

**SENATE AMENDMENTS**  
**2<sup>nd</sup> Printing**

By: Wharton

H.B. No. 4386

A BILL TO BE ENTITLED

AN ACT

relating to the exchange or surrender of an annuity contract.

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

SECTION 1. Subchapter B, Chapter 1114, Insurance Code, is amended by adding Sections 1114.0541 and 1114.0542 to read as follows:

Sec. 1114.0541. PROCESSING OF ANNUITY CONTRACT EXCHANGES.

(a) In this section, "exchange" means an annuity replacement transaction:

(1) in which the money in an existing annuity contract must pass directly from the existing annuity contract and existing insurer to a new annuity contract and a replacing insurer; and

(2) in which the owner and annuitant of the new contract are the same as the owner and annuitant of the existing contract, regardless of whether the owner or annuitant may be changed after completion of the transaction.

(b) If a transaction involves an exchange of an annuity contract, the existing insurer and the replacing insurer shall comply with this section.

(c) To initiate an exchange of an annuity contract, the replacing insurer shall provide the existing insurer an exchange request notice on a form provided by the existing insurer. An existing insurer shall make an exchange request notice form available on the insurer's Internet website or require a contract

owner or replacing insurer to request from the insurer a physical copy of the form.

(d) An exchange request notice form may include or require only the following elements:

(1) a statement that the contract owner has authorized the replacing insurer to initiate the exchange;

(2) the existing annuity contract number;

(3) the name, mailing address, e-mail address, and telephone number of the contract owner and annuitant;

(4) delivery instructions for the transfer of money;

(5) the ink or electronic signature of the contract owner; and

(6) any disclosure documents required by federal law relating to an exchange or replacement of an annuity.

(e) An existing insurer that receives an exchange request notice from the contract owner and the replacing insurer shall:

(1) acknowledge receipt of the notice not later than the fifth business day after the date the existing insurer received the notice; and

(2) unless the existing annuity contract being exchanged has a provision that gives the existing insurer the right to defer payment for a different period, and subject to Subsection (f), transfer the contract value of the existing annuity to the replacing insurer not later than the 30th business day after the date the existing insurer receives the notice.

(f) If an exchange request notice form provided to an existing insurer under Subsection (c) does not include all required

1 information, the applicable period to transfer the contract value  
2 does not begin until the day the existing insurer receives all  
3 required information from the replacing insurer or contract owner,  
4 as applicable.

5 (g) If a transfer payment is not completed within the period  
6 provided by Subsection (e)(2) or the existing annuity contract, as  
7 applicable, the existing insurer shall pay penalty interest on the  
8 unpaid amount at an annual rate of 10 percent accruing from the  
9 first business day after the date the contract value was required to  
10 be transferred until the contract value is transferred to the  
11 replacing insurer in full.

12 (h) Nothing in this section is intended to:

13 (1) change the suitability requirements applicable to  
14 an agent or insurer seeking to replace an annuity under Chapter  
15 1115; or

16 (2) prohibit a replacing insurer and existing insurer  
17 from agreeing to use different formats or modes for assisting  
18 contract owners in the timely and efficient processing of  
19 replacements or exchanges of annuity contracts.

20 Sec. 1114.0542. PROCESSING OF SURRENDER REQUESTS FOR  
21 ANNUITY CONTRACTS. (a) To initiate a surrender of an annuity  
22 contract, a contract owner must submit a surrender request on a form  
23 required by the insurer. An insurer that issues an annuity contract  
24 shall make a surrender request form available on the insurer's  
25 Internet website or require the contract owner to request a  
26 physical copy of the form from the insurer. If a contract owner  
27 submits a written request for a physical copy of the form, the

insurer shall mail the form to the contract owner not later than the fifth business day after the date the insurer receives the request.

(b) A surrender request form may include or require only the following elements:

(1) a statement that the contract owner intends to surrender the annuity contract;

(2) the annuity contract number;

(3) the name, mailing address, e-mail address, and telephone number of the contract owner;

(4) delivery instructions for the transfer of money;

(5) instructions for tax withholding;

(6) the ink or electronic signature of the contract owner; and

(7) any other document or disclosure required by federal or state law.

