

## **BILL ANALYSIS**

Senate Research Center  
81R4725 PMO-D

S.B. 961  
By: Ellis, Watson  
State Affairs  
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As Filed

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

Fraudulent charitable gift annuity schemes are being sold to senior adults, resulting in needless harm to Texas consumers. Insurance carriers have begun to file annuity contracts with seniors and consumers that set the maturity date at ages as high as 115, leaving their beneficiaries to have to pay a large surrender charge to liquidate the asset after the death of the annuity holder. In addition, some insurance and annuities carriers are incentivizing inappropriate sales behavior by highly compensating sales agents for selling annuities with severe surrender charges.

As proposed, S.B. 961 permits the Texas Department of Insurance (TDI) to verify and investigate the actual nature of charitable organizations issuing charitable gift annuities. The bill also modifies Section 102.002, Insurance Code, to obligate charitable organizations issuing charitable gift annuities to submit information to aid TDI in an investigation of the actual nature of a charitable organization.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to commissioner of insurance in SECTION 4 (Section 1115.005, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 102.002, Insurance Code, as follows:

Sec. 102.002. QUALIFIED CHARITABLE GIFT ANNUITY. (a) Creates this subsection from existing text.

(b) Authorizes the Texas Department of Insurance (TDI) to investigate as necessary to verify that an organization that issues an annuity meets the criteria described by Subsection (a).

SECTION 2. Amends Section 102.102(c), Insurance Code, to prohibit the charitable organization from being required to submit additional information except to aid TDI in an investigation and verification of the organization conducted under Section 102.002(b). Makes nonsubstantive changes.

SECTION 3. Amends Section 1107.006, Insurance Code, as follows:

Sec. 1107.006. MATURITY DATE. (a) Deletes existing text providing that the maturity date, subject to Subsection (b), is considered to be the latest date on which an election is permitted by the contract if an annuity contract permits an election to have annuity payments begin on optional maturity dates. Provides that the maturity date is the later of two certain anniversaries.

(b) Provides that the maturity date, subject to Subsection (a), if an annuity contract permits an election to have annuity payments begin on optional maturity dates, is considered to be the latest date on which an election is permitted by the contract.

SECTION 4. Amends Section 1115.005, Insurance Code, as follows:

Sec. 1115.005. RULES. (a) Creates this subsection from existing text.

(b) Requires the commissioner of insurance by rule to limit the commission or other compensation that is authorized to be paid to an agent for the sale of an annuity.

SECTION 5. Makes application of this Act prospective to January 1, 2010.

SECTION 6. Effective date: September 1, 2009.