

BILL ANALYSIS

Senate Research Center

S.B. 127
By: Fraser
Business & Commerce
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Enrolled

DIGEST AND PURPOSE

Currently, the Texas Insurance Code does not include a licensing requirement for public insurance adjusters or a structure to regulate the activities of such professionals. The creation of such would protect consumers from unfair stigmatization due to residential property claims and from unethical behavior. S.B. 127 protects persons from being unfairly stigmatized by filing residential property claims by establishing a license for public insurance adjusters. S.B. 127 establishes continuing education requirements, ethics guidelines, licensing and renewal procedures, and a disciplinary and penalty process for violations of this section of the insurance code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1.01 (Article 5.35-4, Sections 3 and 4, Insurance Code), SECTION 2.01 (Article 21.55A, Section 3, Insurance Code), and SECTION 3.02 (Article 21.07-5, Sections 6, 11, 18, 21, 23, and 29, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Insurance in SECTION 3.02 (Article 21.07-5, Section 5A and 15A, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. WATER DAMAGE CLAIMS

SECTION 1.01. Amends Subchapter C, Chapter 5, Insurance Code, by adding Article 5.35-4, as follows:

Art. 5.35-4. RESTRICTIONS ON USE OF CLAIMS HISTORY FOR WATER DAMAGE

Sec. 1. **PURPOSE.** Provides that the purpose of this article is to protect persons and property from being unfairly stigmatized in obtaining residential property insurance by filing claims under a residential property insurance policy.

Sec. 2. **DEFINITIONS.** Defines “insurer,” “residential property insurance,” and “underwriting guideline.”

Sec. 3. **RESTRICTIONS ON USE OF CLAIMS HISTORY FOR WATER DAMAGES.**
(a) Requires that underwriting guidelines relating to a water damage claim or claims used by an insurer be governed by rules adopted by the commissioner of insurance (commissioner) and prohibits an insurer from using an underwriting guideline that does not.

(b) Requires an insurer to file its underwriting guidelines relating to a water damage claim, or claims in accordance with rules adopted by the commissioner.

(c) Prohibits an insurer, except as provided by Subsection (e) of this section, from using a prior appliance-related claim filed by a person as a basis for determining the rate to be paid by the person for insurance coverage or for determining whether to issue, renew, or cancel an insurance policy to or for the person under

certain circumstances.

(d) Prohibits an insurer, except as provided by Subsection (e) of this section, from using a prior appliance-related claim filed regarding specific property as a basis for determining the rate to be paid by a person for insurance coverage for that property or for determining whether to issue, renew, or cancel an insurance policy to or for a person seeking insurance coverage for that property if the prior appliance-related claim was properly remediated and was inspected and certified by a person knowledgeable and experienced in remediation of water damage.

(e) Provides that Subsections (c) and (d) of this section do not apply to a person who has made and has received payment for three or more appliance-related claims within a three-year period or specific property that has been the subject of three or more appliance-related claims within a three-year period.

Sec. 4. RULEMAKING AUTHORITY. Requires the commissioner to adopt rules to accomplish the purposes of this article.

SECTION 1.02. Makes application of Article 5.35-4 prospective.

ARTICLE 2. CLAIMS HANDLING PROCEDURES AND TIME FRAMES

Art. 21.55A. WATER DAMAGE CLAIMS

Sec. 1. PURPOSES. Sets forth the purposes of this article.

Sec. 2. APPLICABILITY. Provides that this article applies to any insurer that handles or processes water damage claims filed under residential property insurance policies.

Sec. 3. RULES. (a) Authorizes the commissioner to adopt rules that identify the types of water damage claims that require more prompt, efficient, and effective processing and handling than the processing and handling required under Article 21.55 of this code.

(b) Sets forth the aspects of water damage claims the commissioner is authorized to regulate by rule.

(c) Provides that a rule adopted under this section supersedes the minimum standards described by Article 21.55 of this code.

ARTICLE 3. LICENSING OF PUBLIC INSURANCE ADJUSTERS

SECTION 3.01 Amends Article 21.07-4, Insurance Code, to include a public insurance adjuster who is licensed under Article 21.07-5, Insurance Code (Public Insurance Adjusters), in the list of persons not considered an “adjuster.”

SECTION 3.02 Amends Chapter 21A, Insurance Code, by adding Article 21.07-5, as follows:

Art. 21.07-5. PUBLIC INSURANCE ADJUSTERS

Sec. 1. DEFINITIONS. Defines “licensee,” “person,” and “public insurance adjuster.”

