

1-1 By: Flynn (Senate Sponsor - Hughes) H.B. No. 2820
 1-2 (In the Senate - Received from the House April 11, 2019;
 1-3 April 15, 2019, read first time and referred to Committee on State
 1-4 Affairs; April 29, 2019, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; April 29, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the registration and certification of certain
 1-20 investment products made available to public school employees.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 ARTICLE 1. ELIGIBLE QUALIFIED INVESTMENTS

1-23 SECTION 1.01. Section 4, Chapter 22 (S.B. 17), Acts of the
 1-24 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
 1-25 Vernon's Texas Civil Statutes), is amended to read as follows:

1-26 Sec. 4. In this section and in Sections 5, 6, [~~7, 8, 8A,~~] 9,
 1-27 9A, 9B, 10, 11, and 12[~~, and 13~~] of this Act:

1-28 (1) [~~"Board of trustees" means the board of trustees~~
 1-29 ~~of the Teacher Retirement System of Texas.~~

1-30 [~~(2)~~] "Educational institution" means a school
 1-31 district or an open-enrollment charter school.

1-32 (2) [~~(3)~~] "Eligible qualified investment" means a
 1-33 qualified investment product offered by a company that [~~+~~

1-34 [~~(A)~~] is eligible to offer the product [~~certified~~
 1-35 ~~to the board of trustees~~] under Section 6 [5] of this Act [~~, or~~

1-36 [~~(B) is eligible to certify to the board of~~
 1-37 ~~trustees under Section 8 of this Act].~~

1-38 (3) [~~(4)~~] "Employee" means an employee of an
 1-39 educational institution.

1-40 (4) [~~(5)~~] "Qualified investment product" means an
 1-41 annuity or investment that:

1-42 (A) meets the requirements of Section 403(b),
 1-43 Internal Revenue Code of 1986, and its subsequent amendments;

1-44 (B) complies with applicable federal insurance
 1-45 and securities laws and regulations; and

1-46 (C) complies with applicable state insurance and
 1-47 securities laws and rules.

1-48 (5) [~~(6)~~] "~~Retirement system" means the Teacher~~
 1-49 ~~Retirement System of Texas.~~

1-50 [~~(7)~~] "Salary reduction agreement" means an agreement
 1-51 between an educational institution and an employee to reduce the
 1-52 employee's salary for the purpose of making direct contributions to
 1-53 or purchases of a qualified investment product.

1-54 SECTION 1.02. Sections 5(a) and (f), Chapter 22 (S.B. 17),
 1-55 Acts of the 57th Legislature, 3rd Called Session, 1962 (Article
 1-56 6228a-5, Vernon's Texas Civil Statutes), are amended to read as
 1-57 follows:

1-58 (a) An educational institution may enter into a salary
 1-59 reduction agreement with an employee of the institution only if the
 1-60 qualified investment product [~~+~~

1-61 [~~(1)~~] is an eligible qualified investment [~~, and~~

2-1 ~~[(2) is registered with the retirement system under~~
2-2 ~~Section 8A of this Act].~~

2-3 (f) To the greatest degree possible, educational
2-4 institutions that enter into a salary reduction agreement with
2-5 [employers of] employees [who participate in the program offered]
2-6 under this section shall require that contributions to eligible
2-7 qualified investments be made by automatic payroll deduction and
2-8 deposited directly in the investment accounts.

2-9 SECTION 1.03. Sections 6(a) and (b), Chapter 22 (S.B. 17),
2-10 Acts of the 57th Legislature, 3rd Called Session, 1962 (Article
2-11 6228a-5, Vernon's Texas Civil Statutes), are amended to read as
2-12 follows:

2-13 (a) An insurance [A] company is eligible to offer qualified
2-14 investment products to the employees of educational institutions
2-15 under [certify to the retirement system under Section 5 of] this Act
2-16 if the company satisfies the following [financial strength]
2-17 criteria:

