

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Eiland

H.B. No. 1294

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain certifications, professional designations, and  
3 education requirements regarding the sale of life insurance and  
4 annuities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. AGENT EDUCATION REQUIREMENTS

7 SECTION 1.001. Subchapter B, Chapter 1115, Insurance Code,  
8 is amended by adding Section 1115.056 to read as follows:

9 Sec. 1115.056. AGENT EDUCATION REQUIREMENTS. (a) An agent  
10 that intends to sell, solicit, or negotiate a contract for an  
11 annuity in this state or to represent an insurer in relation to such  
12 an annuity must submit evidence satisfactory to the department of  
13 completion of at least four hours of training relating to annuities  
14 before soliciting individual consumers for the purpose of selling  
15 annuities.

16 (b) The training required under Subsection (a) may be used  
17 to satisfy the continuing education requirements imposed under this  
18 code and rules adopted under this code for issuance of a license  
19 under this code.

20 SECTION 1.002. Chapter 4004, Insurance Code, is amended by  
21 adding Subchapter E to read as follows:

22 SUBCHAPTER E. ADDITIONAL CONTINUING EDUCATION REQUIREMENTS FOR  
23 SALE OF ANNUITIES

24 Sec. 4004.201. DEFINITION. In this subchapter, "annuity"

1 has the meaning assigned by Section 1115.002.

2 Sec. 4004.202. REQUIRED CONTINUING EDUCATION REGARDING  
3 ANNUITIES. (a) This section applies to an agent who:

4 (1) sells, solicits, or negotiates a contract for an  
5 annuity in this state; or

6 (2) represents or purports to represent an insurer in  
7 relation to such an annuity.

8 (b) Each agent described by Subsection (a) must complete  
9 four hours of continuing education annually that specifically  
10 relates to annuities. The continuing education required under this  
11 subsection may be used to satisfy the continuing education  
12 requirements under Subchapter B.

13 Sec. 4004.203. PROGRAM CERTIFICATION REQUIREMENTS. (a)  
14 The commissioner by rule shall adopt criteria for continuing  
15 education programs used to satisfy the requirements of Section  
16 4004.202. Those criteria must include:

17 (1) topics related specifically to annuities;

18 (2) state laws and rules related to annuities,  
19 including requirements adopted under Chapter 1115;

20 (3) prohibited sales practices regarding annuities;

21 (4) recognition of indicators that a prospective  
22 insured may lack the short-term memory or judgment to knowingly  
23 purchase an annuity; and

24 (5) fraudulent and unfair trade practices regarding  
25 the sale of annuities.

26 (b) Subject matter determined by the commissioner to be  
27 primarily intended to promote the sale or marketing of annuities

1 does not qualify as continuing education for purposes of this  
2 subchapter.

3 (c) Subchapter C applies to continuing education programs  
4 described by Subsection (a). Any training program disapproved  
5 under Subsection (b) shall be presumed invalid for certification  
6 under Subchapter C unless the program is approved in writing by the  
7 commissioner.

8 SECTION 1.003. The commissioner of insurance shall adopt  
9 rules as required by Section 4004.203, Insurance Code, as added by  
10 this article, not later than December 1, 2009.

11 SECTION 1.004. Subchapter E, Chapter 4004, Insurance Code,  
12 as added by this article, applies to continuing education  
13 requirements for insurance agents for a license issued or renewed  
14 on or after January 1, 2010.

15 ARTICLE 2. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR PROFESSIONAL  
16 DESIGNATIONS

17 SECTION 2.001. Subtitle A, Title 7, Insurance Code, is  
18 amended by adding Chapter 1117 to read as follows:

19 CHAPTER 1117. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR  
20 PROFESSIONAL DESIGNATIONS

21 SUBCHAPTER A. GENERAL PROVISIONS

22 Sec. 1117.001. PURPOSE. The purpose of this chapter is to  
23 establish standards to protect consumers from misleading and  
24 fraudulent marketing practices with respect to the use of certain  
25 senior-specific certifications and professional designations in  
26 soliciting the sale of, the sale of, or providing advice made  
27 concerning life insurance or annuity contracts.

1       Sec. 1117.002. DEFINITIONS. In this chapter:

2               (1) "Insurance agent" means an agent licensed under  
3 this code to sell, solicit the sale of, or negotiate a life  
4 insurance or annuity contract.

5               (2) "Senior-specific certification or professional  
6 designation" means a certification or designation that implies that  
7 an insurance agent holds a special certification or has specialized  
8 training in advising or servicing seniors regarding purchasing or  
9 selling a life insurance or annuity contract.

