HOUSE RESEARCH ORGANIZATION bill analysis	5/22/2009	SB 1168 Hinojosa, et al. (Smithee) (CSSB 1168 by Smithee)

SUBJECT: Establishing a rescission period for annuity contracts

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Martinez Fischer, Deshotel, Eiland, Hancock, Hunter, S. Thompson

1 nay — Taylor

1 absent — Isett

SENATE VOTE: On final passage, April 20 — 27-3 (Fraser, Patrick, Williams)

WITNESSES: (*On House companion bill, HB 2652:*)
For — None

Against — Jay Thompson, Texas Association of Life and Health Insurers; (*Registered, but did not testify*: Brenda Nation, American Council of Life Insurers)

On — (*Registered, but did not testify*: Douglas Danzeiser, Texas Department of Insurance)

DIGEST: CSSB 1168 would amend Insurance Code, title 7, subtitle A to require an annuity contract to have a rescission period.

A fixed annuity contract would have to provide an unconditional refund of premiums paid for the contract, including any fees or charges, within 20 days of the delivery of the contract.

A variable or modified guaranteed annuity contract also would have to provide for an unconditional refund within 20 days of contract delivery. For a variable contract, the refund would be equal to the cash surrender value in the contract, plus any fees or charges deducted from the premiums or imposed under the contract. This would not apply if the prospective owner was an accredited investor as defined by the U.S. Securities and Exchange Commission.

SUPPORTERS SAY:

CSSB 1168 would require an annuity contract to contain a rescission period of 20 days, which would provide an important safeguard for consumers to ensure they had a reasonable timeframe to determine whether they were in an annuity policy that was right for them.

The sale of insurance products to senior citizens has increased over time, especially in the area of annuities, and as a result, the Texas Department of Insurance has received an increasing number of complaints alleging deceptive sales practices regarding these products. Rescission periods provide a consumer with the opportunity to consult with friends, family, or a financial advisor to ensure that this long-term investment was appropriate for them.

The language in the committee substitute addresses many of the concerns expressed about provisions contained in the Senate-passed version. The committee substitute is the product of a stakeholder process with input from insurance and consumer advocacy groups.

OPPONENTS SAY:

By requiring a rescission period for consumers to back out of their purchased annuity policy, CSSB 1168 would place an unnecessary burden on insurance companies who would incur an administrative cost for handling the rescinded contracts. Additionally, it is the responsibility of consumers to understand provisions of a contract they are entering before purchase. As such, this rescission period is unnecessary.

NOTES:

The committee substitute added provisions to the Senate-passed version differentiating how fixed and variable annuity contracts would be treated.