

BILL ANALYSIS

Senate Research Center

S.B. 1196
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Life insurers have for many years issued products called “funding agreements,” “guaranteed investment contracts,” and “synthetic guaranteed investment contracts.” The definitions and insurance regulatory requirements regarding these products are scattered throughout the Insurance Code: the regulations of the Texas Department of Insurance (TDI), the National Association of Insurance Commissioners accounting guidance adopted by TDI, relevant case law, and annuity product processing guidelines issued by TDI. The purpose of this bill is to codify the definitions of these types of annuity products and the insurance regulatory requirements applicable to them in a single new chapter of the Insurance Code, and to amend existing Section 443.301(b), Insurance Code, to codify that an annuity contract has the same “Class 2” claims payment priority status as a policy of insurance in the receivership of a Texas domestic insurance company, as well as to improve the punctuation of that subsection. The new added chapter would make clear that funding agreements, guaranteed investment contracts, and synthetic investment contracts as defined in the bill: (1) are types of annuity contracts; (2) may be issued for any permissible purposes specified in the bill; (3) would be exempt from certain consumer-oriented insurance regulatory requirements if they have no mortality or morbidity contingencies, since such products are marketed to sophisticated purchasers, rendering such requirements unnecessary; and (4) would receive the same claims payment priority status as policies of insurance under the Insurer Receivership Act. S.B. 1196 would not increase the covered claim exposure of the Texas Life and Health Insurance Guaranty Association.

S.B. 1196 amends current law relating to the regulation of funding agreements, guaranteed investment contracts, and synthetic guaranteed investment contracts issued by a life insurer, and clarifies certain provisions relating to insurer receivership.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 1154.005, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 443.301, Insurance Code, as follows:

Sec. 443.301. PRIORITY OF DISTRIBUTION. Requires that the priority of payment of distributions on unsecured claims be in accordance with the order in which each class of claims is set forth in this section, and provides information relating to such payments. Requires that the order of distribution be:

(a) Makes no change to this subsection.

(b) Class 2. (1) Adds claims under annuity contracts, including funding agreements, guaranteed investment contracts, and synthetic guaranteed investment contracts to the claims that classify as Class 2 and defines "annuity contract," "funding agreement," "guaranteed investment contract," and "synthetic guaranteed investment contract." Makes nonsubstantive changes.

(2)-(5) Makes no change to these subdivisions.

(c)-(k) Makes no change to these subsections.

SECTION 2. Amends Subtitle C, Title 7, Insurance Code, by adding Chapter 1154, as follows:

CHAPTER 1154. FUNDING AGREEMENTS, GUARANTEED INVESTMENT CONTRACTS, AND SYNTHETIC GUARANTEED INVESTMENT CONTRACTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1154.001. SHORT TITLE. Authorizes this chapter to be cited as the Act for the Regulation of Funding Agreements, Guaranteed Investment Contracts, and Synthetic Guaranteed Investment Contracts.

Sec. 1154.002. PURPOSE; LEGISLATIVE INTENT; CONSTRUCTION. (a) Provides that the purpose of this chapter is to promote the public welfare by regulating funding agreements, guaranteed investment contracts, and synthetic guaranteed investment contracts and to clarify and codify the existing law pertaining to funding agreements, guaranteed investment contracts, and synthetic guaranteed investment contracts.

(b) Requires that this chapter be liberally construed.

Sec. 1154.003. DEFINITIONS. Defines “annuity contract,” “funding agreement,” “governmental body,” “group,” “group annuity contract,” “guaranteed investment contract,” “life insurer,” and “synthetic guaranteed investment contract.”

Sec. 1154.004. APPLICABILITY OF CERTAIN OTHER LAW. Provides that Chapters 521 (Consumer Information and Complaints), 1107 (Standard Nonforfeiture Law for Certain Annuities), 1115 (Suitability of Certain Annuity Transactions), and 1131 (Group Life Insurance and Wholesale, Franchise, or Employee Life Insurance) do not apply to funding agreements, guaranteed investment contracts, or synthetic guaranteed investment contracts without mortality or morbidity contingencies.

Sec. 1154.005. RULES. Authorizes the commissioner of insurance to adopt rules to implement or clarify this chapter.

SUBCHAPTER B. FUNDING AGREEMENTS

Sec. 1154.051. ESTABLISHMENT OF FUNDING AGREEMENTS. (a) Authorizes a life insurer to issue a funding agreement to generate an income stream for the purchaser of the agreement or fund a future liability or program of the purchaser or the purchaser's designee. Authorizes a life insurer to issue a funding agreement to an accredited investor, as defined by 17 C.F.R. Section 230.501, a governmental body, or an institution with assets in excess of \$25 million.

(b) Provides that a life insurer that issues a funding agreement in this state engages in the business of insurance for the purpose of regulation.

SUBCHAPTER C. GUARANTEED INVESTMENT CONTRACTS

Sec. 1154.101. ESTABLISHMENT OF GUARANTEED INVESTMENT CONTRACTS. Authorizes a life insurer to issue a guaranteed investment contract to provide a benefit in a fixed amount or a variable amount or a fixed amount and a variable amount.

SECTION 3. Effective date: September 1, 2015.