10       Sec. 1117.003. APPLICABILITY OF CHAPTER; CONSTRUCTION WITH  
11 OTHER LAW. (a) This chapter applies to any solicitation, sale, or  
12 purchase of, or advice made in connection with, a life insurance or  
13 annuity product by an insurance agent.

14               (b) Nothing in this chapter may be construed to limit the  
15 commissioner's authority to enforce any other provision of this  
16 code or another law.

17       [Sections 1117.004-1117.050 reserved for expansion]

18       SUBCHAPTER B. USE OF SENIOR-SPECIFIC CERTIFICATIONS AND  
19               PROFESSIONAL DESIGNATIONS

20       Sec. 1117.051. CERTAIN USES OF SENIOR-SPECIFIC  
21 CERTIFICATIONS AND DESIGNATIONS PROHIBITED. (a) An insurance  
22 agent may not, directly or indirectly, use a senior-specific  
23 certification or professional designation:

24               (1) through any writing or other publication; or

25               (2) by issuing or disseminating analyses or reports  
26 related to a life insurance or annuity product.

27       (b) Subsection (a) prohibits the use of a senior-specific

1 certification or professional designation only by an insurance  
2 agent using:

3 (1) a certification or professional designation that  
4 the agent has not actually earned or for which the agent is  
5 ineligible;

6 (2) a nonexistent or self-conferred certification or  
7 professional designation;

8 (3) a certification or professional designation that  
9 indicates or implies a level of occupational qualification obtained  
10 through education, training, or experience that the agent has not  
11 obtained; and

12 (4) a certification or professional designation that  
13 was obtained from an organization that:

14 (A) is primarily engaged in the business of  
15 instruction in sales or marketing;

16 (B) does not have reasonable standards or  
17 procedures for:

18 (i) assuring the competency of individuals  
19 granted a certification or designation by the organization; or

20 (ii) monitoring and disciplining  
21 individuals granted a certification or designation by the  
22 organization for improper or unethical conduct; or

23 (C) does not have reasonable continuing  
24 education requirements for individuals granted a certification or  
25 designation by the organization.

26 (c) A rebuttable presumption exists that a certification or  
27 professional designation granted by an organization described by

1 Subsection (b)(4) is not prohibited under Subsection (a) if the  
2 certification or designation issued by the organization does not  
3 primarily apply to sales or marketing and if the organization or the  
4 certification or designation has been accredited by:

5 (1) the American National Standards Institute;  
6 (2) the National Commission for Certifying Agencies;  
7 (3) any organization that is included in "Accrediting  
8 Agencies Recognized for Title IV Purposes" published by the U.S.  
9 Department of Education; or

10 (4) any other national accrediting organization  
11 recognized by the commissioner.

12 (d) In determining whether a word, a combination of words,  
13 or an acronym constitutes a senior-specific certification or  
14 professional designation, the commissioner shall consider:

15 (1) the use of one or more words such as "senior,"  
16 "retirement," "elder," or similar words combined with one or more  
17 words such as "certified," "registered," "chartered," "advisor,"  
18 "specialist," "consultant," "planner," or similar words, in the  
19 name of the certification or professional designation; and

20 (2) the manner in which those words are combined.

21 Sec. 1117.052. APPLICABILITY TO CERTAIN FINANCIAL  
22 SERVICES. (a) Notwithstanding Section 1117.003, for purposes of  
23 this chapter, a job title used within an organization that is  
24 licensed or registered by a state or federal financial services  
25 regulatory agency and that indicates seniority or standing within  
26 the organization, or that specifies an individual's area of  
27 specialization within the organization, is not a senior-specific

1 certification or professional designation unless the title is used  
2 in a manner that is likely to confuse or mislead a reasonable  
3 consumer.

4 (b) For purposes of Subsection (a), "financial services  
5 regulatory agency" includes an agency that regulates insurers,  
6 insurance producers, broker-dealers, investment advisers, or  
7 investment companies, as defined by the Investment Company Act of  
8 1940 (15 U.S.C. Section 80a-1 et seq.).

9 SECTION 2.002. The change in law made by this article  
10 applies only to the solicitation of, sale of, or advice made in  
11 connection with, a life insurance or annuity contract by an  
12 insurance agent on or after January 1, 2010. The solicitation of,  
13 sale of, or advice made in connection with, a life insurance or  
14 annuity contract by an insurance agent before January 1, 2010, is  
15 covered by the law in effect at the time the solicitation or sale  
16 was made or the advice was given, and that law is continued in  
17 effect for that purpose.

