

By: Smithee

H.B. No. 4030

Substitute the following for H.B. No. 4030:

By: Oliverson

C.S.H.B. No. 4030

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the licensing and regulation of insurance  
3 professionals.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 443.156(a), Insurance Code, is amended  
6 to read as follows:

7 (a) Every person who represented the insurer as an agent and  
8 receives notice in the form prescribed in Section 443.155 that the  
9 insurer is the subject of a liquidation order, not later than the  
10 30th day after the date of the notice, shall provide to the  
11 liquidator, in addition to the information the agent may be  
12 required to provide pursuant to Section 443.010, the information in  
13 the agent's records related to any policy issued by the insurer  
14 through the agent and any policy issued by the insurer through an  
15 agent under contract to the agent~~[, including the name and address~~  
16 ~~of any subagent]~~. For purposes of this subsection, a policy is  
17 issued through an agent if the agent has a property interest in the  
18 expiration of the policy or if the agent has had in the agent's  
19 possession a copy of the declarations of the policy at any time  
20 during the life of the policy, except where the ownership of the  
21 expiration of the policy has been transferred to another.

22 SECTION 2. Section 521.151, Insurance Code, is amended to  
23 read as follows:

24 Sec. 521.151. APPLICABILITY OF SUBCHAPTER. This subchapter

1 applies to any legal entity engaged in the business of insurance in  
2 this state, including:

- 3 (1) a capital stock insurance company;
- 4 (2) a mutual insurance company;
- 5 (3) a title insurance company;
- 6 (4) a fraternal benefit society;
- 7 (5) a local mutual aid association;
- 8 (6) a statewide mutual assessment company;
- 9 (7) a county mutual insurance company;
- 10 (8) a Lloyd's plan;
- 11 (9) a reciprocal or interinsurance exchange;
- 12 (10) a stipulated premium company;
- 13 (11) a group hospital service corporation;
- 14 (12) a farm mutual insurance company;
- 15 (13) a risk retention group;
- 16 (14) an eligible surplus lines insurer; and
- 17 (15) an agent, broker, or adjuster [~~, or life and~~  
18 ~~health insurance counselor~~].

19 SECTION 3. Section 541.002(2), Insurance Code, is amended  
20 to read as follows:

- 21 (2) "Person" means an individual, corporation,  
22 association, partnership, reciprocal or interinsurance exchange,  
23 Lloyd's plan, fraternal benefit society, or other legal entity  
24 engaged in the business of insurance, including an agent, broker,  
25 or adjuster [~~, or life and health insurance counselor~~].

26 SECTION 4. Section 544.001, Insurance Code, is amended to  
27 read as follows:

1           Sec. 544.001. APPLICABILITY OF SUBCHAPTER. This subchapter  
2 applies to:

3           (1) any legal entity engaged in the business of  
4 insurance in this state, including:

- 5                   (A) a capital stock insurance company;
- 6                   (B) a mutual insurance company;
- 7                   (C) a title insurance company;
- 8                   (D) a fraternal benefit society;
- 9                   (E) a local mutual aid association;
- 10                  (F) a statewide mutual assessment company;
- 11                  (G) a county mutual insurance company;
- 12                  (H) a Lloyd's plan;
- 13                  (I) a reciprocal or interinsurance exchange;
- 14                  (J) a stipulated premium company;
- 15                  (K) a group hospital service corporation;
- 16                  (L) a farm mutual insurance company;
- 17                  (M) a risk retention group;
- 18                  (N) an eligible surplus lines insurer; and
- 19                  (O) an agent, broker, or adjuster~~[, or life and~~  
20 ~~health insurance counselor]~~; and

21           (2) a health maintenance organization.

22           SECTION 5. Section 544.051, Insurance Code, is amended to  
23 read as follows:

24           Sec. 544.051. APPLICABILITY OF SUBCHAPTER. This subchapter  
25 applies to any individual, corporation, association, partnership,  
26 or other legal entity engaged in the business of insurance,  
27 including:

- 1 (1) a fraternal benefit society;
- 2 (2) a county mutual insurance company;
- 3 (3) a Lloyd's plan;
- 4 (4) a reciprocal or interinsurance exchange;
- 5 (5) a farm mutual insurance company; and
- 6 (6) an agent, broker, or adjuster [~~, or life and health~~  
7 ~~insurance counselor~~].