2-18 (1) the company is licensed by the Texas Department of
2-19 Insurance and is in compliance with minimum capital and surplus
2-20 requirements, including applicable risk-based capital and surplus
2-21 requirements prescribed by rules adopted by the department
2-22 [company's actuarial opinions required under Articles 1.11 and
2-23 3.28, Insurance Code, have not been adverse or qualified in the five
2-24 years preceding the date the application is filed];

2-25 ~~[(2) the company is subject to the annual audit~~
2-26 ~~requirements of Article 1.15A, Insurance Code, and its most recent~~
2-27 ~~audit of financial strength conducted by an independent certified~~
2-28 ~~public accountant is timely filed and does not indicate the~~
2-29 ~~existence of any material adverse financial conditions in the~~
2-30 ~~company for the five years preceding the filing deadline for the~~
2-31 ~~audit];~~

2-32 ~~[(3) the company has not been the subject of an~~
2-33 ~~administrative or regulatory action by the Texas Department of~~
2-34 ~~Insurance under Article 1.32 or 21.28-A or Section 83.051,~~
2-35 ~~Insurance Code, in the five years preceding the date the~~
2-36 ~~application is filed];~~

2-37 ~~[(4) the company has maintained during the five years~~
2-38 ~~preceding the date the application is filed an average of at least~~
2-39 ~~400 percent of the authorized control level, as calculated in~~
2-40 ~~accordance with the risk-based capital and surplus requirements~~
2-41 ~~established in rules adopted by the Texas Department of Insurance];~~

2-42 ~~[(5) the company has not fallen below 300 percent of the~~
2-43 ~~authorized control level, as calculated in accordance with the~~
2-44 ~~risk-based capital and surplus established in rules adopted by the~~
2-45 ~~Texas Department of Insurance, at any time in the five years~~
2-46 ~~preceding the date the application is filed]; and~~

2-47 (2) ~~[(6)]~~ the company has [at least five years']
2-48 experience in providing qualified investment products and has a
2-49 specialized department dedicated to the service of qualified
2-50 investment products, as determined by the educational institution.

2-51 (b) A company that offers qualified investment products
2-52 other than annuity contracts, including a company that offers
2-53 custodial accounts under Section 403(b)(7), Internal Revenue Code
2-54 of 1986, is eligible to offer qualified investment products to
2-55 employees of educational institutions under this Act [For purposes
2-56 of Subsection (a)(4) of this section, the company must calculate
2-57 the five-year average on the same date each year].

2-58 SECTION 1.04. Section 9(a), Chapter 22 (S.B. 17), Acts of
2-59 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
2-60 Vernon's Texas Civil Statutes), is amended to read as follows:

2-61 (a) An educational institution may not:

2-62 (1) except as provided by Subdivision (8) of this
2-63 subsection and Subsection (b) of this section, refuse to enter into
2-64 a salary reduction agreement with an employee if the qualified
2-65 investment product that is the subject of the salary reduction is an
2-66 eligible qualified investment ~~[and is registered with the system~~
2-67 ~~under Section 8A];~~

2-68 (2) require or coerce an employee's attendance at any
2-69 meeting at which qualified investment products are marketed;

3-1 (3) limit the ability of an employee to initiate,
 3-2 change, or terminate a qualified investment product at any time the
 3-3 employee chooses;

3-4 (4) grant exclusive access to an employee by
 3-5 discriminating against or imposing barriers to any agent, broker,
 3-6 or company that provides qualified investment products under this
 3-7 Act;

3-8 (5) grant exclusive access to information about an
 3-9 employee's financial information, including information about an
 3-10 employee's qualified investment products, to a company or agent or
 3-11 affiliate of a company offering qualified investment products
 3-12 unless the employee consents in writing to the access;

3-13 (6) accept any benefit from a company or from an agent
 3-14 or affiliate of a company that offers qualified investment
 3-15 products;

3-16 (7) use public funds to recommend a qualified
 3-17 investment product offered by a company or an agent or affiliate of
 3-18 a company that offers a qualified investment product; or

3-19 (8) enter into or continue a salary reduction
 3-20 agreement with an employee if the qualified investment product that
 3-21 is the subject of the salary reduction agreement is not an eligible
 3-22 qualified investment [~~including the investment product of a~~
 3-23 ~~company whose certification has been denied, suspended, or revoked]~~
 3-24 without first providing the employee with notice in writing that:

3-25 (A) indicates the reason the subject of the
 3-26 salary reduction agreement is no longer an eligible qualified
 3-27 investment [~~or why certification has been denied, suspended, or~~
 3-28 ~~revoked]~~; and

3-29 (B) clearly states that by signing the notice the
 3-30 employee is agreeing to enter into or continue the salary reduction
 3-31 agreement.

