

## **BILL ANALYSIS**

Senate Research Center  
82R1635 AJA-F

S.B. 381  
By: Wentworth  
State Affairs  
3/1/2011  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

As our population ages, older individuals will become more vulnerable to having unscrupulous family members, friends, or caregivers making unauthorized withdrawals from their retirement funds. Current law does not adequately protect owners of such contracts or policies from unscrupulous individuals who may wish to access these funds. The purpose of S.B. 381 is to protect individuals from having an unauthorized partial surrender of or withdrawal from an annuity contract or a portion of the cash surrender value of a life insurance policy or endowment contract.

S.B. 381 amends the Texas Insurance Code to require that, in order to make a partial surrender of or withdrawal from an annuity contract or a portion of the cash surrender value of a life insurance policy or endowment contract, the request for the withdrawal be made in writing, signed by the owner and notarized, and be delivered to the agent who sold the contract or policy. The bill requires the agent to sign the request, forward it to the appropriate entity for processing, and provide the owner with accurate information regarding the consequences of the requested surrender or withdrawal.

The additional requirements contained in this bill are intended to ensure that the owners of such policies are aware of all withdrawals, are not coerced into making a withdrawal, and understand the consequences of the withdrawal.

As proposed, S.B. 381 amends current law relating to partial surrender of or withdrawals from annuity contracts, life insurance policies, and endowment contracts.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 1113, Insurance Code, by adding Section 1113.002, as follows:

Sec. 1113.002. PARTIAL SURRENDER OR WITHDRAWAL. (a) Prohibits a partial surrender of or withdrawal from an annuity contract or a partial surrender or withdrawal of all or part of the cash surrender value of a life insurance policy or endowment contract from being made unless, at minimum:

(1) an owner of the contract or policy requests the withdrawal in a writing that is signed by the owner or each joint owner, notarized, and delivered to the agency who sold the contract or policy, a representative of the issuer of the contract or policy at an office of the issuer located in the city or county where the owner resides, or, if the issuer does not have a local office and the agent who sold the contract or policy is no longer an agent for the issuer, the agent of record for the contract or policy; and

(2) the agent or representative who receives the request delivered under Subdivision (1) provides the information required by Subsection (b), signs

the request, and forwards the request to the appropriate office of the issuer of the contract or policy for processing the request.

(b) Requires an agent or representative who receives a request that is subject to this section to provide the requestor with accurate information concerning the consequences of the requested surrender or withdrawal, including any tax penalties the owner may incur.

(c) Prohibits the issuer of the contract or policy, except as provided by this section or other law or as specifically requested by the owner of the annuity contract, life insurance policy, or endowment contract, from delaying or otherwise impeding a surrender or withdrawal that is subject to this section, including by attempting to persuade the owner to redirect the proceeds of the surrender or withdrawal into another product marketed by the issuer.

(d) Authorizes the issuer of an annuity contract, life insurance policy, or endowment contract to impose additional requirements on a request for partial surrender of or withdrawal from the contract or policy, including requiring the signature of the spouse of the owner, beneficiary, or an assignee.

SECTION 2. Provides that, except as specifically provided by a conflicting provision of an annuity contract, life insurance policy, or endowment contract delivered or issued for delivery before the effective date of this Act, the change in law made by this Act applies to an annuity contract, life insurance policy, or endowment contract delivered or issued for delivery before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2011.