

1 AN ACT concerning financial transactions.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the  
5 Financial Transaction Review Act.

6 Section 5. Right to review by an attorney.

7 (a) In all transactions involving contracts for life  
8 insurance of all kinds and investment products including, but  
9 not limited to, variable or fixed annuities, mutual funds,  
10 IRAs, 401(K)s, securities, or assets under management, with  
11 annual or initial premiums or payments in excess of \$2,500,  
12 the consumer must be advised in writing of his right to a  
13 review of the proposed transaction by an Illinois licensed  
14 attorney.

15 (b) A properly licensed financial service provider, or  
16 any Illinois licensed attorney who is properly licensed in  
17 insurance or securities, who provides insurance, annuities,  
18 securities, or other related financial services or products  
19 to a consumer may pay all or part of the cost of the review  
20 of the transaction along with the cost of any document  
21 preparation or estate planning legal services (or may provide  
22 those legal services free of charge if he is a licensed  
23 attorney) related to the transaction for a consumer who has  
24 purchased a financial product, provided that if the attorney  
25 is an employee of the financial service provider, he has  
26 disclosed his potential conflict of interest to the consumer  
27 and the consumer has agreed to waive any potential conflict  
28 of interest as it relates to the transaction or if the  
29 attorney is a financial service provider acting in a dual  
30 capacity, he has disclosed his dual licensing and his  
31 potential conflict of interest to the consumer and the

1 consumer has agreed to waive any potential conflict of  
2 interest as it relates to the transaction and to the attorney  
3 acting in a dual capacity.

4 (c) When an attorney is acting in a dual capacity as  
5 financial service provider and attorney for review and  
6 related legal services, or if the attorney performing the  
7 review is an employee of the financial service provider, the  
8 consumer must be advised in writing of his right to an  
9 attorney review of the proposed transaction by an attorney  
10 who is not the financial service provider, or is not an  
11 employee of the financial service provider, as the case may  
12 be.

13 Section 10. Scope of review. A consumer's attorney review  
14 is not intended to be repetitive or competitive with the  
15 financial service provider and shall not consider issues such  
16 as cost or quality of insurance or investment choice. The  
17 attorney's review shall be limited in scope and focus to the  
18 following considerations:

19 (1) whether the client's risk profile is accurate  
20 and consistent with the client's estate planning needs;

21 (2) whether the insurance or investment plan is  
22 affordable to the client based on present income and  
23 expense needs;

24 (3) whether the proposed ownership and beneficiary  
25 designation is consistent with current estate plan  
26 intentions and whether all assets have been transferred  
27 and titled properly;

28 (4) whether the client's current estate plan is  
29 adequate to accommodate the recommendations proposed, and  
30 whether there are any necessary legal documents that must  
31 be prepared to properly perfect the client's estate  
32 planning objectives; and

33 (5) any other legal concerns that the attorney

1           deems necessary to address.

2           Section 15. Statement of objections.

3           (a) If an attorney has objections to the proposed  
4 financial service transaction, he shall state them in writing  
5 and forward his objections to the financial service provider.  
6 The financial service provider shall then consult with the  
7 consumer. The consumer may accept the financial service  
8 product against the advice of the attorney, or the financial  
9 service provider may present a revised proposal for the  
10 attorney's review.

11          (b) Upon presentation for review from a financial  
12 service provider, the attorney shall be prohibited from  
13 making a referral to another competing financial service  
14 provider, and in no event shall the attorney, upon review,  
15 offer specific insurance or investment alternatives to the  
16 consumer, whether or not the attorney is licensed to do so,  
17 unless he was the original attorney acting in a dual capacity  
18 with consent from the consumer and independent attorney  
19 review was waived in writing.

20          Section 20. Right of rescission. If the consumer is not  
21 advised of or allowed to exercise his right to independent  
22 attorney review, the consumer may rescind the transaction  
23 without penalty of any kind for any reason at any time within  
24 one year after the consummation of the transaction.

25          Section 25. Payment for review. If the cost of the  
26 attorney review and related legal services are paid for from  
27 commissions earned by the financial service provider, they  
28 must be paid directly to the attorney. The amount of the  
29 payment must be a reasonable and customary fee for such legal  
30 services, and payment for legal services provided must not be  
31 dependent upon a positive review. If no sale is made or no

1 commissions are earned, the cost of the attorney's services  
2 may not be passed on to the consumer unless the consumer has  
3 agreed in writing in advance of the transaction to pay the  
4 attorney's fees directly in the event that the consumer  
5 chooses not to consummate the financial transaction.

6 Section 30. No obligation upon financial service provider  
7 to pay for review. Nothing in this Act requires a financial  
8 service provider to pay the cost of an attorney's review or  
9 other legal services related to the proposed financial  
10 transaction, and nothing in this Act shall be implied to  
11 require an attorney review of a financial transaction if the  
12 consumer has been advised of his right to an attorney review  
13 and he has chosen to waive it.

14 Section 35. Administration by Department of Insurance.

15 (a) This Act shall be administered by the Department of  
16 Insurance. The Department may promulgate rules necessary to  
17 enforce the provisions of this Act.

18 (b) The rules promulgated under this Act may include  
19 forms for the proper disclosure of any potential conflicts of  
20 interest.