8 SECTION 6. Section 1131.056(a), Insurance Code, is amended  
9 to read as follows:

10 (a) In this section, "agent" includes a general agent [~~,~~  
11 ~~subagent~~] or a salesperson.

12 SECTION 7. Section 4001.002(b), Insurance Code, is amended  
13 to read as follows:

14 (b) This title does not apply to:

15 (1) a resident of this state who arbitrates in the  
16 adjustment of losses between an insurer and an insured, a marine  
17 adjuster who adjusts particular or general average losses of  
18 vessels or cargoes if the adjuster paid an occupation tax of \$200  
19 for the year in which the adjustment is made, or a practicing  
20 attorney at law in this state, acting in the regular transaction of  
21 the person's business as an attorney at law, who is not a local  
22 agent and is not acting as an adjuster for an insurer;

23 (2) [~~a full-time home office salaried employee of an~~  
24 ~~insurer authorized to engage in the business of insurance in this~~  
25 ~~state, other than an employee who solicits or receives an~~  
26 ~~application for the sale of insurance through an oral, written, or~~  
27 ~~electronic communication in accordance with Subchapter C, Chapter~~

1 ~~4051,~~

2           ~~(3)~~ an attorney in fact or the traveling salaried  
3 representative of a reciprocal or interinsurance exchange admitted  
4 to engage in the business of insurance in this state as to business  
5 transacted through the attorney in fact or salaried representative;

6           (3) ~~(4)~~ the attorney in fact for a Lloyd's plan;

7           (4) ~~(5)~~ the group motor vehicle insurance business  
8 or the group motor vehicle department of a company engaged in that  
9 business; or

10           (5) ~~(6)~~ a salaried employee who is not involved in  
11 soliciting or negotiating insurance in the office of an agent and  
12 who devotes the employee's full time to clerical and administrative  
13 services, including the incidental taking of information from  
14 customers and receipt of premiums in the office of an agent, if:

15                   (A) the employee does not receive any  
16 commissions; and

17                   (B) the employee's compensation is not varied by  
18 the volume of premiums taken and received.

19           SECTION 8. Section 4001.003(1), Insurance Code, is amended  
20 to read as follows:

21           (1) "Agent" means a person who is an authorized agent  
22 of an insurer or health maintenance organization [~~a subagent,~~  
23 and any other person who performs the acts of an agent, whether  
24 through an oral, written, electronic, or other form of  
25 communication, by soliciting, negotiating, procuring, or  
26 collecting a premium on an insurance or annuity contract, or who  
27 represents or purports to represent a health maintenance

1 organization, including a health maintenance organization offering  
2 only a single health care service plan, in soliciting, negotiating,  
3 procuring, or effectuating membership in the health maintenance  
4 organization. The term does not include:

5 (A) a regular salaried officer or employee of an  
6 insurer, health maintenance organization, or agent who:

7 (i) devotes substantially all of the  
8 officer's or employee's time to activities other than the  
9 solicitation of applications for insurance, annuity contracts, or  
10 memberships;

11 (ii) does not receive a commission or other  
12 compensation directly dependent on the business obtained; and

13 (iii) does not solicit or accept from the  
14 public applications for insurance, annuity contracts, or  
15 memberships;

16 (B) an employer or an employer's officer or  
17 employee or a trustee of an employee benefit plan, to the extent  
18 that the employer, officer, employee, or trustee is engaged in the  
19 administration or operation of an employee benefits program  
20 involving the use of insurance or annuities issued by an insurer or  
21 memberships issued by a health maintenance organization, if the  
22 employer, officer, employee, or trustee is not directly or  
23 indirectly compensated by the insurer or health maintenance  
24 organization issuing the insurance or annuity contracts or  
25 memberships;

26 (C) except as otherwise provided by this code, a  
27 depository institution, or an officer or employee of a depository

1 institution, to the extent that the depository institution or  
2 officer or employee collects and remits premiums or charges by  
3 charging those premiums or charges against accounts of depositors  
4 on the orders of those depositors; or

5 (D) a person or the employee of a person who has  
6 contracted to provide administrative, management, or health care  
7 services to a health maintenance organization and who is  
8 compensated for those services by the payment of an amount computed  
9 as a percentage of the revenues, net income, or profit of the health  
10 maintenance organization, if that method of compensation is the  
11 sole basis for subjecting that person or the employee of the person  
12 to this title.

