

BILL ANALYSIS

S.B. 681
By: Averitt
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the law establishes the minimum non-forfeiture amount for individual deferred annuities at three percent per annum. The non-forfeiture provision of an annuity contract provides for a minimum benefit in either a lump sum or installments when the annuity contract comes due. The minimum rate of interest is one of the factors considered in determining the minimum values that an insurer must meet. However, with the decline in interest rates insurers are unable to find an adequate spread between minimum non-forfeiture interest rates and market rates. This could create a situation where certain annuities become unavailable in the future. S.B. 681 provides that the minimum nonforfeiture interest rate is the lesser of three percent or a rate tied to an index.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 1 (Sections 1107.056 and 1107.108, Insurance Code) of this bill.

ANALYSIS

SECTION 1. Amends Chapter 1107, Insurance Code, effective as of June 1, 2003, as follows:

Sec. 1107.001. (c) Creates this subsection to require companies to issue and the Texas Department of Insurance (TDI) to review, annuity contracts under certain sections by a certain date.

Sec. 1107.003. (c) Requires a company that issues a certain annuity contract to pay a cash surrender benefit. Authorizes, rather than requires, a company to reserve the right to defer payment of any cash surrender benefit for a period not to exceed six months after demand.

Sec. 1107.055. INTEREST RATE. Creates this section to require the interest rate used in determining minimum nonforfeiture amounts to be an annual rate of interest determined as the lesser of three percent per annum or an alternate amount computed in a certain manner. Requires certain information to be specified in the contract if the interest rate will be redetermined.

Sec. 1107.056. ADDITIONAL INTEREST RATE ADJUSTMENTS. Creates this section to authorize the commissioner of insurance (commissioner) to adopt rules to provide for further adjustments to Section 107.055 for annuity contracts that provide substantive participation in an equity index benefit or other benefits as appropriate.

Sec. 1107.057. MINIMUM NONFORFEITURE AMOUNT. Creates this section as follows:

(a) Requires the minimum values as specified in Sections 1107.006, 1107.101, 1107.102, 1107.103, 1107.104, and 1107.105 of any paid-up annuity, cash surrender or death benefits available under an annuity contract to be based upon minimum nonforfeiture amounts as defined in this section.

(b) Requires the minimum nonforfeiture amount at any time at or prior to the commencement of any

annuity payments to be equal to an accumulation up to such time at rates of interest as indicated in this subchapter of the net considerations paid prior to such time, decreased by the sum of certain items.

(c) Requires the amount of net consideration for a contract year, for the purposes of this section, to be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the contract during that contract year.

[Reserves Sections 1107.058, rather than 1107.055, through 1107.100 for expansion.]

Sec. 1107.108. RULES. Creates this Section to authorize the commissioner to adopt rules to implement the provisions of this Act.

SECTION 2. Effective date: upon passage or September 1, 2003.

EFFECTIVE DATE

On passage or, if the Act does not receive the necessary, the Act takes effect September 1, 2003.