18 ARTICLE 3. EFFECTIVE DATE

19 SECTION 3.001. This Act takes effect September 1, 2009.

**ADOPTED**

MAY 21 2009

*Atay Spaw*  
Secretary of the Senate

By: *Rodney Ellis*

H.B. No. 1294

Substitute the following for H.B. No. 1294:

By: *Rodney Ellis*

C.S.H.B. No. 1294

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain certifications, professional designations, and  
3 education requirements regarding the sale of life insurance and  
4 annuities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. AGENT EDUCATION REQUIREMENTS

7 SECTION 1.001. Subchapter B, Chapter 1115, Insurance Code,  
8 is amended by adding Section 1115.056 to read as follows:

9 Sec. 1115.056. AGENT EDUCATION REQUIREMENTS. (a) A  
10 resident agent that intends to sell, solicit, or negotiate a  
11 contract for an annuity in this state or to represent an insurer in  
12 relation to such an annuity must submit evidence satisfactory to  
13 the department of completion of at least four hours of training  
14 relating to annuities before soliciting individual consumers for  
15 the purpose of selling annuities.

16 (b) The training required under Subsection (a) may be used  
17 to satisfy the continuing education requirements imposed under this  
18 code and rules adopted under this code for issuance of a license  
19 under this code.

20 SECTION 1.002. Chapter 4004, Insurance Code, is amended by  
21 adding Subchapter E to read as follows:

22 SUBCHAPTER E. CONTINUING EDUCATION REQUIREMENTS FOR SALE OF  
23 ANNUITIES

24 Sec. 4004.201. DEFINITION. In this subchapter, "annuity"



1 has the meaning assigned by Section 1115.002.

2 Sec. 4004.202. REQUIRED CONTINUING EDUCATION REGARDING  
3 ANNUITIES. (a) This section applies to a resident agent who:

4 (1) sells, solicits, or negotiates a contract for an  
5 annuity in this state; or

6 (2) represents or purports to represent an insurer in  
7 relation to such an annuity.

8 (b) Each agent described by Subsection (a) must complete  
9 four hours of continuing education annually that specifically  
10 relates to annuities. The annual period under this section must be  
11 based on the agent's license expiration date or another date  
12 specified by the commissioner by rule, and the education  
13 requirement under this subsection must be met within that annual  
14 period, notwithstanding Section 4004.051(b).

15 (c) The continuing education required under this section  
16 may be used to satisfy the continuing education requirements under  
17 Subchapter B.

18 Sec. 4004.203. PROGRAM CERTIFICATION REQUIREMENTS. (a)  
19 The commissioner by rule shall adopt criteria for continuing  
20 education programs used to satisfy the requirements of Section  
21 4004.202. Those criteria must include:

22 (1) topics related specifically to annuities;

23 (2) state laws and rules related to annuities,  
24 including requirements adopted under Chapter 1115;

25 (3) prohibited sales practices regarding annuities;

26 (4) recognition of indicators that a prospective  
27 insured may lack the short-term memory or judgment to knowingly

1 purchase an annuity; and

2 (5) fraudulent and unfair trade practices regarding  
3 the sale of annuities.

4 (b) Subject matter determined by the commissioner to be  
5 primarily intended to promote the sale or marketing of annuities  
6 does not qualify as continuing education for purposes of this  
7 subchapter.

8 (c) Subchapter C applies to continuing education programs  
9 described by Subsection (a) and training under Section 1115.056.  
10 Any training program disapproved under Subsection (b) shall be  
11 presumed invalid for certification under Subchapter C unless the  
12 program is approved in writing by the commissioner.

13 SECTION 1.003. The commissioner of insurance shall adopt  
14 rules as required by Section 4004.203, Insurance Code, as added by  
15 this article, not later than December 1, 2009.

16 SECTION 1.004. Subchapter E, Chapter 4004, Insurance Code,  
17 as added by this article, applies to continuing education  
18 requirements for insurance agents for a license issued or renewed  
19 on or after April 1, 2010.

20 SECTION 1.005. Section 1115.056, Insurance Code, as added  
21 by this article, applies to training requirements for insurance  
22 agents for a license issued or renewed on or after April 1, 2010.

23 ARTICLE 2. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR  
24 PROFESSIONAL DESIGNATIONS

25 SECTION 2.001. Subtitle A, Title 7, Insurance Code, is  
26 amended by adding Chapter 1117 to read as follows:





1           (4) a certification or professional designation that  
2 was obtained from an organization that:

3                   (A) is primarily engaged in the business of  
4 instruction in sales or marketing;

5                   (B) does not have reasonable standards or  
6 procedures for:

7                           (i) assuring the competency of individuals  
8 granted a certification or designation by the organization; or

9                           (ii) monitoring and disciplining  
10 individuals granted a certification or designation by the  
11 organization for improper or unethical conduct; or

12                   (C) does not have reasonable continuing  
13 education requirements in order to maintain the certification or  
14 designation for individuals granted a certification or designation  
15 by the organization.

