HB 1665 -- SECURITIES REGULATION

SPONSOR: Hanaway

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Services by a vote of 11 to 8.

This bill changes the definition of “security” as used in the laws regulating securities so that the sale of variable annuities will be regulated by the Secretary of State. Under current law, the sale is regulated by the Department of Insurance.

FISCAL NOTE: Estimated Income on General Revenue Fund of $24,500 in FY 2005, FY 2006, and FY 2007. No impact on Other State Funds in FY 2005, FY 2006, and FY 2007.

PROPONENTS: Supporters say that the bill closes a gap in the enforcement of laws regulating the sale of variable annuities. Unlike fixed annuities, variable annuities can lose value over time, because they are usually linked to a mutual fund or other kind of equity investment. Because of that, federal law classifies them as a security. The sale of variable annuities is now regulated by the Department of Insurance, not the securities regulation office within the Office of Secretary of State. The biggest problem with the selling of these investment products is that the agent may not be capable of determining the client’s specific investment needs. The department does not require suitability for these types of investments as part of the insurance agent’s training. When complaints are made in this area, they go to the department. The Secretary of State’s office can better enforce the regulation of variable annuities and do so without adding staff.

Testifying for the bill were Speaker Hanaway; Office of Secretary of State; Steamboat Financial Group; and Financial Planners Association.

OPPONENTS: Those who oppose the bill say that it adds a fourth layer of bureaucracy onto the already heavily regulated sale of variable annuities. This industry is already subject to anti-fraud provisions of the federal securities law and regulated by the Security and Exchange Commission; brokers who sell mutual funds are regulated by the National Association of Security Dealers; and the sale of all annuities is regulated by the Department of Insurance. A fourth layer of regulation will confuse consumers, insurers, and the regulators themselves. No one has reported a problem in this area or a pattern of adverse conduct that needs to be stopped. There is no need for a change in the regulation of this industry. The bill would create an aberrant regulatory structure in Missouri that would differ from almost every other state. Non-uniform patterns of regulation add unnecessary expenses and burdens that are disruptive to the business of insurance in Missouri.

Testifying against the bill were American Council of Life Insurers; Missouri Association of Insurance and Financial Advisors; Kansas City Life Insurance; General American; MetLife; and Prudential Financial.

Richard Smreker, Senior Legislative Analyst