

SUBJECT: Viatical settlements for ERS life insurance policies

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 7 ayes — Telford, Woolley, Rangel, Sadler, Serna, Tillery, Williams
0 nays
2 absent — Berlanga, Goolsby

WITNESSES: For — Cindy Antolik, American Cancer Society; Carolyn A. Parker, Texas AIDS Network; Peggy S. Wallace, Affirmative Life
Against — None

BACKGROUND : Persons with a fatal illness can receive cash from their life insurance policies while still alive by either negotiating a viatical settlement or receiving accelerated benefits. In the viatical settlement approach allowed under Texas law, terminally ill persons sell their life insurance policies to a viatical settlement company for a certain percentage of the face value (e.g., \$70,000 on a \$100,000 policy) and make the viatical company the beneficiary of the policy.

In an accelerated benefits approach, the insurance company gives terminally ill persons the option of receiving a portion of their life insurance policy before they die. Texas law allows life insurance companies to enter into accelerated benefit plans if they receive a written medical opinion that the insured is not expected to live for more than one year. The accelerated benefit is the greater of \$25,000 or 50 percent of the value of the policy. The amount paid to the insured is deducted from the amount paid out to the beneficiary.

The Texas Employees Uniform Group (TEUG) insurance program provides employees of state agencies and certain institutions of higher education with life, accident and health insurance benefit plans. The TEUG is administered by the Employees Retirement System (ERS). ERS rules permit accelerated benefits up to a maximum of \$100,000 but do not provide for viatical settlements.

DIGEST: CSHB 163 would amend the Insurance Code to stipulate that ERS trustees adopt rules requiring that group life insurance plans covering employees, retirees or dependents allow an insured to elect to receive accelerated benefits allowed by law or make viatical settlements permitted by the code. Beneficiaries designated in a viatical settlement could not be changed.

CSHB 163 would take effect September 1, 1997, and apply only to group life insurance policies delivered, issued for delivery or renewed on or after that date. Insured state employees could not elect the options that would be allowed by the bill until January 1, 1998.

SUPPORTERS SAY: CSHB 163 would give ERS participants the same life insurance options provided other Texas policy holders. It would establish in statute that state laws regulating accelerated benefits and viatical settlements also apply to ERS plans. The bill would ensure that these options were not just subject to ERS rules but secure in law for the future.

The bill would provide more flexibility for ERS participants by (1) lifting the \$100,000 cap on accelerated benefits and (2) allowing viatical settlements. The high cost of care for the terminally ill can quickly exceed the \$100,000 maximum allowed for accelerated benefits under ERS rules. The Medicaid rolls include individuals who could pay for their own care if they could tap into more of their life insurance policies.

However, accelerated benefits, while a good option for some, do not meet the needs of all persons with terminal illness. Many terminally ill people do not have dependents and, therefore, do not need to reserve 50 percent of their policy value for a beneficiary. They could put the benefits they have earned to better use in payment for medical care and prescription drugs to ease their final days. State laws strictly govern eligibility for and terms of viatical settlements in order to protect consumers. These laws would apply to ERS plans, as well.

Allowing ERS participants to opt for viatical settlements would promote flexibility in health care choices but would not create a significant administrative burden for ERS. Few people have requested accelerated benefits since this option was provided by ERS trustees, and even fewer are likely to elect a viatical settlement.

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OPPONENTS
SAY: No apparent opposition.

NOTES: The committee substitute added retirees and dependents to the bill; specified that the bill would apply to insurance policies issued, delivered or renewed after September 1, 1997; and prohibited employees from electing the new accelerated benefit or viatical settlement options until January 1, 1998