

Disclosure, consumer education, and reporting requirements for certain annuity contracts

HB 1293 by Eiland (Ellis)

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DIGEST: HB 1293 would have established requirements for insurers to provide to consumers certain disclosures and a buyer’s guide regarding certain group and individual annuity contracts and certificates. The disclosures would have been required to contain information about the insurer that provided the annuity, the type of annuity product, the benefits of the product, and the conditions of the annuity contract. The insurance commissioner would have been required to adopt buyer’s guides for annuities for which a national guide had been adopted.

If an application for an annuity contract or certificate had been taken in a face-to-face meeting, the person taking the application would have been required to give the applicant both the disclosure statement and the appropriate buyer’s guide for the annuity product at or before the time of application. If the application had been taken by another means, the person taking the application would have been required to send these documents to the applicant by the fifth business day after the date the insurer had received the application. If the appropriate buyer’s guide and the disclosure statement had not been provided at or before the time of application, a free-look period of at least 15 days, during which the applicant could have returned the annuity contract without penalty, would have been required.

The bill also would have established reporting requirements for certain annuities in the payout period and would have established the specific information the insurer had to report to the contract owner. A violation of the reporting requirements or the requirement to provide disclosure statements and buyer’s guides to consumers would have constituted an unfair or deceptive act or practice in the business of insurance.

GOVERNOR’S REASON FOR VETO:

“House Bill No. 1293 creates specific disclosure requirements and consumer education standards relating to the sale and marketing of life insurance and annuities. Although the bill establishes standards of transparency and improvements that are important, I believe it will do more harm than good.

“This legislation designates any violation of these standards as an unfair or deceptive act or practice, which would expose agents and insurers to private claims for damages, attorney fees and costs for any such violation. Because the Texas Insurance Code already addresses suitable remedies for such offenses, I am opposed to this bill, which creates greater opportunities for frivolous litigation throughout the state.

“With this veto message, I am directing the Texas Department of Insurance to implement the beneficial provisions of this bill that are within its rulemaking authority.”

RESPONSE: **Rep. Craig Eiland**, the bill’s author, had no comment on the veto.

Sen. Rodney Ellis, the Senate sponsor, said: “This legislation was vetoed because there was the possibility of ‘frivolous law suits.’ The penalties for violation of the act would have been considered an unfair or deceptive act or practice in the business of insurance and would therefore be subject to Chapter 541 of the Insurance Code, which contains a private cause of action. This veto does not make the argument that this is not a deceptive or unfair act. By vetoing this legislation, the statement is being made that use of current law is no longer available as a remedy for the consumers who are the victim of an unfair or deceptive act in the business of insurance. These individuals, many of whom are elderly, will have to wait on the government to take action if it so chooses. I too am against frivolous lawsuits, but sometimes we need to allow individuals who have been knowingly deceived the right to choose from all available remedies.”

NOTES: HB 1293 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.