3-32 SECTION 1.05. Section 9A, Chapter 22 (S.B. 17), Acts of the
 3-33 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
 3-34 Vernon's Texas Civil Statutes), is amended to read as follows:

3-35 Sec. 9A. A person, other than an employee of an educational
 3-36 institution, or an affiliate of the person may not enter into or
 3-37 renew a contract under which the person is to provide services for
 3-38 or administer a plan offered by the institution under Section
 3-39 403(b), Internal Revenue Code of 1986, unless the person:

3-40 (1) holds a license or certificate of authority issued
 3-41 by the Texas Department of Insurance;

3-42 (2) is registered as a securities dealer or agent or
 3-43 investment advisor with the State Securities Board; or

3-44 (3) is a financial institution that:

3-45 (A) is authorized by state or federal law to
 3-46 exercise fiduciary powers; and

3-47 (B) has sufficient presence [~~its main office, a~~
 3-48 ~~branch office, or a trust office]~~ in this state to serve the
 3-49 employees of educational institutions who participate in the plan.

3-50 SECTION 1.06. Section 9B(b), Chapter 22 (S.B. 17), Acts of
 3-51 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
 3-52 Vernon's Texas Civil Statutes), is amended to read as follows:

3-53 (b) If a person described by Subsection (a) holds a meeting
 3-54 at which qualified investment products will be marketed to
 3-55 employees of the educational institution, the person must provide
 3-56 representatives of other companies eligible to sell qualified
 3-57 investment products under Section 6 [~~certified to the retirement~~
 3-58 ~~system under Section 5 or 8]~~ of this Act an opportunity to attend
 3-59 and market their qualified investment products at the meeting.

3-60 SECTION 1.07. Section 10(a), Chapter 22 (S.B. 17), Acts of
 3-61 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
 3-62 Vernon's Texas Civil Statutes), is amended to read as follows:

3-63 (a) A person commits an offense if the person:

3-64 (1) sells or offers for sale an investment product
 3-65 that is not an eligible qualified investment [~~or that is not~~
 3-66 ~~registered under Section 8A of this Act]~~ and that the person knows
 3-67 will be the subject of a salary reduction agreement;

3-68 (2) violates the licensing requirements of Title 13,
 3-69 Insurance Code, with regard to a qualified investment product that

4-1 the person knows will be the subject of a salary reduction
4-2 agreement; or

4-3 (3) engages in activity described by Subchapter B,
4-4 Chapter 541, Insurance Code, with regard to a qualified investment
4-5 product that the person knows will be the subject of a salary
4-6 reduction agreement.

4-7 SECTION 1.08. Section 11(c), Chapter 22 (S.B. 17), Acts of
4-8 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
4-9 Vernon's Texas Civil Statutes), is amended to read as follows:

4-10 (c) The notice required under this section must be uniform
4-11 and:

4-12 (1) be in at least 14-point type;

4-13 (2) contain spaces for:

4-14 (A) the name, address, and telephone number of
4-15 the agent and company offering the annuity contract for sale;

4-16 (B) the name, address, and telephone number of
4-17 the company underwriting the annuity;

4-18 (C) the license number of the person offering to
4-19 sell the product;

4-20 (D) the name of the state agency that issued the
4-21 person's license;

4-22 (E) the name of the company account
4-23 representative who has the authority to respond to inquiries or
4-24 complaints; and

4-25 (F) with respect to fixed annuity products:

4-26 (i) the current interest rate or the
4-27 formula used to calculate the current rate of interest;

