BILL ANALYSIS

C.S.S.B. 1168
By: Hinojosa
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The sale of insurance products to senior citizens has increased over time, especially in the area of annuities; as a result, the Texas Department of Insurance has received an increasing number of complaints alleging deceptive sales practices of these products. Free look periods allow a consumer a period of time to examine a recently purchased annuity policy and provide a consumer with the opportunity to consult with friends, family, or a financial advisor to ensure that this long-term investment is appropriate for the consumer. During this time period, a consumer may receive a refund if the consumer decides to return the annuity.

C.S.S.B. 1168 requires an annuity contract to contain a rescission period of 20 days. During this rescission period, a purchaser may return an annuity for an unconditional refund of certain amounts, based on the type of annuity.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1168 amends the Insurance Code to require an annuity contract to provide an unconditional refund of premiums paid for a fixed annuity contract, including any contract fees or charges, within 20 days of the delivery of the contract. The bill also requires an annuity contract to provide an unconditional refund for variable or modified guaranteed annuity contracts within 20 days of the delivery of the contract, and requires such a refund to be equal to the cash surrender value provided in the annuity contract plus any fees or charges deducted from the premiums or imposed under the contract. The bill makes this provision inapplicable if the prospective owner is an accredited investor as defined in regulations adopted by the U.S. Securities and Exchange Commission. The bill defines "annuity."

C.S.S.B. 1168 makes its provisions applicable to an annuity contract delivered or issued for delivery on or after January 1, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1168 adds a provision not in the original requiring an annuity contract to provide an unconditional refund of premiums paid for a fixed annuity contract, including any contract fees or charges, within 20 days of the delivery of the contract. The bill adds provisions not in the original requiring an annuity contract to provide an unconditional refund for variable or modified guaranteed annuity contracts within 20 days of the delivery of the contract, requiring such a refund to be equal to the cash surrender value provided in the annuity contract, plus any fees or charges deducted from the premiums or imposed under the contract, and making those provisions inapplicable if the prospective owner is an accredited investor as defined in regulations adopted by the U.S. Securities and Exchange Commission.

C.S.S.B. 1168 removes provisions in the original requiring an annuity contract to authorize the purchaser to rescind the contract and return it to the issuer without surrender fees for at least 15 days after the date the contract is entered into or 30 days after the date the contract is entered into if the purchaser is 65 years of age or older or the agreement is entered into by mail and providing for a refund to a purchaser who rescinds the contract during the applicable rescission period equal to the amount paid by the purchaser under the contract.