(c) An insurer that receives a surrender request from a contract owner shall:

(1) acknowledge receipt of the request not later than the fifth business day after the date the insurer receives the request; and

(2) unless the contract being surrendered has a provision that gives the insurer the right to defer payment for a different period, and subject to Subsection (d), transfer the current cash surrender value of the annuity contract to the contract owner not later than the 30th business day after the date the insurer receives the request.

(d) If a surrender request form submitted to an insurer

1 under Subsection (a) does not include all required information, the  
2 applicable period to transfer the cash surrender value does not  
3 begin until the day the insurer receives all required information  
4 from the contract owner.

5 (e) If payment of a cash surrender value is not completed  
6 within the period provided by Subsection (c)(2) or the annuity  
7 contract, as applicable, the insurer shall pay penalty interest on  
8 the unpaid amount at an annual rate of 10 percent accruing from the  
9 first business day after the date the cash surrender value was  
10 required to be transferred until the cash surrender value is  
11 transferred to the contract owner in full.

12 (f) Nothing in this section is intended to change the  
13 suitability requirements applicable to an agent or other person  
14 advising a contract owner to surrender an annuity under Chapter  
15 1115.

16 SECTION 2. Sections 1114.0541 and 1114.0542, Insurance  
17 Code, as added by this Act, apply only to an exchange or surrender  
18 of an annuity contract initiated on or after January 1, 2026.

19 SECTION 3. This Act takes effect September 1, 2025.

ADOPTED

MAY 22 2025

*Latey Shaw*  
Secretary of the Senate

By: Tan Parker

H.B. No. 4386

Substitute the following for H.B. No. 4386:

By: Phil King

C.S. H.B. No. 4386

A BILL TO BE ENTITLED

AN ACT

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

SECTION 1. Subchapter B, Chapter 1114, Insurance Code, is amended by adding Sections 1114.0541 and 1114.0542 to read as follows:

Sec. 1114.0541. PROCESSING OF ANNUITY CONTRACT EXCHANGES.

(a) In this section, "exchange" means an annuity replacement transaction:

(1) in which the money in an existing annuity contract must pass directly from the existing annuity contract and existing insurer to a new annuity contract and a replacing insurer; and

(2) in which the owner and annuitant of the new contract are the same as the owner and annuitant of the existing contract, regardless of whether the owner or annuitant may be changed after completion of the transaction.

(b) If a transaction involves an exchange of an annuity contract, the existing insurer and the replacing insurer shall comply with this section.

(c) To initiate an exchange of an annuity contract, the replacing insurer shall provide the existing insurer an exchange request notice of the proposed exchange.

(d) An exchange request notice:

(1) must include:

1                   (A) all information necessary for the exchange to  
2 qualify as a tax-free exchange under 26 U.S.C. Section 1035; and

3                   (B) any information required by state law; and

4                   (2) may be provided on a form promulgated by the  
5 Association for Cooperative Operations Research and Development or  
6 another generally accepted form or in any other manner used by an  
7 insurer.

8           (e) An existing insurer that receives an exchange request  
9 notice shall:

10                   (1) not later than the fifth business day after the  
11 date the existing insurer received the notice, send a letter to the  
12 contract owner, as required under Section 1114.054(c), unless the  
13 existing insurer has previously provided it; and

14                   (2) subject to Subsection (f), transfer the contract  
15 value of the existing annuity to the replacing insurer not later  
16 than the 30th business day after the date the existing insurer  
17 receives the notice unless:

18                   (A) the existing annuity contract being  
19 exchanged has a provision that gives the existing insurer the right  
20 to defer payment for a different period;

21                   (B) the existing insurer, replacing insurer, and  
22 contract owner agree to a different transfer period, including an  
23 agreement to make the transfer on a specific future date;

24                   (C) a different transfer period is required under  
25 state or federal law; or

26                   (D) the existing insurer makes a determination or  
27 reasonably suspects the exchange involves a fraudulent insurance

1 act the insurer is required to report under Section 701.051.