Sec. 2. NOT LAW LICENSE. Provides that nothing in this article entitles any person not licensed by the Supreme Court of Texas to practice law in the state.

Sec. 3. LICENSE REQUIRED; EXEMPTION. (a) Prohibits a person from acting as or holding oneself out to be a public insurance adjuster, unless the person holds a license or certificate issued by the commissioner under Section 5 (Qualifications for License; Issuance), 15 (Nonresident License), or 16 (Registration Program for Trainees) of this article.

(b) Provides that certain persons do not require a license.

(c) Authorizes an insured to void a contract with any person in violation of Subsection (a), and not be liable to pay for past or future services by that person under that contract or otherwise.

(d) Authorizes the commissioner to ex parte issue an emergency cease and desist order in accordance with Chapter 83B (Emergency Cease and Desist Orders, Issuance of Orders) if the commissioner believes a person to be in violation of Subsection (a).

Sec. 4. APPLICATION FOR LICENSE. (a) Requires a license application to be on a form prescribed by the commissioner.

(b) Requires the completed application to be notarized and accompanied by a nonrefundable license application fee for each application, as provided by Section 11 (Fee for License, Renewal, and Examination).

Sec. 5. QUALIFICATIONS FOR LICENSE; ISSUANCE. (a) Requires the commissioner to issue a public insurance adjuster license to an applicant who meets certain criteria regarding age, residency, character, knowledge, experience, criminal history, and financial responsibilities, and whose application meets this article's requirements and whose fee has been paid.

(b) Authorizes the commissioner to issue a resident public insurance adjuster license to an applicant who has been convicted of a felony 11 or more years before filing an application under this article if the commissioner determines that the applicant is qualified to act as a public insurance adjuster and that the circumstances surrounding the applicant's conviction do not warrant the denial of a license issued under this chapter.

Sec. 5A. ISSUANCE OF LICENSE TO BUSINESS ENTITY. (a) Requires TDI to adopt rules necessary to issue a public insurance adjuster license to a business entity organized under the laws of this state.

(b) Requires the rules adopted by TDI under Subsection (a) of this section to be analogous to the provisions of Section 2, Article 21.07, of this code and to contain qualifications for the issuance of a public insurance adjuster license analogous to the qualifications described by Section 5 of this article.

(c) Prohibits TDI from issuing a public insurance adjuster license to a business entity described by Subsection (a) of this section unless at least one officer, active partner, or other managing individual of the business entity and each individual performing acts of a public insurance adjuster on behalf of the business entity in this state are individually licensed by TDI separately from the business entity by the department under Section 5 of this article.

Sec. 6. FINANCIAL RESPONSIBILITY REQUIREMENTS. (a) Requires a public insurance adjuster, as a condition of continuing licensure, to file proof of financial responsibility, in an amount to be determined, with respect to transactions with insureds under this article. Requires the financial responsibility to include the ability to pay sums the public insurance adjuster is obligated to pay under any judgment against the public insurance adjuster by an insured based on certain practices of the public insurance adjuster or a person for whom the public insurance adjuster is liable in the adjuster's business transactions under this code. Requires the commissioner to consider certain circumstances and authorizes the commissioner to consider certain other circumstances in determining the financial responsibility amount.

(b) Authorizes the commissioner to ex parte issue an emergency cease and desist

order in accordance with Chapter 83B (Emergency Cease and Desist Orders, Issuance of Orders) if the commissioner believes a person is failing to maintain the required financial responsibility.

(c) Authorizes the reinstatement of a suspended license, under Subsection (b) of this section, upon the approval of a prescribed reinstatement application filed with the commissioner with proof of required financial responsibility. Authorizes the commissioner to deny the reinstatement application for certain reasons.

Sec. 7. LICENSE AUTHORIZATION. Provides that a license issued under Sections 5 (Qualifications for License; Issuance), 5A, 15 (Nonresident License), or 15A of this article authorizes adjusting claims on behalf of insureds for certain coverages and claims, but only when the client is an insured under the insurance policy.

Sec. 8. EXAMINATION FOR LICENSE; ADVISORY COMMITTEE. (a) Requires each applicant for a public insurance adjuster license to personally take and pass an examination to the commissioner's satisfaction.

(b) Requires the examination to be prescribed by the commissioner and requires it to be of sufficient scope to reasonably test certain competencies and knowledge.