4-28 (ii) the guaranteed rate of interest and
4-29 the percentage of the premium to which the interest rate applies;

4-30 (iii) how interest is compounded;

4-31 (iv) the amount of any up-front, surrender,
4-32 withdrawal, deferred sales, and market value adjustment charges or
4-33 any other contract restriction that exceeds 10 years;

4-34 (v) the time, if any, the annuity is
4-35 required to be in force before the purchaser is entitled to the full
4-36 bonus accumulation value;

4-37 (vi) the manner in which the amount of the
4-38 guaranteed benefit under the annuity is computed;

4-39 (vii) whether loans are guaranteed to be
4-40 available under the annuity;

4-41 (viii) what restrictions, if any, apply to
4-42 the availability of money attributable to the value of the annuity
4-43 once the purchaser is retired or separated from the employment of
4-44 the employer;

4-45 (ix) the amount of any other fees, costs, or
4-46 penalties;

4-47 (x) whether the annuity guarantees the
4-48 participant the right to surrender a percentage of the surrender
4-49 value each year, and the percentage, if any; and

4-50 (xi) whether the annuity guarantees the
4-51 interest rate associated with any settlement option; and

4-52 (3) state, in plain language:

4-53 (A) that the company offering the annuity must
4-54 comply with Section 6 [5] of this Act and that the annuity must be a
4-55 qualified investment product [~~registered under Section 8A of this~~
4-56 ~~Act~~];

4-57 (B) [~~that the potential purchaser may contact the~~
4-58 ~~retirement system or access its Internet website to determine which~~
4-59 ~~companies are in compliance with Section 5 of this Act and which~~
4-60 ~~qualified investment products are registered under Section 8A of~~
4-61 ~~this Act,~~

4-62 [~~(C)~~] the civil remedies available to the
4-63 employee;

4-64 (C) [~~(D)~~] that the employee may purchase any
4-65 eligible qualified investment through a salary reduction
4-66 agreement;

4-67 (D) [~~(E)~~] the name and telephone number of the
4-68 Texas Department of Insurance division that specializes in consumer
4-69 protection; and

5-1 (E) [~~(F)~~] the name and telephone number of the
 5-2 attorney general's division that specializes in consumer
 5-3 protection.

5-4 SECTION 1.09. Section 12, Chapter 22 (S.B. 17), Acts of the
 5-5 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
 5-6 Vernon's Texas Civil Statutes), is amended to read as follows:

5-7 Sec. 12. A company that offers an eligible qualified
 5-8 investment that is subject to a salary reduction agreement shall
 5-9 require [~~demonstrate annually to the retirement system~~] that each
 5-10 of its representatives are properly licensed and qualified, by
 5-11 training and continuing education, to sell and service the
 5-12 company's eligible qualified investments.

5-13 SECTION 1.10. The following laws are repealed:

5-14 (1) Sections 5(b), (c), (d), and (e), Chapter 22 (S.B.
 5-15 17), Acts of the 57th Legislature, 3rd Called Session, 1962
 5-16 (Article 6228a-5, Vernon's Texas Civil Statutes);

5-17 (2) Sections 6(c), (d), (d-1), (d-2), (e), (f), (f-1),
 5-18 (g), (h), and (i), Chapter 22 (S.B. 17), Acts of the 57th
 5-19 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
 5-20 Texas Civil Statutes);

5-21 (3) Section 7, Chapter 22 (S.B. 17), Acts of the 57th
 5-22 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
 5-23 Texas Civil Statutes);

5-24 (4) Section 8, Chapter 22 (S.B. 17), Acts of the 57th
 5-25 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
 5-26 Texas Civil Statutes);

5-27 (5) Section 8A, Chapter 22 (S.B. 17), Acts of the 57th
 5-28 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
 5-29 Texas Civil Statutes);

5-30 (6) Section 11(b), Chapter 22 (S.B. 17), Acts of the
 5-31 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
 5-32 Vernon's Texas Civil Statutes); and

5-33 (7) Section 13, Chapter 22 (S.B. 17), Acts of the 57th
 5-34 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
 5-35 Texas Civil Statutes).

