

BILL ANALYSIS

H.B. 3238
By: Frullo
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties have expressed concern about the lack of a clear distinction between funding agreements and guaranteed investment contracts, which are both specialized types of annuity products issued by life insurers. The parties contend that current laws and regulations provide minimal guidance on this issue, resulting in confusion and the inconsistent use of the terms by insurance companies. H.B. 3238 seeks to clarify this distinction and the applicability of certain laws pertaining to such specialized types of annuity contracts.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 of this bill.

ANALYSIS

H.B. 3238 amends the Insurance Code to authorize a life insurer to issue a funding agreement to generate an income stream for the purchaser of the agreement or fund a future liability of the purchaser or the purchaser's designee. The bill authorizes a life insurer to issue a funding agreement to an investor who is considered an accredited investor under federal regulations or to a governmental body. The bill establishes that a life insurer that issues a funding agreement in Texas engages in the business of insurance for the purpose of regulation. The bill defines "funding agreement" as a type of annuity contract under which a life insurer accepts and accumulates funds, including noncash assets, and makes one or more payments at a future date in amounts that are not based on mortality or morbidity contingencies.

H.B. 3238 authorizes a life insurer to issue a guaranteed investment contract to provide a benefit in a fixed amount, a variable amount, or both. The bill authorizes a life insurer to issue a guaranteed investment contract to a group as an allocated or unallocated group annuity contract. The bill defines "guaranteed investment contract" as a type of annuity contract issued by a life insurer that is a funding vehicle typically issued to a retirement plan and under which the life insurer accepts a deposit or series of deposits from the purchaser and guarantees to pay a specified interest rate of return on the funds deposited during a specified period.

H.B. 3238 exempts funding agreements and guaranteed investment contracts without mortality or morbidity contingencies from the application of statutory provisions relating to consumer information and complaints; standard nonforfeiture law for certain annuities; the suitability of certain annuity transactions; and group life insurance and wholesale, franchise, or employee life insurance. The bill authorizes the commissioner of insurance to adopt rules to implement or

clarify the bill's provisions governing the establishment of funding agreements, the establishment of guaranteed investment contracts, and the applicability of certain law to such agreements and contracts and defines the following terms for purposes of those provisions: "allocated group annuity contract," "annuity contract," "governmental body," "group," "group annuity certificate," "group annuity contract," "life insurer," "synthetic guaranteed investment contract," and "unallocated group annuity contract."

H.B. 3238 designates all claims under annuity contracts, including funding agreements, guaranteed investment contracts, and synthetic guaranteed investment contracts, as Class 2 claims for the purpose of the priority of payment of distributions on unsecured claims under the Insurer Receivership Act.

EFFECTIVE DATE

September 1, 2015.