13 SECTION 9. Section 4001.051(b), Insurance Code, is amended  
14 to read as follows:

15 (b) Regardless of whether the act is done at the request of  
16 or by the employment of an insurer, broker, or other person, a  
17 person is the agent of the insurer for which the act is done or risk  
18 is taken for purposes of the liabilities, duties, requirements, and  
19 penalties provided by this title or [7] Chapter 21[~~7~~ ~~or a provision~~  
20 ~~listed in Section 4001.009~~] if the person:

21 (1) solicits insurance on behalf of the insurer;

22 (2) receives or transmits other than on the person's  
23 own behalf an application for insurance or an insurance policy to or  
24 from the insurer;

25 (3) advertises or otherwise gives notice that the  
26 person will receive or transmit an application for insurance or an  
27 insurance policy;

- 1           (4) receives or transmits an insurance policy of the
- 2 insurer;
- 3           (5) examines or inspects a risk;
- 4           (6) receives, collects, or transmits an insurance
- 5 premium;
- 6           (7) makes or forwards a diagram of a building;
- 7           (8) takes any other action in the making or
- 8 consummation of an insurance contract for or with the insurer other
- 9 than on the person's own behalf; or
- 10          (9) examines into, adjusts, or aids in adjusting a
- 11 loss for or on behalf of the insurer.

12           SECTION 10. Section [4001.106\(b\)](#), Insurance Code, is amended

13 to read as follows:

14           (b) The department shall issue a license to a corporation or

15 partnership if the department determines that:

- 16           (1) the corporation or partnership is:
  - 17               (A) organized under the laws of this state or
  - 18 another state; and
  - 19               (B) authorized by its articles of incorporation
  - 20 or its partnership agreement to act as an agent;

21           (2) at least one officer of the corporation or one

22 active partner of the partnership and all other persons performing

23 any acts of an agent on behalf of the corporation or partnership in

24 this state are individually licensed by the department separately

25 from the corporation or partnership;

26           (3) the corporation or partnership will have the

27 ability to pay any amount up to \$25,000 that it might become legally

1 obligated to pay under a claim made against it by a customer and  
2 caused by a negligent act, error, or omission of the corporation or  
3 partnership or a person for whose acts the corporation or  
4 partnership is legally liable in the conduct of its business under  
5 this code;

6 (4) if engaged in the business of insurance, the  
7 corporation or partnership intends to be actively engaged in that  
8 business as required under Section 4001.104(a);

9 ~~(5) [each location from which the corporation or~~  
10 ~~partnership will engage in business in this state under authority~~  
11 ~~of a license issued by the department is registered separately with~~  
12 ~~the department;~~

13 ~~(6)~~ the corporation or partnership has submitted the  
14 application, appropriate fees, and any other information required  
15 by the department; and

16 (6) ~~(7)~~ an officer, director, member, manager,  
17 partner, or other person who has the right or ability to control the  
18 corporation or partnership has not:

19 (A) had a license suspended or revoked or been  
20 the subject of any other disciplinary action by a financial or  
21 insurance regulator of this state, another state, or the United  
22 States; or

23 (B) committed an act for which a license may be  
24 denied under Subchapter C, Chapter 4005.