5-36 ARTICLE 2. CONFORMING CHANGE

5-37 SECTION 2.01. Section 17.46(b), Business & Commerce Code,
 5-38 as amended by Chapters 324 (S.B. 1488), 858 (H.B. 2552), and 967
 5-39 (S.B. 2065), Acts of the 85th Legislature, Regular Session, 2017,
 5-40 is reenacted and amended to read as follows:

5-41 (b) Except as provided in Subsection (d) of this section,
 5-42 the term "false, misleading, or deceptive acts or practices"
 5-43 includes, but is not limited to, the following acts:

5-44 (1) passing off goods or services as those of another;

5-45 (2) causing confusion or misunderstanding as to the
 5-46 source, sponsorship, approval, or certification of goods or
 5-47 services;

5-48 (3) causing confusion or misunderstanding as to
 5-49 affiliation, connection, or association with, or certification by,
 5-50 another;

5-51 (4) using deceptive representations or designations
 5-52 of geographic origin in connection with goods or services;

5-53 (5) representing that goods or services have
 5-54 sponsorship, approval, characteristics, ingredients, uses,
 5-55 benefits, or quantities which they do not have or that a person has
 5-56 a sponsorship, approval, status, affiliation, or connection which
 5-57 the person does not;

5-58 (6) representing that goods are original or new if
 5-59 they are deteriorated, reconditioned, reclaimed, used, or
 5-60 secondhand;

5-61 (7) representing that goods or services are of a
 5-62 particular standard, quality, or grade, or that goods are of a
 5-63 particular style or model, if they are of another;

5-64 (8) disparaging the goods, services, or business of
 5-65 another by false or misleading representation of facts;

5-66 (9) advertising goods or services with intent not to
 5-67 sell them as advertised;

5-68 (10) advertising goods or services with intent not to
 5-69 supply a reasonable expectable public demand, unless the

6-1 advertisements disclosed a limitation of quantity;
6-2 (11) making false or misleading statements of fact
6-3 concerning the reasons for, existence of, or amount of price
6-4 reductions;
6-5 (12) representing that an agreement confers or
6-6 involves rights, remedies, or obligations which it does not have or
6-7 involve, or which are prohibited by law;
6-8 (13) knowingly making false or misleading statements
6-9 of fact concerning the need for parts, replacement, or repair
6-10 service;
6-11 (14) misrepresenting the authority of a salesman,
6-12 representative or agent to negotiate the final terms of a consumer
6-13 transaction;
6-14 (15) basing a charge for the repair of any item in
6-15 whole or in part on a guaranty or warranty instead of on the value of
6-16 the actual repairs made or work to be performed on the item without
6-17 stating separately the charges for the work and the charge for the
6-18 warranty or guaranty, if any;
6-19 (16) disconnecting, turning back, or resetting the
6-20 odometer of any motor vehicle so as to reduce the number of miles
6-21 indicated on the odometer gauge;
6-22 (17) advertising of any sale by fraudulently
6-23 representing that a person is going out of business;
6-24 (18) advertising, selling, or distributing a card
6-25 which purports to be a prescription drug identification card issued
6-26 under Section 4151.152, Insurance Code, in accordance with rules
6-27 adopted by the commissioner of insurance, which offers a discount
6-28 on the purchase of health care goods or services from a third party
6-29 provider, and which is not evidence of insurance coverage, unless:
6-30 (A) the discount is authorized under an agreement
6-31 between the seller of the card and the provider of those goods and
6-32 services or the discount or card is offered to members of the
6-33 seller;
6-34 (B) the seller does not represent that the card
6-35 provides insurance coverage of any kind; and
6-36 (C) the discount is not false, misleading, or
6-37 deceptive;
6-38 (19) using or employing a chain referral sales plan in
6-39 connection with the sale or offer to sell of goods, merchandise, or
6-40 anything of value, which uses the sales technique, plan,
6-41 arrangement, or agreement in which the buyer or prospective buyer
6-42 is offered the opportunity to purchase merchandise or goods and in
6-43 connection with the purchase receives the seller's promise or
6-44 representation that the buyer shall have the right to receive
6-45 compensation or consideration in any form for furnishing to the
6-46 seller the names of other prospective buyers if receipt of the
6-47 compensation or consideration is contingent upon the occurrence of
6-48 an event subsequent to the time the buyer purchases the merchandise
6-49 or goods;
6-50 (20) representing that a guaranty or warranty confers
6-51 or involves rights or remedies which it does not have or involve,
6-52 provided, however, that nothing in this subchapter shall be
6-53 construed to expand the implied warranty of merchantability as
6-54 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
6-55 2A.216 to involve obligations in excess of those which are
6-56 appropriate to the goods;
6-57 (21) promoting a pyramid promotional scheme, as
6-58 defined by Section 17.461;
6-59 (22) representing that work or services have been
6-60 performed on, or parts replaced in, goods when the work or services
6-61 were not performed or the parts replaced;
6-62 (23) filing suit founded upon a written contractual
6-63 obligation of and signed by the defendant to pay money arising out
6-64 of or based on a consumer transaction for goods, services, loans, or
6-65 extensions of credit intended primarily for personal, family,
6-66 household, or agricultural use in any county other than in the
6-67 county in which the defendant resides at the time of the
6-68 commencement of the action or in the county in which the defendant
6-69 in fact signed the contract; provided, however, that a violation of

