

BILL ANALYSIS

Senate Research Center
81R20164 PMO-D

C.S.S.B. 961
By: Ellis et al.
State Affairs
4/3/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Fraudulent charitable gift annuity schemes are being sold to senior adults, resulting in needless harm to Texas consumers. Insurance carriers have begun to file annuity contracts with seniors and consumers that set the maturity date at ages as high as 115, leaving their beneficiaries to have to pay a large surrender charge to liquidate the asset after the death of the annuity holder. In addition, some insurance and annuities carriers are incentivizing inappropriate sales behavior by highly compensating sales agents for selling annuities with severe surrender charges.

C.S.S.B. 961 permits the Texas Department of Insurance (TDI) to verify and investigate the actual nature of charitable organizations issuing charitable gift annuities. The bill also modifies Section 102.002, Insurance Code, to obligate charitable organizations issuing charitable gift annuities to submit information to aid TDI in an investigation of the actual nature of a charitable organization.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to commissioner of insurance in SECTION 4 (Section 1115.005, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.002, Insurance Code, as follows:

Sec. 102.002. QUALIFIED CHARITABLE GIFT ANNUITY. (a) Creates this subsection from existing text.

(b) Authorizes the Texas Department of Insurance (TDI) to investigate as necessary to verify that an organization that issues an annuity meets the criteria described by Subsection (a).

SECTION 2. Amends Section 102.102(c), Insurance Code, to prohibit the charitable organization from being required to submit additional information except to aid TDI in an investigation and verification of the organization conducted under Section 102.002(b). Makes nonsubstantive changes.

SECTION 3. Amends Section 1107.006, Insurance Code, as follows:

Sec. 1107.006. MATURITY DATE. Creates this section from existing text of Subsections (a) and (b). Provides that in determining the value of benefits under Sections 1107.102, 1107.103, and 1107.104, the maturity date is the later of certain anniversaries, rather than providing that in determining the value of benefits under Sections 1107.102-1107.104, and subject to Subsection (b), if an annuity contract permits an election to have annuity payments begin on optional maturity dates, the maturity date is considered to be the latest date on which an election is permitted by the contract. Deletes text of existing Subsection (b) providing that a maturity date determined under this section may not be later than certain dates.

SECTION 4. Amends Subchapter B, Chapter 4005, Insurance Code, by adding Section 4005.056, as follows:

Sec. 4005.056. MODIFICATION OF METHOD OF COMPENSATION FOR SALE OF ANNUITIES. Authorizes the commissioner of insurance (commissioner) to order the modification of a method of compensation for the sale of an annuity that the commissioner finds, after notice and an opportunity for hearing, results in a pattern or practice that violates Chapter 1115 (Suitability of Certain Annuity Transactions).

SECTION 5. Makes application of this Act prospective to January 1, 2011.

SECTION 6. Effective date: September 1, 2009.