25 SECTION 11. Section 4001.153, Insurance Code, is amended to  
26 read as follows:

27 Sec. 4001.153. APPLICATION FOR AND ISSUANCE OF TEMPORARY

1 LICENSE. (a) Except as provided by Subsection (b), the [The]  
2 department shall issue a temporary license immediately on receipt  
3 of a properly completed application executed by the applicant in  
4 the form required by Section 4001.102 and accompanied by:

5 (1) the nonrefundable filing fee set by the  
6 department; and

7 (2) a certificate signed by an officer or properly  
8 authorized representative of an agent, insurer, or health  
9 maintenance organization stating that:

10 (A) the applicant is being considered for  
11 appointment by the agent, insurer, or health maintenance  
12 organization as its full-time agent;

13 (B) the agent, insurer, or health maintenance  
14 organization desires that the applicant be issued a temporary  
15 license; and

16 (C) the applicant will complete training as  
17 prescribed by Section 4001.160 under the agent's, insurer's, or  
18 health maintenance organization's supervision.

19 (b) The department may deny a license application under this  
20 subchapter if the department determines that any of the grounds  
21 exist for license denial or disciplinary action under Section  
22 4005.101 of this code or Chapter 53, Occupations Code.

23 SECTION 12. Section 4001.155, Insurance Code, is amended to  
24 read as follows:

25 Sec. 4001.155. TERM OF TEMPORARY LICENSE. A temporary  
26 license is valid for 180 [~~90~~] days after the date of issuance.

27 SECTION 13. Section 4001.352, Insurance Code, is amended to

1 read as follows:

2 Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT.

3 (a) The department may, in conjunction with a license application  
4 under Section 4001.102, issue a provisional permit to an applicant  
5 who is being considered for appointment as an agent by another  
6 agent, an insurer, or a health maintenance organization.

7 (b) The department may suspend the issuance of a provisional  
8 permit under this subchapter if:

9 (1) the department's processing time for license  
10 applications has not exceeded 21 days in any month in the preceding  
11 90 days before the suspension; and

12 (2) the department provides notice both on its  
13 Internet website and to applicants for provisional licenses that  
14 the provisional license applications are temporarily suspended  
15 because sufficient processing time for permanent licenses is  
16 available to allow for those licenses to be processed in not more  
17 than 21 days for a completed application.

18 SECTION 14. Section 4002.003(a), Insurance Code, is amended  
19 to read as follows:

20 (a) The department may not require a person to take an  
21 examination under this chapter if the person is:

22 (1) an applicant for the renewal of an unexpired  
23 license issued by the department;

24 (2) an applicant whose license issued by the  
25 department expired less than one year before the date of the  
26 application, if the previous license was not denied, revoked, or  
27 suspended by the commissioner;

1           (3) a partnership, corporation, or depository  
2 institution;

3           (4) an applicant for a life, accident, and health  
4 license who is designated as a chartered life underwriter (CLU);

5           (5) ~~[an applicant for a life and health insurance  
6 counselor license who is designated as a chartered life underwriter  
7 (CLU), chartered financial consultant (ChFC), or certified  
8 financial planner (CFP)];~~

9           ~~[(6)]~~ an applicant for a property and casualty license  
10 who is designated as a chartered property casualty underwriter  
11 (CPCU);

12           (6) ~~[(7)]~~ an applicant for a specialty license issued  
13 under Chapter [4055](#);

14           (7) ~~[(8)]~~ a nonresident individual who is exempt from  
15 the examination requirement under Chapter [4056](#); or

16           (8) ~~[(9)]~~ an applicant for a general life, accident,  
17 and health license or a life agent license who was authorized to  
18 solicit or procure insurance on behalf of a fraternal benefit  
19 society on September 1, 1999, if the applicant:

20                   (A) solicited or procured insurance on behalf of  
21 the fraternal benefit society for at least 24 months preceding  
22 September 1, 1999; and

23                   (B) does not, on or after September 1, 1999,  
24 solicit or procure:

25                           (i) insurance for any other insurer or a  
26 different fraternal benefit society;

27                           (ii) an insurance contract from anyone

1 other than a person who is eligible for membership in the fraternal  
2 benefit society; or

3 (iii) an interest-sensitive life insurance  
4 contract that exceeds \$35,000 of coverage on an individual life,  
5 unless the applicant is designated as a "Fraternal Insurance  
6 Counselor" at the time the contract is solicited or procured.

