

## CHAPTER 238

---

**FINANCIAL INSTITUTIONS**

---

**SENATE BILL 94-120**

BY SENATORS R. Powers and Casey;  
also REPRESENTATIVE Grampas.

**AN ACT****CONCERNING THE AUTHORITY OF BANKS TO SELL ANNUITY CONTRACTS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 10-2-221 (2) (a), Colorado Revised Statutes, 1987 Repl. Vol., as it exists until January 1, 1995, is amended to read:

**10-2-221. Bank or bank holding company may sell insurance - where - regulation.** (2) No bank or bank holding company, nor any subsidiary, affiliate, or employee thereof, shall be licensed or admitted, directly or indirectly, as an insurer or be licensed to sell insurance in this state except as provided for banks in section 11-6-101 (2), C.R.S.; except that:

(a) A bank or a bank holding company, or any subsidiary, affiliate, or employee thereof, may be licensed to sell credit life, ~~and~~ credit accident and health insurance, AND FIXED AND VARIABLE ANNUITY CONTRACTS in accordance with regulations promulgated by the commissioner; and

**SECTION 2.** Part 2 of article 2 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it exists until January 1, 1995, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-2-221.5. Sale of annuities by banks - certain tying arrangements prohibited.** NO BANK, BANK HOLDING COMPANY, OR SUBSIDIARY, AFFILIATE, OR EMPLOYEE OF A BANK OR BANK HOLDING COMPANY SHALL EXTEND CREDIT, LEASE OR SELL PROPERTY OF ANY KIND, FURNISH ANY SERVICE, OR FIX OR VARY THE CONSIDERATION FOR ANY SUCH EXTENSION OF CREDIT, LEASE, SALE, OR SERVICE ON THE CONDITION OR REQUIREMENT THAT THE CUSTOMER SHALL OBTAIN FROM SUCH

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

BANK, BANK HOLDING COMPANY, SUBSIDIARY, AFFILIATE, OR EMPLOYEE A FIXED OR VARIABLE ANNUITY CONTRACT.

**SECTION 3.** Part 6 of article 2 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-2-602. Sale of annuities by banks - certain tying arrangements prohibited.**

NO BANK, BANK HOLDING COMPANY, OR SUBSIDIARY, AFFILIATE, OR EMPLOYEE OF A BANK OR BANK HOLDING COMPANY SHALL EXTEND CREDIT, LEASE OR SELL PROPERTY OF ANY KIND, FURNISH ANY SERVICE, OR FIX OR VARY THE CONSIDERATION FOR ANY SUCH EXTENSION OF CREDIT, LEASE, SALE, OR SERVICE ON THE CONDITION OR REQUIREMENT THAT THE CUSTOMER SHALL OBTAIN FROM SUCH BANK, BANK HOLDING COMPANY, SUBSIDIARY, AFFILIATE, OR EMPLOYEE A FIXED OR VARIABLE ANNUITY CONTRACT.

**SECTION 4.** 10-2-601 (2) (a), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended to read:

**10-2-601. Bank or bank holding company may sell insurance - where - regulation.** (2) No bank or bank holding company, nor any subsidiary, affiliate, or employee thereof, shall be licensed or admitted, directly or indirectly, as an insurer or be licensed to sell insurance in this state except in the manner provided for banks in section 11-6-101 (2), C.R.S.; except that:

(a) A bank or bank holding company, or any subsidiary, affiliate, or employee thereof, may be licensed to sell credit insurance AND FIXED AND VARIABLE ANNUITY CONTRACTS in accordance with regulations promulgated by the commissioner;

**SECTION 5.** 11-6-101 (2), Colorado Revised Statutes, 1987 Repl. Vol., as it exists until January 1, 1995, is amended to read:

**11-6-101. Branch banks and practices prohibited - facilities defined.**

(2) EXCEPT AS AUTHORIZED UNDER SECTION 10-2-221 (2), C.R.S., no bank shall directly or indirectly engage in trade or commerce; but any bank, located and doing business in any community the population of which does not exceed five thousand inhabitants, as shown by the last preceding federal census, may, pursuant to federal law, under such rules and regulations as may be prescribed by the banking board and subject to regulations promulgated by the commissioner of insurance concerning the sale of insurance by banks as provided in section 10-2-221, C.R.S., act as the agent for any fire, life, or other insurance company authorized to do business in this state by soliciting and selling insurance and collecting premiums on policies issued by such company. For services so rendered, such bank may receive such fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent; except that no such bank shall in any case assume or guarantee the payment by its principal of any premium on insurance policies issued through its agency; and except that the bank shall not be held responsible for the truth of any statement made by an assured in filing his application for insurance.

**SECTION 6.** 11-6-101 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended to read:

**11-6-101. Branch banks and practices prohibited - facilities defined.**

(2) EXCEPT AS AUTHORIZED UNDER SECTION 10-2-601 (2), C.R.S., no bank shall directly or indirectly engage in trade or commerce; but any bank, located and doing business in any community the population of which does not exceed five thousand inhabitants, as shown by the last preceding federal census, may, pursuant to federal law, under such rules and regulations as may be prescribed by the banking board and subject to regulations promulgated by the commissioner of insurance concerning the sale of insurance by banks as provided in section 10-2-601, C.R.S., act as the agent for any fire, life, or other insurance company authorized to do business in this state by soliciting and selling insurance and collecting premiums on policies issued by such company. For services so rendered, such bank may receive such fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent; except that no such bank shall in any case assume or guarantee the payment by its principal of any premium on insurance policies issued through its agency; and except that the bank shall not be held responsible for the truth of any statement made by an assured in filing his application for insurance.

**SECTION 7.** Part 6 of article 2 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-2-603. Bank sale of annuities - disclosure requirements.** (1) ANY BANK OR BANK HOLDING COMPANY OR ANY SUBSIDIARY, AFFILIATE, OR EMPLOYEE THEREOF WHICH SELLS A FIXED OR VARIABLE ANNUITY CONTRACT SHALL RECEIVE WRITTEN ACKNOWLEDGMENT FROM THE PURCHASER THAT THE ANNUITY WHICH IS BEING PURCHASED INVOLVES INVESTMENT RISK AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION. SUCH WRITTEN NOTICE SHALL BE CLEAR AND CONSPICUOUS AND SHALL BE GIVEN BEFORE OR CONTEMPORANEOUSLY WITH THE PURCHASE OF THE ANNUITY.

(2) A CLEAR AND CONSPICUOUS NOTICE SUBSTANTIALLY IN THE FOLLOWING FORM COMPLIES WITH THIS SECTION:

ACKNOWLEDGMENT

\_\_\_\_\_  
(COMPLETE NAME OF INVESTMENT)

I UNDERSTAND THAT THE INVESTMENT PRODUCT I AM PURCHASING IS NOT A BANK DEPOSIT AND IS NOT AN OBLIGATION OF, NOR IS IT GUARANTEED BY, ANY BANK. THIS PRODUCT IS NOT INSURED OR GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION. IN ADDITION, I UNDERSTAND THAT THE INVESTMENT PRODUCT PURCHASED MAY BE SUBJECT TO INVESTMENT RISK, INCLUDING POSSIBLE LOSS OF PRINCIPAL, AND THAT ANY INVESTMENT PRODUCT'S PAST PERFORMANCE SHOULD NOT BE CONSIDERED AN INDICATION OF FUTURE RESULTS.

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNED)

**SECTION 8. Effective date.** This act shall take effect July 1, 1994; except that sections 3, 4, and 6 shall take effect January 1, 1995, and section 7 shall take effect July 1, 1995.

**SECTION 9. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 1994