address the prospective purchaser's financial situation,
20 insurance needs and financial objectives.

21 (b) An insurer shall establish and maintain a system that is reasonably designed to en-
22 sure that the insurer and the insurer's producers comply with this section. The system, at
23 a minimum, must:

24 (A) Have reasonable procedures for educating producers of the requirements of this
25 section and for incorporating the education into relevant training materials for producers;

26 (B) Have standards for training producers on the insurer's products that require the
27 producers to comply with the requirements of subsection (8) of this section;

28 (C) Provide product-specific training and training materials that explain all material
29 features of the insurer's annuity products;

30 (D) Require a review of each of a producer's recommendations before the insurer issues
31 an annuity to ensure that a reasonable basis exists for determining that the annuity would
32 effectively address a prospective purchaser's financial situation, insurance needs and finan-
33 cial objectives, which review may consist of screening each recommendation, electronically
34 or otherwise, and identifying recommendations that require further review;

35 (E) Have a method for detecting recommendations that do not comply with the provisions
36 of this section, which may include confirming information in a prospective purchaser profile,
37 conducting systematic customer surveys and interviews, issuing confirmation letters to
38 purchasers, taking statements or attestations from producers and otherwise conducting
39 internal monitoring, and may consist of taking appropriate samples or confirming informa-
40 tion in a prospective purchaser profile after issuing and delivering an annuity;

41 (F) Assess at the time the insurer issues or delivers an annuity whether a producer did
42 in fact provide the information the producer must provide under this section to a prospective
43 purchaser;

44 (G) Have reasonable procedures for identifying and addressing suspicious refusals to
45 provide information for a prospective purchaser profile;

1 **(H) Have reasonable procedures for identifying and eliminating any sales contests, sales**
2 **quotas, bonuses and non-cash compensation that are based on sales of specific annuities**
3 **within a limited period of time, except that the procedures need not prohibit non-cash com-**
4 **penetration that consists of health insurance, office rent, office support, retirement benefits**
5 **or other employee benefits if the benefits are not based on the sales volume of a specific**
6 **annuity within a limited period of time; and**

7 **(I) Require annual written reports to the insurer's senior management, including the**
8 **senior manager with responsibility for auditing functions, that details the insurer's process**
9 **of reviewing and testing the effectiveness of the system and taking or recommending cor-**
10 **rective action to address flaws.**

11 **(c) An insurer may contract with another person to perform a function required under**
12 **this subsection, but the insurer remains responsible for taking appropriate action and is li-**
13 **able under subsection (12) of this section for any penalties for failing to comply with the re-**
14 **quirements of this section even if the insurer contracted with another person to meet the**
15 **requirement. If the insurer contracts with another person under this paragraph, the insurer**
16 **must supervise the contractor's performance by:**

17 **(A) Monitoring the performance and conducting audits if appropriate; and**

18 **(B) Obtaining each year from a senior manager with responsibility for the function the**
19 **contractor performs a certification that the manager has a reasonable basis for believing and**
20 **does believe that the contractor is performing the function properly.**

21 **(d) An insurer need not include in a system described in paragraph (b) of this subsection:**

22 **(A) A producer's recommendation of a product that the insurer does not offer; or**

23 **(B) A consideration of or comparison to options available to a producer other than an-**
24 **nuities the insurer offers or a consideration of or comparison to compensation available to**
25 **the producer through options other than annuities the insurer offers.**

26 **(6) An insurer or a producer may not dissuade or attempt to dissuade a person from**
27 **truthfully responding to an insurer's request to confirm information in a prospective pur-**
28 **chaser profile, from filing a complaint or from cooperating with an investigation of a com-**
29 **plaint.**

