

## **BILL ANALYSIS**

C.S.H.B. 2456  
By: Eiland  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

A large number of complaints are received by the Texas Department of Insurance relating to inappropriate and unsuitable sales of complex insurance products. Subsequent investigations by the department into these complaints indicate that an agent's lack of knowledge or expertise on the features and operation of the products are often contributing factors to an inappropriate sale. Certain insurance products are so complex that the general agent licensing and continuing education requirements are insufficient to ensure the level of agent expertise necessary to safeguard consumer interests. Texas agents should be equipped with the necessary skills and knowledge to appropriately assist insureds in their purchases. Requiring supplemental agent training or demonstration of knowledge before selling particularly complex products would mitigate the negative impact of agents selling complex products without the training and knowledge necessary to sell them in a manner fair and beneficial to insureds.

In 2003, California enacted a law requiring that all life and health agents complete an eight-hour annuity training course before selling an individual annuity. The law, which is equally applicable to non-resident agents, also requires an additional four hours of annuity-specific training every two years to be able to continue selling individual annuities. The law went into effect January 1, 2005, and allows the California Department of Insurance to specify the content of the courses. Another instance in which specific training requirements could be beneficial involves agents who sell or intend to sell flood insurance or Medicare Advantage or Medicare Part D Plans. Oklahoma currently requires eight hours of continuing education related to Medicare Advantage or Medicare private fee for service products every two years.

C.S.H.B. 2456 grants rulemaking authority to the Texas Department of Insurance to place specific qualifications on an insurance agent's license that must be met before an agent is authorized to sell certain complex insurance products. The bill requires the adopted rules to identify the reasons why a product line needs such qualifications for its sale and to specify what additional qualifications are necessary for its sale.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 5 of this bill.

### **ANALYSIS**

C.S.H.B. 2456 amends the Insurance Code to set out provisions relating to supplementary agent certification and education programs for complex insurance products, including the authority of the commissioner of insurance to adopt rules requiring a licensed agent to be certified under these provisions, the required designations and authorized specifications to be included in those rules, the insurance agents to whom these certification requirements apply and the date by which an agent must comply with the requirements, the qualifications used by the Texas Department of

Insurance for issuing a certificate to an agent, the term of the certificate, the procedures for renewing a certificate, and the authority of the commissioner to administer certification exams by testing services. The bill authorizes an individual who is required under these rules to hold a certificate to sell a designated product or product line to use supplementary agent education programs for complex insurance products to satisfy the annual continuing education requirements for other insurance licenses. The bill requires the department to administer the continuing education and precertification training programs for supplementary agents, and authorizes the department to enter into agreements with independent contractors for the administration of continuing education programs. The bill establishes the legislative purpose for establishing requirements for training of agents or the demonstration of knowledge for particularly complex insurance products before an agent is authorized to sell such products. The bill makes conforming changes.

#### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2456 adds a provision not in the original authorizing an individual to use supplementary agent education programs for complex insurance products to satisfy the annual continuing education requirements for other insurance licenses. The substitute differs from the original by authorizing additional requirements for supplementary agents to be used to satisfy any other insurance agent requirements, whereas the original provides that these requirements are in addition to any other insurance agent requirements. The substitute differs from the original by authorizing the commissioner of insurance, in adopting rules, to specify whether an agent is required to complete specific continuing education to maintain the certificate, rather than additional continuing education for that purpose, as in the original.