(c) Authorizes the commissioner to appoint a public insurance adjusters examination advisory committee composed of at least five members to assist in developing the required examination. Requires that at least three members be eligible for the public insurance adjuster license, one be from the insurance industry but not a public insurance adjuster, and one be a representative of consumer interests. Provides that a committee member is not entitled to compensation but is entitled to reimbursement for reasonable and necessary expenses incurred in the service of the committee, subject to any limitation in the General Appropriations Act.

(d) Requires the commissioner to transmit the examination results and action taken on the application to the applicant within a reasonable period, not to exceed 30 days after the date of the examination.

(e) Provides that an examination is not required for the renewal of a license issued under Sections 5 (Qualifications for License; Issuance), 5A, 15 (Nonresident License), or 15A of this article.

Sec. 9. EXAMINATION; FORM; TIME. (a) Requires that examination answers be made in writing. Provides that an oral examination may supplement a written examination.

(b) Requires that the examination be given at times and places within the state deemed necessary, by the commissioner, to serve the commissioner's and examinee's convenience.

(c) Authorizes the commissioner to require a waiting period for an otherwise qualified examinee to retake the examination failing to pass the examination.

(d) Requires the scheduling and administration of examinations required under Section 8 (Examination for License; Advisory Committee) to be effected by persons approved by the commissioner.

Sec. 10. FORM OF LICENSE. Requires the commissioner to prescribe the form of licenses issued under Sections 5 (Qualifications for License; Issuance), 5A, 15 (Nonresident License), or 15A of this article. Sets forth the required content of the licenses.

Sec. 11. FEE FOR LICENSE, RENEWAL, AND EXAMINATION. (a) Requires the commissioner to collect certain nonrefundable fees in advance.

(b) Require the commissioner to determine, by rule, the renewal fee of a license or certificate issued under this article.

Sec. 12. USE OF FEES COLLECTED. (a) Requires the authorized fees collected under this article to be deposited with the comptroller to the credit of the TDI operating account.

(b) Authorizes TDI to use any portion of the collected fees to perform certain actions in enforcement of this article. Authorizes an employee of TDI to examine under oath any person considered necessary in gathering information and evidence, that may be reduced to writing. Requires all expenses incurred under this section to be paid from the fees collected under this article.

(c) Requires the commissioner to set reasonable fees necessary to implement this article.

Sec. 13. PLACE OF BUSINESS; AGENT FOR SERVICE OF PROCESS. (a) Requires each licensee who is a state resident or a business entity organized under the laws of this state to maintain a place of business in the state that is accessible to the general public, and to maintain the required records in the place of business. Requires the place of business to appear on face of the license and that the licensee promptly notify the commissioner of any change in that address.

(b) Requires each nonresident licensee to maintain an agent in the state for service of process. Requires the name and address of the out-of-state business and that of the agent to appear on the face of the license, and that the licensee promptly notify the commissioner of any change in either address.

(c) Requires that a license issued under this article be posted conspicuously in the licensee's principal place of business.

Sec. 14. LICENSE NOT ASSIGNABLE. Provides that a license under this article is not assignable.

Sec. 15. NONRESIDENT LICENSE. (a) Authorizes the commissioner to issue a nonresident license to a public insurance adjuster license applicant who is not a permanent resident of this state upon determining the applicant meets the requirements of this article; has paid the nonresident license application fee; meets certain criteria regarding age, licensure in the state of residence, examination performance in the state of residence, character, knowledge, experience, criminal history, and financial responsibilities; can provide certain authorization from the applicant's state of residence that the applicant holds a comparable license to act a public insurance adjuster or as an adjuster, agent, broker or other insurance representative if that state does not require a public insurance adjuster license; and complies with any other applicable requirements under state law, including providing a complete set of fingerprints upon request, as provided by Article 1.10C (Access to Certain Criminal History Record Information).

(b) Requires a nonresident licensee to comply with all requirements of this article in performing any public insurance adjuster activities in this state, including record maintenance requirements in Section 24 (Record Maintenance) of this article. Provides that failure to comply with the requirements of that section, as determined by the commissioner after notice and opportunity for a hearing, constitutes grounds for suspension of the nonresident license in accordance with Section 30 (Denial, Suspension, or Revocation of License) of this article.

(c) Requires each nonresident licensee to comply with all other applicable laws and rules of the state, including state sales tax collection, as appropriate, for

services performed under this article.