7-1 this subsection shall not occur where it is shown by the person
 7-2 filing such suit that the person neither knew or had reason to know
 7-3 that the county in which such suit was filed was neither the county
 7-4 in which the defendant resides at the commencement of the suit nor
 7-5 the county in which the defendant in fact signed the contract;

7-6 (24) failing to disclose information concerning goods
 7-7 or services which was known at the time of the transaction if such
 7-8 failure to disclose such information was intended to induce the
 7-9 consumer into a transaction into which the consumer would not have
 7-10 entered had the information been disclosed;

7-11 (25) using the term "corporation," "incorporated," or
 7-12 an abbreviation of either of those terms in the name of a business
 7-13 entity that is not incorporated under the laws of this state or
 7-14 another jurisdiction;

7-15 (26) selling, offering to sell, or illegally promoting
 7-16 an annuity contract under Chapter 22, Acts of the 57th Legislature,
 7-17 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
 7-18 Statutes), with the intent that the annuity contract will be the
 7-19 subject of a salary reduction agreement, as defined by that Act, if
 7-20 the annuity contract is not an eligible qualified investment under
 7-21 that Act [~~or is not registered with the Teacher Retirement System of~~
 7-22 ~~Texas as required by Section 8A of that Act~~];

7-23 (27) taking advantage of a disaster declared by the
 7-24 governor under Chapter 418, Government Code, by:

7-25 (A) selling or leasing fuel, food, medicine, or
 7-26 another necessity at an exorbitant or excessive price; or

7-27 (B) demanding an exorbitant or excessive price in
 7-28 connection with the sale or lease of fuel, food, medicine, or
 7-29 another necessity;

7-30 (28) using the translation into a foreign language of
 7-31 a title or other word, including "attorney," "immigration
 7-32 consultant," "immigration expert," "lawyer," "licensed," "notary,"
 7-33 and "notary public," in any written or electronic material,
 7-34 including an advertisement, a business card, a letterhead,
 7-35 stationery, a website, or an online video, in reference to a person
 7-36 who is not an attorney in order to imply that the person is
 7-37 authorized to practice law in the United States;

7-38 (29) delivering or distributing a solicitation in
 7-39 connection with a good or service that:

7-40 (A) represents that the solicitation is sent on
 7-41 behalf of a governmental entity when it is not; or

7-42 (B) resembles a governmental notice or form that
 7-43 represents or implies that a criminal penalty may be imposed if the
 7-44 recipient does not remit payment for the good or service;

