

BILL ANALYSIS

C.S.H.B. 1294
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is no state law that protects consumers from the misleading and fraudulent use of senior-specific certifications and professional designations in the marketing of life insurance or annuity products by insurance companies and agents.

C.S.H.B. 1294 regulates the use of certain certifications, professional designations, and education requirements in the sale of life insurance and annuities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 1.002 and 1.003 of this bill.

ANALYSIS

C.S.H.B. 1294 amends the Insurance Code to require an insurance agent that intends to sell, solicit, or negotiate a contract for an annuity in Texas or to represent an insurer in relation to such an annuity to submit evidence satisfactory to the Texas Department of Insurance of completion of at least four hours of training relating to annuities before soliciting individual consumers for the purpose of selling annuities. The bill authorizes this training to be used to satisfy continuing education requirements under Texas insurance laws and rules for the issuance of other insurance-related licenses.

C.S.H.B. 1294 requires an insurance agent who sells, solicits, or negotiates a contract for an annuity in Texas, or who represents or purports to represent an insurer in relation to such an annuity, to complete four hours of continuing education annually that specifically relates to annuities. The bill authorizes this continuing education to be used to satisfy continuing education requirements for any type of insurance agent. The bill requires the commissioner of insurance by rule to adopt criteria for continuing education programs to satisfy these requirements not later than December 1, 2009, and specifies those criteria. The bill establishes that subject matter determined by the commissioner to be primarily intended to promote the sale or marketing of annuities does not qualify as continuing education. The bill applies provisions relating to continuing education programs in general to continuing education programs for agents involved with annuities and requires any training program disapproved for its primary intention to promote the sale or marketing of annuities to be presumed invalid for continuing education program certification unless the program is approved in writing by the commissioner. The bill defines "annuity" for purposes of these provisions. The bill makes these provisions applicable to continuing education requirements for insurance agents for a license issued or renewed on or after January 1, 2010.

C.S.H.B. 1294 prohibits an insurance agent from directly or indirectly using a senior-specific certification or professional designation through any writing or other publication or by issuing or disseminating analyses or reports related to a life insurance or annuity product. The bill sets out

specific prohibitions relating to the use of such designations, requirements for determining if a combination of words or an acronym constitutes a certification or professional designation, and the applicability of these provisions to job titles used within certain state or federal financial services regulatory agencies. The bill applies these provisions to any solicitation, sale, or purchase of, or advice made in connection with, a life insurance or annuity product by an insurance agent, and prohibits the provisions from being construed to limit the commissioner's authority to enforce any other law. The bill establishes the legislative purpose of these provisions and defines "insurance agent," "financial services regulatory agency," and "senior-specific certification or professional designation" for these purposes. The bill makes these provisions applicable only to the solicitation of, sale of, or advice made in connection with, a life insurance or annuity contract by an insurance agent on or after January 1, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1294 adds a provision not in the original requiring an agent that primarily works with annuities to submit evidence to complete certain training requirements before soliciting individual consumers for the purpose of selling annuities and authorizes this training to be used to satisfy continuing education requirements for the issuance of other insurance-related licenses.

C.S.H.B. 1294 adds provisions not in the original relating to additional continuing education requirements for the sale of annuities, requiring the commissioner of insurance to adopt rules for the criteria for continuing education programs, and applying these provisions to continuing education requirements for insurance agents for a license issued or renewed on or after January 1, 2010.

C.S.H.B. 1294 differs from the original by establishing that provisions relating to the use of senior-specific certifications or professional designations apply to the sale of or providing advice concerning life insurance or annuity contracts, rather than life insurance or annuity products. The substitute adds a definition not in the original for "senior-specific certification or professional designation" and makes technical corrections.

C.S.H.B. 1294 differs from the original by including any other national accrediting organization recognized by the commissioner in the organizations whose accreditation, along with certain other requirements, provides a rebuttable presumption that a certification or professional designation granted by certain types of organizations is exempt from the prohibition against the use of a senior-specific certification or professional designation by an insurance agent.

C.S.H.B. 1294 adds a provision not in the original to apply provisions relating to a senior-specific certification or designation to the solicitation of, sale of, or advice made in connection with, a life insurance or annuity contract by an insurance agent on or after January 1, 2010.

C.S.H.B. 1294 differs from the original by changing the effective date.