30 **(7)(a) An insurer or financial professional that makes a recommendation of or sells an**
31 **annuity in compliance with standards, business rules, controls and procedures that are**
32 **comparable to the requirements of this section complies with the requirements of this sec-**
33 **tion, even if the standard, business rule, control or procedure does not apply directly to the**
34 **recommendation or the annuity. An insurer that supervises a financial professional under**
35 **standards, business rules, controls and procedures that are comparable to the requirements**
36 **of this section shall:**

37 **(A) Use information the insurer collects in the normal course of the insurer's business**
38 **to monitor the financial professional's relevant conduct or to monitor any person that is**
39 **responsible for supervising the financial professional's conduct, such as the financial**
40 **professional's broker-dealer or an investment adviser registered under federal or state se-**
41 **curities laws; and**

42 **(B) Provide to a person that is responsible for supervising the financial professional's**
43 **conduct as described in subparagraph (A) of this paragraph reports and information that are**
44 **reasonably appropriate for assisting the person to properly supervise the financial profes-**
45 **sional.**

1 (b) This subsection does not affect an insurer's obligation to comply with subsection
2 (5)(a) of this section, except that the insurer may base an analysis of whether an annuity
3 would effectively address a prospective purchaser's financial situation, insurance needs and
4 financial objectives on information the insurer receives from a financial professional or a
5 person that supervises the conduct of the financial professional.

6 (c) This subsection does not affect the director's powers to investigate and enforce the
7 provisions of this section.

8 (8)(a) A producer may not solicit the sale of an annuity unless the producer has knowl-
9 edge that is adequate to make a recommendation of the annuity and has complied with the
10 insurer's standards for product training. A producer may rely for compliance with this sub-
11 section on product-specific training standards and materials the insurer provides.

12 (b) A producer that makes a recommendation of or sells an annuity shall complete, at a
13 minimum, a four-hour training course with a continuing education provider that has regis-
14 tered with the Department of Consumer and Business Services.

15 (c) A producer with authority to transact life insurance in this state who intends to make
16 recommendations of or sell annuities shall complete the course described in paragraph (b)
17 of this section within 180 days following the operative date specified in section 5 of this 2023
18 Act. A producer that obtains authority to transact life insurance in this state after the op-
19 erative date specified in section 5 of this 2023 Act may not make a recommendation of or sell
20 an annuity until after completing the course.

21 (d) A producer that has completed a course described in paragraph (b) of this subsection
22 before the operative date specified in section 5 of this 2023 Act shall within 180 days after the
23 operative date specified in section 5 of this 2023 Act complete either:

24 (A) A new training course that complies with rules the director adopts under this sec-
25 tion; or

26 (B) A supplemental one-hour training course on appropriate standards of conduct, sales
27 practices, disclosure requirements and what to be aware of when replacing an existing an-
28 nuity.

29 (e) A producer may complete a training course described in paragraph (b) of this sub-
30 section in a classroom or by self-study in accordance with rules the director adopts under
31 this section.

32 (f) A producer that completes in another state a training course or components of a
33 training course that is substantially similar to the requirements specified in this subsection
34 complies with the applicable requirements of this subsection.

35 (9)(a) A training course described in subsection (8)(b) of this section must be of sufficient
36 length to qualify for four continuing education credits, but may be longer, and must cover:

37 (A) Types and classifications of annuities;

38 (B) How to identify parties to an annuity;

39 (C) How contract provisions for specific annuities affect purchasers;

40 (D) Income taxation of qualified and nonqualified annuities;

41 (E) Primary uses for annuities; and

42 (F) Appropriate standards of conduct, sales practices, disclosure requirements and what
43 to be aware of when replacing an existing annuity.

44 (b) A person that provides a training course described in subsection (8)(b) of this section:

45 (A) Shall register with the department as a continuing education provider and comply

1 with rules the director adopts for continuing education providers;

2 (B) Shall cover in a training course the person intends as compliant with the require-
3 ments of this subsection all of the topics described in paragraph (a) of this subsection;

4 (C) May cover in a training course topics in addition to the topics described in paragraph
5 (a) of this subsection;

6 (D) Shall comply with reporting requirements and issue certificates of completion in ac-
7 cordance with rules the director adopts under this section; and

8 (E) May not present during a training course described in paragraph (a) of this sub-
9 section marketing information or training that concerns sales techniques or that is specific
10 to a particular insurer's products.