7 SECTION 15. Section 4004.053(a), Insurance Code, is amended  
8 to read as follows:

9 (a) An individual who holds a general life, accident, and  
10 health license, a life agent license, [~~a life and health insurance  
11 counselor license,~~] an adjuster license, a managing general agent  
12 license, a general property and casualty license, or a personal  
13 lines property and casualty license must complete 24 hours of  
14 continuing education during the license period. If the individual  
15 holds more than one license for which continuing education is  
16 otherwise required, the individual is not required to complete more  
17 than 24 continuing education hours for all licenses during the  
18 license period. An individual who is required under rules adopted  
19 under Chapter 4008 to hold a certificate to sell a designated  
20 product or product line may use continuing education programs  
21 administered under Section 4004.151 to satisfy the continuing  
22 education requirements under this subsection.

23 SECTION 16. Section 4004.054, Insurance Code, is amended to  
24 read as follows:

25 Sec. 4004.054. ETHICS REQUIREMENT. Each individual who  
26 holds a license issued by the department shall complete three [~~two~~]  
27 hours of continuing education in ethics during each license renewal

1 period.

2 SECTION 17. Section 4051.051(a), Insurance Code, is amended  
3 to read as follows:

4 (a) A person is required to hold a general property and  
5 casualty license if the person acts as:

6 (1) an agent who writes property and casualty  
7 insurance for an insurer authorized to engage in the business of  
8 property and casualty insurance in this state; or

9 ~~(2) [a subagent of a person who holds a license as an  
10 agent under this chapter who solicits and binds insurance risks for  
11 that agent; or~~

12 [~~3~~] an agent who writes any other kind of insurance  
13 as required by the commissioner for the protection of the insurance  
14 consumers of this state.

15 SECTION 18. Section 4051.401, Insurance Code, is amended to  
16 read as follows:

17 Sec. 4051.401. PERSONAL LINES PROPERTY AND CASUALTY  
18 LICENSE; LICENSE REQUIRED. A person is required to hold a personal  
19 lines property and casualty license if the person acts as [+

20 [~~1~~] an agent who writes property and casualty  
21 insurance sold to individuals and families primarily for personal  
22 or household use for an insurer authorized to engage in the business  
23 of property and casualty insurance in this state[~~, or~~

24 [~~2~~] ~~a subagent of a person who holds a license as an  
25 agent under this subchapter who solicits and binds insurance risks  
26 for that agent].~~

27 SECTION 19. Section 4056.052, Insurance Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) A license issued under this section shall be  
3 automatically suspended, canceled, or revoked if the licensee's  
4 home state suspends, cancels, or revokes the licensee's  
5 corresponding resident license.

6 SECTION 20. Section 4056.059(b), Insurance Code, is amended  
7 to read as follows:

8 (b) A nonresident agent may apply to the department for a  
9 comparable license for residents of this state. An application  
10 must include:

11 (1) a notification of the agent's change of address and  
12 contact information; and

13 (2) [~~a clearance letter from the state authority of~~  
14 ~~the state that issued the agent's prior resident license~~  
15 ~~demonstrating the agent's good standing with that authority; and~~

16 [~~(3)~~] fingerprint forms in the format prescribed by  
17 the department, which may be electronic.

18 SECTION 21. Section 4102.054(a), Insurance Code, is amended  
19 to read as follows:

20 (a) The commissioner may issue a nonresident license to an  
21 applicant for a public insurance adjuster license who is not a  
22 permanent resident of this state on determining that the  
23 application meets the requirements of this chapter, the nonresident  
24 license application fee has been paid, and the applicant is an  
25 individual who:

26 (1) is at least 18 years of age;

27 (2) except as provided by Section 4102.058, has

1 passed, to the satisfaction of the commissioner, an examination  
2 approved by the commissioner and of sufficient scope as prescribed  
3 by Section 4102.057;

4 (3) is self-employed as a public insurance adjuster or  
5 associated with or employed by a public insurance adjusting firm or  
6 other public insurance adjuster;

7 (4) is trustworthy and of a moral character that  
8 reasonably ensures that the applicant will conduct the business of  
9 a public insurance adjuster fairly and in good faith without  
10 detriment to the public;