(d) Requires a nonresident licensee, as a condition of doing business in the state, to annually, not later than January 1 and on a form prescribed by the commissioner, submit an affidavit certifying that the licensee is familiar with and understands the laws specified in Section 8 (Examination for License; Advisory Committee) of this article, the applicable rules adopted under those laws, and the terms and conditions of the types of insurance contracts that provide coverage on real and personal property. Provides that compliance with the filing requirement is necessary to the issuance, continuation, reinstatement, or renewal of a nonresident public insurance adjuster license.

(e) Provides that a nonresident licensee is subject to Section 6(b) (Financial Responsibility Requirements) of this article.

Sec. 15A. LICENSE FOR NONRESIDENT BUSINESS ENTITY. (a) Requires TDI to adopt rules necessary to issue a public insurance adjuster license to a business entity organized under the laws of another state or the United States.

(b) Sets forth the required functions of rules adopted by TDI under Subsection (a) of this section.

(c) Prohibits TDI from issuing a public insurance adjuster license to a business entity described by Subsection (a) of this section unless at least one officer, active partner, or other managing individual of the business entity and each individual performing acts of a public insurance adjuster on behalf of the business entity in this state are individually licensed by TDI separately from the business entity under Section 15 of this article.

Sec. 16. REGISTRATION PROGRAM FOR TRAINEES. (a) Requires a public insurance adjuster trainee to register with TDI for a temporary certificate under this section on a commissioner-prescribed form. Requires the form to be accompanied by a nonrefundable registration fee as prescribed by Section 11(a)(4) (Fee for License, Renewal, and Examination) of this article

(b) Authorizes a temporary certificate to be issued under this section only for educational and training purposes and authorizes the holder of such a certificate to practice only under the direction and sponsorship of a licensee of this state.

(c) Requires the sponsor of a public insurance adjuster trainee to attest, on a commissioner-prescribed form, that the trainee is under the supervision and control of the sponsor and that the sponsor has met the financial requirements of Section 6 (Financial Responsibility Requirements) of this article.

(d) Provides that a temporary certificate expires on the 180th day after the date of issuance and authorizes one renewal on application to the commissioner. Sets forth the limit of two consecutive temporary certificates for an individual.

(e) Requires each temporary certificate holder under this section to comply with the financial responsibility requirements imposed under Section 6 (Financial Responsibility Requirements) of this article.

Sec. 17. CONDUCT TO COMPLY WITH CONTRACT. Requires a licensee to prepare each claim for the licensee's insured in accordance with the terms and conditions of the contract of insurance under which recovery is sought.

Sec. 18. CODE OF ETHICS. Requires the commissioner to adopt by rule, with guidance from the public insurance adjusters examination advisory committee, a code of ethics that fosters the education of public insurance adjusters concerning ethical, legal, and business

principles that should govern their conduct; recommendations regarding the solicitation of the adjustment of losses by public insurance adjusters; and any other principles of conduct or procedures the commissioner deems necessary and reasonable.

Sec. 19. PUBLIC INSURANCE ADJUSTER AUTHORITY. Provides that this article does not limit or diminish the authority of a licensee to investigate or adjust a loss to less than the authority for that purpose that may be exercised by an adjuster licensed under Article 21.07-4, Insurance Code (Licensing of Insurance Adjusters).

Sec. 20. LICENSE RENEWAL. (a) Provides that a license under this article expires on the second anniversary of the date of issuance, unless suspended or revoked by the commissioner. Authorizes a licensee to renew an unexpired license by filing a commissioner-prescribed renewal form that demonstrates continued compliance with license requirements. Requires that certain items accompany the renewal application.

(b) Requires a licensee to submit the completed renewal application, evidence of compliance with continuing education requirements, and the renewal fee to the commissioner not later than the 30th day before the second anniversary date of the license. Provides that on the filing of a completed renewal application, renewal fee, and, if applicable, evidence of compliance with the continuing education requirements, the original license remains in force until the renewal is issued or the commissioner issues a revocation order.

(c) Authorizes a person whose license has been expired for 90 days or less to renew the license by filing a commissioner-prescribed renewal form, evidence of compliance with continuing education requirements, and paying one-and-a-half the amount of the renewal fee.

(d) Prohibits a person whose license has been expired for more than 90 days but less than one year from renewing the license but entitles that person to a new license without taking the applicable examination if the person submits a new license application and evidence of compliance with continuing education requirements, and pays one-and-a-half the amount of the renewal fee.