11 (10) An insurer shall verify that a producer has completed a training course described in
12 subsection (8)(b) of this section before permitting the producer to make a recommendation
13 of or sell the insurer's annuities. For the verification, the insurer shall obtain from the
14 producer a certificate of completion for the course or consult other reliable sources that
15 document the producer's completion of the course.

16 (11) An insurer and any producer, contractor, general agent or independent agent affil-
17 iated with the insurer shall maintain for not less than three years after the date of any
18 recommendation or sale of an annuity, and shall make available to the director upon demand,
19 records of all information collected from and disclosures, including oral disclosures, made to
20 a prospective purchaser or purchaser, and any other information that was used in or formed
21 the basis for a recommendation of an annuity. An insurer may, but is not required to,
22 maintain records on a producer's behalf. An insurer may maintain a record under this sub-
23 section on paper, as a photograph or in any electronic media that accurately reproduces the
24 content of the record and can be easily retrieved and perceived.

25 (12)(a) The director may initiate an enforcement proceeding or action against an insurer
26 for the insurer's failure to comply with or violation of this section or for a failure or vio-
27 lation committed by a producer or contractor affiliated with the insurer. The director may:

28 (A) Require the insurer, the producer, the contractor or a general or independent agency
29 affiliated with the insurer to take reasonably appropriate corrective action to remedy harm
30 to a person injured by the failure or violation; and

31 (B) Impose a civil penalty or other sanction.

32 (b) The director may reduce or waive a civil penalty the director imposes under this
33 subsection if the director determines that the insurer took corrective action promptly and
34 that the insurer's failure to comply or violation was not part of a pattern or practice.

35 (c) The director may adopt rules to carry out the provisions of this section.

36 **SECTION 3.** ORS 731.156 is amended to read:

37 731.156. "Variable life insurance" and "variable annuity" mean *[those]* forms of life insurance
38 or annuity benefits, respectively, *[which]* **that** vary according to the investment experience of a
39 separate account or accounts maintained by the insurer with respect to policies providing such
40 benefits~~]~~ **or a policy or contract that is registered under the Securities Act of 1933, 15 U.S.C.**
41 **77a et seq., as in effect on the operative date specified in section 5 of this 2023 Act, and that**
42 **provides for benefits that vary according to the performance of an index if the principal or**
43 **stated rate of interest is not guaranteed.** For convenience, reference to "variable life
44 insurance" in the Insurance Code includes variable life insurance and variable annuities as defined
45 in this section, except if the inclusion of variable annuities obviously is inapplicable or if the context

1 requires, or the Insurance Code provides, otherwise.

2 **SECTION 4.** Section 2 of this 2023 Act and the amendments to ORS 731.156 by section 3
3 of this 2023 Act apply to annuities that an insurer or producer recommends, sells or issues
4 on or after the operative date specified in section 5 of this 2023 Act.

5 **SECTION 5.** (1) Section 2 of this 2023 Act and the amendments to ORS 731.156 by section
6 3 of this 2023 Act become operative on January 1, 2024.

7 (2) The Director of the Department of Consumer and Business Services may adopt rules
8 and take any other action before the operative date specified in subsection (1) of this section
9 that is necessary to enable the director, on and after the operative date specified in sub-
10 section (1) of this section, to undertake and exercise all of the duties, functions and powers
11 conferred on the director by section 2 of this 2023 Act and the amendments to ORS 731.156
12 by section 3 of this 2023 Act.

13 **SECTION 6.** This 2023 Act takes effect on the 91st day after the date on which the 2023
14 regular session of the Eighty-second Legislative Assembly adjourns sine die.

15