2 (f) If an exchange request notice provided to an existing  
3 insurer under Subsection (c) does not include all required  
4 information necessary to complete the exchange, the applicable  
5 period to transfer the contract value does not begin until the day  
6 the existing insurer receives all required information from the  
7 replacing insurer or contract owner, as applicable.

8 (g) If a required transfer payment is not completed within  
9 the period provided by Subsection (e)(2) or the existing annuity  
10 contract, as applicable, the existing insurer shall pay penalty  
11 interest on the unpaid amount at an annual rate of 10 percent  
12 accruing from the first business day after the date the contract  
13 value was required to be transferred until the contract value is  
14 transferred to the replacing insurer in full.

15 (h) Nothing in this section is intended to:

16 (1) change the suitability requirements applicable to  
17 an agent or insurer seeking to replace an annuity under Chapter  
18 1115; or

19 (2) prohibit a replacing insurer and existing insurer  
20 from agreeing to use different formats or modes for assisting  
21 contract owners in the timely and efficient processing of  
22 replacements or exchanges of annuity contracts.

23 Sec. 1114.0542. PROCESSING OF SURRENDER REQUESTS FOR  
24 ANNUITY CONTRACTS. (a) To initiate a surrender of an annuity  
25 contract, a contract owner must submit a surrender request to the  
26 insurer in the form and manner required by the insurer. An insurer  
27 that issues an annuity contract shall make available to the



1 contract owner the form and manner in which the contract owner may  
2 submit the surrender request.

3 (b) An insurer that receives a surrender request from a  
4 contract owner shall, subject to Subsection (c), transfer the  
5 current cash surrender value of the annuity contract to the  
6 contract owner not later than the 30th business day after the date  
7 the insurer receives the request unless:

8 (1) the contract being surrendered has a provision  
9 that gives the insurer the right to defer payment for a different  
10 period;

11 (2) the insurer and contract owner agree to a  
12 different transfer period, including an agreement to make the  
13 transfer on a specific future date;

14 (3) a different transfer period is required under  
15 state or federal law; or

16 (4) the insurer makes a determination or reasonably  
17 suspects the surrender request involves a fraudulent insurance act  
18 the insurer is required to report under Section 701.051.

19 (c) If a surrender request submitted to an insurer under  
20 Subsection (a) does not include all required information, the  
21 applicable period to transfer the cash surrender value does not  
22 begin until the day the insurer receives all required information  
23 from the contract owner.

24 (d) If a required payment of a cash surrender value is not  
25 completed within the period provided by Subsection (b) or the  
26 annuity contract, as applicable, the insurer shall pay penalty  
27 interest on the unpaid amount at an annual rate of 10 percent

1 accruing from the first business day after the date the cash  
2 surrender value was required to be transferred until the cash  
3 surrender value is transferred to the contract owner in full.

4 (e) Nothing in this section is intended to change the  
5 suitability requirements applicable to an agent or other person  
6 advising a contract owner to surrender an annuity under Chapter  
7 1115.

8 SECTION 2. Sections 1114.0541 and 1114.0542, Insurance  
9 Code, as added by this Act, apply only to an exchange or surrender  
10 of an annuity contract initiated on or after January 1, 2026.

11 SECTION 3. This Act takes effect September 1, 2025.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**May 22, 2025**

**TO:** Honorable Dustin Burrows, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4386** by Wharton (Relating to the exchange or surrender of an annuity contract.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** JMc, SD, RStu, JPE, AAL, BFa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**May 20, 2025**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4386** by Wharton (relating to the exchange or surrender of an annuity contract.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** JMc, RStu, JPE, AAL, BFa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**May 9, 2025**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4386** by Wharton (Relating to the exchange or surrender of an annuity contract.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** JMc, JPE, AAL, BFa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**April 25, 2025**

**TO:** Honorable Jay Dean, Chair, House Committee on Insurance

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4386** by Wharton (relating to the exchange or surrender of an annuity contract.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** JMc, AAL, BFa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**April 15, 2025**

**TO:** Honorable Jay Dean, Chair, House Committee on Insurance

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4386** by Wharton (Relating to the replacement transactions of certain life insurance and annuity contracts from an insurer to a replacing insurer.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** JMc, AAL, BFa