

## **BILL ANALYSIS**

C.S.S.B. 1107  
By: Eltife  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been asserted that the authority of the Texas Department of Insurance (TDI) to regulate annuities has not kept pace with the growing market of annuity products. There is additional concern that in the context of new and unique annuity products, such as contingent deferred annuities and indexed annuities that replicate investment market returns, the current authority of TDI to regulate annuity contracts results in an incomplete regulatory framework that does not respond well to market changes or adequately protect consumers. C.S.S.B. 1107 seeks to address these issues.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 of this bill.

### **ANALYSIS**

C.S.S.B. 1107 amends the Insurance Code to authorize the commissioner of insurance by rule to adopt reasonable standards for contingent deferred annuity contracts, including standards for the procedures for Texas Department of Insurance (TDI) review and approval of contingent deferred annuity contracts and the criteria TDI will use in approving the contracts; standards for replacement, suitability, and disclosure requirements that are consistent with applicable model regulations developed by the National Association of Insurance Commissioners (NAIC); and standards for advertising of contingent deferred annuity contracts that are consistent with applicable model regulations developed by the NAIC. The bill defines "contingent deferred annuity contract" as an annuity contract in which a life insurer makes periodic payments for the annuitant's lifetime beginning when a designated investment that is not owned or held by the insurer is depleted to an amount specified by the contract due to contractually permitted withdrawals, market performance, fees, or other charges.

C.S.S.B. 1107 exempts a contingent deferred annuity contract from statutory provisions governing standard nonforfeiture law for certain life insurance annuities.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1107 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

ENGROSSED

No equivalent provision.

SECTION 1. Chapter 1116, Insurance Code, is amended by adding Section 1116.003 to read as follows:

Sec. 1116.003. RULEMAKING AUTHORITY.

No equivalent provision.

The commissioner may adopt reasonable rules to protect the public that establish minimum standards for annuity contracts,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1107.002(a), Insurance Code, is amended to read as follows:

- (a) This chapter does not apply to:
  - (1) a reinsurance contract;
  - (2) a group annuity contract that is purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, by an employee organization, or by both, other than a plan that provides individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code of 1986, as amended;
  - (3) a premium deposit fund;
  - (4) a variable annuity contract;
  - (5) an investment annuity contract;
  - (6) an immediate annuity contract;
  - (7) a deferred annuity contract under which annuity payments have begun; [ø]
  - (8) a reversionary annuity contract; or
  - (9) a contingent deferred annuity contract as defined by Section 1116.003.

SECTION 2. Chapter 1116, Insurance Code, is amended by adding Section 1116.003 to read as follows:

Sec. 1116.003. RULEMAKING AUTHORITY FOR CONTINGENT DEFERRED ANNUITY CONTRACTS.

(a) In this section, "contingent deferred annuity contract" means an annuity contract in which a life insurer makes periodic payments for the annuitant's lifetime beginning when a designated investment that is not owned or held by the insurer is depleted to an amount specified by the contract due to contractually permitted withdrawals, market performance, fees, or other charges.

(b) The commissioner by rule may adopt reasonable standards for contingent deferred annuity contracts, including standards for:

including rules relating to:

(1) the purpose and use of key provisions in annuity contracts;

(2) criteria for the review and approval of new or unique annuity products; and

(3) marketing standards for annuity products.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

(1) the procedures for department review and approval of contingent deferred annuity contracts and the criteria the department will use in approving the contracts;

(2) replacement, suitability, and disclosure requirements that are consistent with applicable model regulations developed by the National Association of Insurance Commissioners; and

(3) advertising of contingent deferred annuity contracts that are consistent with applicable model regulations developed by the National Association of Insurance Commissioners.

SECTION 3. Same as engrossed version.