HOUSE
RESEARCH
ORGANIZATION bill analysis 4/19/2001

HB 362
Averitt

SUBJECT: Waiving surrender charges under an annuity contract

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Smithee, Eiland, Averitt, Burnam, G. Lewis, J. Moreno, Olivo, Seaman, Thompson

0 nays

WITNESSES: For — Will Davis, USAA Life Insurance Co. and Texas Association of Life and Health Insurers; *Registered but did not testify:* Kenneth Tooley, Texas Association of Insurance and Financial Advisors

Against — None

BACKGROUND: Insurance Code, art. 21.21, sec. 4(8)(a), does not permit the waiver of a surrender charge for an annuity contract. Such a waiver is considered a rebate, which the statute defines as a special favor, advantage, or benefit.

In life insurance or other annuity policies or contracts, a "surrender" occurs when the policyholder withdraws the policy's or contract's full cash value and thus forfeits the policy or contract to the insurer. A "surrender charge" occurs when after a surrender, the insurance company imposes a fee on the policyholder to adjust the cost of initial acquisition and issuance of the contract. Normally, if a contract stays in force without surrender, an insurance company will recover that portion of the initial costs through amortization within a fixed period of time. If a policyholder surrenders a policy or contract early in its term, the surrender charge is usually greater than if the policyholder surrendered the policy later in its term.

DIGEST: HB 362 would provide that a waiver of surrender charges under a life annuity contract would not be considered discrimination or a rebate when the contract holder exchanged the annuity contract for another annuity contract issued by the same insurer. The waiver and exchange would have to be explained fully, fairly, and accurately to the contract holder in a manner that was not deceptive or misleading.

The bill would take effect September 1, 2001.

SUPPORTERS SAY:

HB 362 would benefit consumers by allowing an insurance company to waive a surrender charge under an annuity contract in order to exchange the former contract for a better contract or policy. Insurance firms constantly revise their annuity contracts and life insurance policies in an effort to improve them and make them more appealing to consumers. Insurers commonly develop new annuity contracts with better interest accumulation, better amortization rates, or other benefits.

The bill would allow policyholders to enter into new contracts or policies without being charged penalties. Insurers also would benefit by having more opportunities to offer better policies or contracts, making them more competitive.

OPPONENTS SAY:

HB 362 could be anticompetitive because it would allow an insurer to waive surrender charges only if a consumer or policyholder exchanged the annuity for another of its annuities, not when the consumer wanted to exchange it for another insurance company’s annuity.

On its face, HB 362 would seem to benefit policyholders by allowing the waiver of a surrender charge under an annuity contract. However, such a waiver could persuade a policyholder unknowingly to accept a worse product from the same insurer. Although the bill would specify that the waiver and exchange would have to be explained fully, fairly, and accurately to the contract holder in a manner that is not deceptive or misleading, that standard could be difficult for the policyholder to determine on his or her own.