(e) Prohibits a person whose license has been expired for more than one year from renewing the license. Authorizes the person to obtain a new license by submitting to reexamination, if examination is required for original licensure, and by complying with the requirements and procedures for obtaining an original license.

(f) Authorizes TDI to renew an expired license, without reexamination, of a person who was licensed in this state, moved to another state, and is currently licensed and has been in continual practice in the other state up to and including the date of the application. Requires the person to pay a fee equal to the license fee to TDI.

(g) Requires TDI to send written notice of impending license expiration to the licensee's last known mailing address at least 30 days before expiration.

Sec. 21. CONTINUING EDUCATION REQUIREMENT. (a) Requires each licensee to annually complete at least 15 hours of continuing education courses. Requires the commissioner to prescribe continuing education course requirements under this section.

(b) Authorizes the commissioner to waive any continuing education requirement, notwithstanding Subsection (a) of this section, for a nonresident public insurance adjuster with a valid license from another state with continuing education requirements substantially equivalent to those of this state.

Sec. 22. COMMISSION. (a) Authorizes a licensee to receive a commission for service, except as provided by Subsection (b), consisting of certain methods of compensation.

Prohibits the total commission from exceeding 10 percent of the amount of the insurance settlement on the claim.

(b) Prohibits a licensee from receiving a commission consisting of a percentage of the amount paid by an insurer to resolve a claim on a claim which the insurer, not later than 72 hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay the insured the policy limit in accordance with Article 6.13 (Policy a Liquidated Demand) or Section 862.053 (Fire Insurance: Total Loss of Real Property) of this code. Provides that the licensee is entitled to reasonable compensation from the insured for services provided on the insured's behalf, based on the time spent on a claim that is subject to this subsection and incurred by the licensee, until the claim is paid or the insured receives a written commitment from the insurer to pay.

(c) Requires all persons paying any proceeds of an insurance policy or making any payment affecting an insured's rights under a policy, except for the payment of a commission by the insured, to perform certain acts.

(d) Prohibits a public insurance adjuster from accepting any payment that violates Subsection (c) of this section.

(e) Prohibits a public insurance adjuster from signing and endorsing any payment draft or check on behalf of an insured, notwithstanding any authorization the insured may have given the public insurance adjuster.

Sec. 23. PROHIBITED CONDUCT. (a) Prohibits a licensee from directly or indirectly acting as a public insurance adjuster in this state without entering into a contract, in writing, on a commissioner-approved form, executed in duplicate by the licensee and the insured, or the duly authorized representative thereof. Requires one copy of the contract to be kept on file in the state by the licensee at all times for inspection, without notice, by the commissioner or the duly authorized representative thereof.

(b) Prohibits a licensee from soliciting, or attempting to solicit, a client during a loss-producing natural disaster.

(c) Prohibits a licensee from soliciting, or attempting to solicit business on a loss or a claim in any manner except between 9 a.m. and 9 p.m. on a weekday or Saturday, and between noon and 9 p.m. on Sunday, but not from accepting phone calls or visits during the prohibited hours from an insured upon the insured's initiation.

(d) Prohibits a licensee from using any form of contract not approved by the commissioner. Sets forth the required content of the required provision allowing the client to rescind the contract. Authorizes the commissioner, by rule, to require additional prominently displayed content.

(e) Prohibits a licensee from knowingly making a false report to the licensee's employer or client and from divulging any information obtained except at the direction of the employer or client for whom the information is obtained, except as required by law.

(f) Prohibits a licensee from using a badge in connection with official activities of the licensee's business.

(g) Prohibits a licensee from permitting an employee or agent to perform activities in the employee's or agent's own name, for which a license is required under this article.

(h) Prohibits a licensee from rendering services or performing acts that constitute

practicing law.

(i) Prohibits a licensee from representing an insured on a claim or charging a fee while representing the opposing insurance carrier.

(j) Prohibits a licensee from soliciting, or attempting to solicit, business, directly or indirectly, or acting in any manner on a bodily injury loss or any claim for which the client is not an insured under the insurance policy.

(k) Prohibits a licensee from acquiring an interest in salvaged property subject to a claim adjusted by the licensee without the knowledge and consent of the insured, in writing.

(l) Prohibits a licensee from engaging in any activities that may reasonably be construed as presenting a conflict of interest.

(m) Prohibits a licensee from engaging in certain actions regarding misrepresentation, advancement of money to clients, and payment of unlicensed public insurance adjusters.