16           (c) A rebuttable presumption exists that a certification or  
17 professional designation granted by an organization described by  
18 Subsection (b)(4) is not prohibited under Subsection (a) if the  
19 certification or designation issued by the organization does not  
20 primarily apply to sales or marketing and if the organization or the  
21 certification or designation has been accredited by:

22                   (1) the American National Standards Institute;

23                   (2) the National Commission for Certifying Agencies;

24                   (3) any organization that is included in "Accrediting  
25 Agencies Recognized for Title IV Purposes" published by the U.S.  
26 Department of Education; or

27                   (4) any other national accrediting organization

1 recognized by the commissioner.

2 (d) In determining whether a word, a combination of words,  
3 or an acronym constitutes a senior-specific certification or  
4 professional designation, the commissioner shall consider:

5 (1) the use of one or more words such as "senior,"  
6 "retirement," "elder," or similar words combined with one or more  
7 words such as "certified," "registered," "chartered," "advisor,"  
8 "specialist," "consultant," "planner," or similar words, in the  
9 name of the certification or professional designation; and

10 (2) the manner in which those words are combined.

11 Sec. 1117.052. APPLICABILITY TO CERTAIN FINANCIAL  
12 SERVICES. (a) Notwithstanding Section 1117.003, for purposes of  
13 this chapter, a job title used within an organization that is  
14 licensed or registered by a state or federal financial services  
15 regulatory agency and that indicates seniority or standing within  
16 the organization, or that specifies an individual's area of  
17 specialization within the organization, is not a senior-specific  
18 certification or professional designation unless the title is used  
19 in a manner that is likely to confuse or mislead a reasonable  
20 consumer.

21 (b) For purposes of Subsection (a), "financial services  
22 regulatory agency" includes an agency that regulates insurers,  
23 insurance producers, broker-dealers, investment advisers, or  
24 investment companies, as defined by the Investment Company Act of  
25 1940 (15 U.S.C. Section 80a-1 et seq.).

26 SECTION 2.002. The change in law made by this article  
27 applies only to the solicitation of, sale of, or advice made in

1 connection with, a life insurance or annuity product by an  
2 insurance agent on or after January 1, 2010. The solicitation of,  
3 sale of, or advice made in connection with, a life insurance or  
4 annuity product by an insurance agent before January 1, 2010, is  
5 covered by the law in effect at the time the solicitation or sale  
6 was made or the advice was given, and that law is continued in  
7 effect for that purpose.

8 ARTICLE 3. EFFECTIVE DATE

9 SECTION 3.001. This Act takes effect September 1, 2009.





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1294** by Eiland (Relating to certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code regarding certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities. The Texas Department of Insurance (TDI) would incorporate the requirements of this bill into its existing insurance advertisement reviews relating to life and annuity products.

Based on information provided by TDI, it is assumed that any costs associated with the bill could be absorbed within the agency's existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance

**LBB Staff:** JOB, SD, KJG, MW, CH

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**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

May 12, 2009

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1294** by Eiland (Relating to certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code regarding certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities. The Texas Department of Insurance (TDI) would incorporate the requirements of this bill into its existing insurance advertisement reviews relating to life and annuity products.

Based on information provided by TDI, it is assumed that any costs associated with the bill could be absorbed within the agency's existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance

**LBB Staff:** JOB, KJG, MW, CH



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 8, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1294** by Eiland (Relating to certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code regarding certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities. The Texas Department of Insurance (TDI) would incorporate the requirements of this bill into its existing insurance advertisement reviews relating to life and annuity products.

Based on information provided by TDI, it is assumed that any costs associated with the bill could be absorbed within the agency's existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance

**LBB Staff:** JOB, KJG, MW, CH



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 16, 2009**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1294** by Eiland (Relating to certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code regarding certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities. The Texas Department of Insurance (TDI) would incorporate the requirements of this bill into its existing insurance advertisement reviews relating to life and annuity products.

Based on information provided by TDI, it is assumed that any costs associated with the bill could be absorbed within the agency's existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance

**LBB Staff:** JOB, KJG, MW, CH

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**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 14, 2009**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1294** by Eiland (Relating to the use of senior-specific certifications and professional designations in the sale of life insurance and annuities.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code to prohibit insurance agents from using senior-specific certifications and professional designations in the sale of life insurance and annuities. The Texas Department of Insurance (TDI) would incorporate the requirements of this bill into its existing insurance advertisement reviews relating to life and annuity products.

Based on information provided by TDI, it is assumed that any costs associated with the bill could be absorbed within the agency's existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance

**LBB Staff:** JOB, KJG, MW, CH

