

111TH CONGRESS  
1ST SESSION

# S. 1389

To clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Mr. NELSON of Nebraska (for himself, Mr. CHAMBLISS, Mr. HARKIN, and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fixed Indexed Annu-

5       ities and Insurance Products Classification Act of 2009”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress makes the following find-

8       ings:

1           (1) Primary jurisdiction for regulating life in-  
2           surance and annuities is vested with the States and  
3           Territories of the United States and the District of  
4           Columbia.

5           (2) Indexed insurance and annuity products of-  
6           fered by insurance companies are subject to a wide  
7           array of laws and regulations enforced by States and  
8           applicable jurisdictions, including nonforfeiture re-  
9           quirements that provide for minimum guaranteed  
10          values, thereby protecting consumers against market  
11          related losses.

12          (3) Adoption of Rule 151A by the Securities  
13          and Exchange Commission, entitled “Indexed Annu-  
14          ities and Certain Other Insurance Products”, 74  
15          Fed. Reg. 3138 (January 16, 2009), interferes with  
16          State insurance regulation, harms the insurance in-  
17          dustry, reduces competition, restricts consumer  
18          choice, creates unnecessary and excessive regulatory  
19          burdens, and diverts Commission resources, all of  
20          which outweighs any perceived benefits.

21          (b) PURPOSE.—The purpose of this Act is to nullify  
22          rule 151A and clarify the scope of the exemption for annu-  
23          ities and insurance contracts from Federal regulation  
24          under the Securities Act of 1933.

1 **SEC. 3. SCOPE OF EXEMPTION FROM FEDERAL SECURITIES**  
 2 **REGULATION.**

3 Section 3(a)(8) of the Securities Act of 1933 (15  
 4 U.S.C. 77c(a)(8)) is amended by inserting before the semi-  
 5 colon the following: “, and any insurance or endowment  
 6 policy or annuity contract or optional annuity contract—

7 “(A) the value of which does not vary ac-  
 8 cording to the performance of a separate ac-  
 9 count; and

10 “(B) which satisfies standard nonforfeiture  
 11 laws or similar requirements of the applicable  
 12 State, Territory, or District of Columbia at  
 13 time of issue, or in the absence of applicable  
 14 standard nonforfeiture laws or requirements,  
 15 satisfies the Model Standard Nonforfeiture Law  
 16 for Life Insurance or Model Standard Nonfor-  
 17 feiture Law for Individual Deferred Annuities,  
 18 or any successor model law, as published by the  
 19 National Association of Insurance Commis-  
 20 sioners”.

21 **SEC. 4. NULLIFICATION OF CERTAIN FEDERAL SECURITIES**  
 22 **REGULATIONS.**

23 Rule 151A promulgated by the Securities and Ex-  
 24 change Commission and entitled “Indexed Annuities and

- 1 Certain Other Insurance Contracts”, 74 Fed. Reg. 3138
- 2 (January 16, 2009), shall have no force or effect.