11 (5) has never been convicted of a felony or, if  
12 convicted of a felony, has received a full pardon from that  
13 conviction and is otherwise relieved from any disabilities  
14 connected with that conviction;

15 (6) has sufficient experience or training relating to  
16 the assessment of:

17 (A) real and personal property values; and

18 (B) physical loss of or damage to real or  
19 personal property that may be the subject of insurance and claims  
20 under insurance;

21 (7) is sufficiently informed as to the terms and  
22 effects of the types of insurance contracts that provide coverage  
23 on real and personal property;

24 (8) possesses knowledge and experience adequate to  
25 enable the applicant to engage in the business of a public insurance  
26 adjuster fairly and without injury to the public or any member of  
27 the public with whom the applicant may have business as a public

1 insurance adjuster;

2 (9) [~~if currently licensed as a resident public~~  
3 ~~insurance adjuster in the applicant's state of residence, provides~~  
4 ~~with the application a certificate or letter of authorization from~~  
5 ~~the licensing authority of the applicant's state of residence that:~~

6 [(A) ~~states that the applicant holds a current or~~  
7 ~~comparable license to act as a public insurance adjuster; and~~

8 [(B) ~~meets the requirements of Subsection (b);~~

9 [(10) ~~if the applicant's state of residence does not~~  
10 ~~require licensure as a resident public insurance adjuster and the~~  
11 ~~applicant has been licensed as an adjuster, agent, broker, or other~~  
12 ~~insurance representative in the applicant's state of residence or~~  
13 ~~any other state within the past three years, provides with the~~  
14 ~~application a certificate or letter of authorization from the~~  
15 ~~licensing authority that:~~

16 [(A) ~~states that the applicant holds or has held~~  
17 ~~a license to act as an adjuster, agent, broker, or other insurance~~  
18 ~~representative; and~~

19 [(B) ~~meets the requirements of Subsection (c);~~

20 [(11)] files proof of financial responsibility in  
21 accordance with Section 4102.105; and

22 (10) [(12)] complies with any other requirements  
23 under applicable state law, including provision of a complete set  
24 of fingerprints on request, as provided by Section 4001.103.

25 SECTION 22. The following provisions of the Insurance Code  
26 are repealed:

27 (1) Section 4001.003(9);

- 1           (2) Sections 4001.009 and 4001.109;
- 2           (3) Section 4001.156(a);
- 3           (4) Section 4001.205;
- 4           (5) Subchapters D and G, Chapter 4051;
- 5           (6) Chapter 4052;
- 6           (7) Section 4056.004;
- 7           (8) Sections 4102.054(b) and (c); and
- 8           (9) Section 4102.114(d).

9           SECTION 23. (a) In this section, "department" means the  
10 Texas Department of Insurance.

11           (b) On the effective date of this Act, the department shall  
12 convert all active insurance services representative licenses  
13 issued before January 1, 2021, to general property and casualty  
14 insurance agent licenses. Licensees must comply with all  
15 requirements of the converted license to keep the license active  
16 and in good standing. Any insurance services representative  
17 licenses issued on or after January 1, 2021, through the effective  
18 date of this Act may not be renewed on expiration of the license and  
19 may not convert to another license type.

20           (c) On the effective date of this Act, the department shall  
21 convert all active life and health insurance counselor licenses  
22 issued before January 1, 2021, to general life and health agent  
23 licenses. Converted licensees must comply with all requirements of  
24 the converted license to keep the license active and in good  
25 standing. Any life and health insurance counselor licenses issued  
26 on or after January 1, 2021, through the effective date of this Act  
27 may not be renewed on expiration of the license and may not convert

1 to another license type.

2 (d) On the effective date of this Act, any existing home  
3 office salaried employee registration is void and ceases to exist.  
4 Any former home office salaried employee registrant engaging in the  
5 business of insurance after the effective date of this Act must  
6 follow the requirements of the Insurance Code and any other  
7 applicable laws of this state.

8 SECTION 24. This Act takes effect September 1, 2021.