7-45 (30) delivering or distributing a solicitation in
 7-46 connection with a good or service that resembles a check or other
 7-47 negotiable instrument or invoice, unless the portion of the
 7-48 solicitation that resembles a check or other negotiable instrument
 7-49 or invoice includes the following notice, clearly and conspicuously
 7-50 printed in at least 18-point type:

7-51 "SPECIMEN-NON-NEGOTIABLE";

7-52 (31) in the production, sale, distribution, or
 7-53 promotion of a synthetic substance that produces and is intended to
 7-54 produce an effect when consumed or ingested similar to, or in excess
 7-55 of, the effect of a controlled substance or controlled substance
 7-56 analogue, as those terms are defined by Section 481.002, Health and
 7-57 Safety Code:

7-58 (A) making a deceptive representation or
 7-59 designation about the synthetic substance; or

7-60 (B) causing confusion or misunderstanding as to
 7-61 the effects the synthetic substance causes when consumed or
 7-62 ingested;

7-63 (32) a licensed public insurance adjuster directly or
 7-64 indirectly soliciting employment, as defined by Section 38.01,
 7-65 Penal Code, for an attorney, or a licensed public insurance
 7-66 adjuster entering into a contract with an insured for the primary
 7-67 purpose of referring the insured to an attorney without the intent
 7-68 to actually perform the services customarily provided by a licensed
 7-69 public insurance adjuster, provided that this subdivision may not

8-1 be construed to prohibit a licensed public insurance adjuster from
8-2 recommending a particular attorney to an insured; [~~or~~]

8-3 (33) owning, operating, maintaining, or advertising a
8-4 massage establishment, as defined by Section 455.001, Occupations
8-5 Code, that:

8-6 (A) is not appropriately licensed under Chapter
8-7 455, Occupations Code, or is not in compliance with the applicable
8-8 licensing and other requirements of that chapter; or

8-9 (B) is not in compliance with an applicable local
8-10 ordinance relating to the licensing or regulation of massage
8-11 establishments; or

8-12 (34) [~~(33)~~] a warrantor of a vehicle protection
8-13 product warranty using, in connection with the product, a name that
8-14 includes "casualty," "surety," "insurance," "mutual," or any other
8-15 word descriptive of an insurance business, including property or
8-16 casualty insurance, or a surety business.

8-17 ARTICLE 3. TRANSITIONS; CONFLICT WITH OTHER LEGISLATION; EFFECTIVE
8-18 DATE

8-19 SECTION 3.01. The changes in law made by this Act to Chapter
8-20 22 (S.B. 17), Acts of the 57th Legislature, 3rd Called Session,
8-21 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), apply only
8-22 to an offer of a qualified investment product under that Act that is
8-23 made on or after the effective date of this Act. An offer of a
8-24 qualified investment product that is made before the effective date
8-25 of this Act is governed by the law as it existed immediately before
8-26 the effective date of this Act, and that law is continued in effect
8-27 for that purpose.

8-28 SECTION 3.02. The change in law made by this Act to Section
8-29 10(a), Chapter 22 (S.B. 17), Acts of the 57th Legislature, 3rd
8-30 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
8-31 Statutes), applies only to an offense committed on or after the
8-32 effective date of this Act. For purposes of this section, an
8-33 offense is committed before the effective date of this Act if any
8-34 element of the offense occurs before that date. An offense
8-35 committed before the effective date of this Act is governed by the
8-36 law in effect when the offense was committed, and the former law is
8-37 continued in effect for that purpose.

8-38 SECTION 3.03. Section 17.46(b), Business & Commerce Code,
8-39 as amended by this Act, applies only to a cause of action that
8-40 accrues on or after the effective date of this Act. A cause of
8-41 action that accrues before the effective date of this Act is
8-42 governed by the law as it existed immediately before the effective
8-43 date of this Act, and that law is continued in effect for that
8-44 purpose.

8-45 SECTION 3.04. To the extent of any conflict, this Act
8-46 prevails over another Act of the 86th Legislature, Regular Session,
8-47 2019, relating to nonsubstantive additions to and corrections in
8-48 enacted codes.

8-49 SECTION 3.05. This Act takes effect September 1, 2019.

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