Sec. 24. RECORD MAINTENANCE. (a) Requires a licensee to keep a complete record, in this state, of each transaction as a public insurance adjuster. Sets forth the required content of those records.

(b) Requires the required records be maintained in this state for at least five years after termination of a transaction with the insured and requires the record to be open to examination by the commissioner.

Sec. 25. FIDUCIARY CAPACITY. (a) Provides that all funds received as claim proceeds by licensee acting as a public insurance adjuster are received and held in a fiduciary capacity. Prohibits a licensee from diverting or appropriating fiduciary funds received or held.

(b) Requires an applicant for a public insurance adjuster license to endorse an authorization for disclosure of all financial records of any fiduciary funds to the commissioner as part of the application. Requires the authorization to continue in effect for the duration of the license.

Sec. 26. NOTICE TO LAST ADDRESS. Provides that a required notice sent by registered mail to a person's last known address is considered sufficient notice under this article.

Sec. 27. RELOCATION TO ANOTHER STATE. (a) Requires a resident or nonresident licensed public insurance adjuster, not later than the 30th day after moving from one state to another, to file certain information with TDI.

(b) Prohibits TDI from charging a fee or requiring a license application under Subsection (a) of this section.

Sec. 28. ADVERTISEMENTS. Requires every advertisement by a licensee to display certain information as it appears in the commissioner's records.

Sec. 29. RULES. Authorizes the commissioner to adopt certain reasonable and necessary rules to implement this article.

Sec. 30. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. (a) Authorizes the commissioner to deny a license application or suspend or revoke a license for certain reasons.

(b) Provides that the person affected by a refusal to issue or renew a license or a suspension or revocation of a license is entitled to a hearing as provided by Article 21.01-2, Section 3A(b) (General Provisions Applicable to Certain License Holders: Denial or Refusal of License Application; Suspension or Revocation of Licenses; Discipline of License Holders).

(c) Authorizes an appeal of a final order to a court of competent jurisdiction as provided by Chapter 36D (Department Rules and Procedures: Judicial Review).

(d) Requires an order suspending a license to specify the suspension period, not to exceed 12 months.

(e) Requires a license holder to surrender the revoked or suspended license to the commissioner on demand.

(f) Authorizes the commissioner to issue or reinstate a suspended or revoked license on a finding that the cause for suspension, revocation, or refusal no longer exists.

(g) Authorizes a person whose license has been suspended to apply for a new license after the expiration of the suspension period. Prohibits a person whose license has been revoked or whose application for a license is denied, except for failing to submit a completed application, from applying for a new license until the fifth anniversary of certain dates.

(h) Authorizes the commissioner to deny a timely application filed under Subsection (g) if the applicant does not show good cause why the denial or revocation of the license should not be considered a bar to the issuance of the new license. Provides that this subsection does not apply to an applicant whose license application was denied for certain reasons.

(i) Authorizes the commissioner to impose an administrative penalty, in lieu of a license suspension or revocation, not to exceed \$2,000 per violation.

(j) Authorizes TDI to institute disciplinary proceedings against a licensee for conduct committed before the effective date of a voluntary surrender or automatic forfeiture of the license. Provides that the surrender or forfeiture of the license does not affect the licensee's culpability for the conduct.

Sec. 31. AUTOMATIC FINES. Provides that Article 21.01-2, Section 5A (General Provisions Applicable to Certain License Holders: Automatic Fines) applies to violations of this article.

Sec. 32. CRIMINAL PENALTY; SANCTIONS. (a) Provides that a violation under this article is a Class B misdemeanor.

(b) Authorizes the person committing the offense, if conduct that constitutes an offense under Subsection (a) of this section also constitutes an offense under any other law, to be prosecuted under this section or the other law.

(c) Provides that in addition to criminal penalties imposed under Subsection (a), a person in violation of the article is subject to sanctions provided by Article 21.21, Section 7 (Unfair Competition and Unfair Practices: Cease and Desist Orders).

SECTION 3.03. Amends Article 21.01, Insurance Code, as follows:

Sec. 3. APPLICATION. Includes persons licensed in accordance with Article 21.07-5 (Public Insurance Adjusters) in the list of persons to whom this subchapter applies. Redesignates Subsections (13)-(19) as Subsections (14)-(20).

SECTION 3.04. (a) Requires the commissioner, if the commissioner appoints a public insurance adjusters examination advisory committee under Article 21.07-5, Insurance Code (Public Insurance Adjusters), to appoint the members not later than the 60th day after the effective date of this Act. Authorizes the commissioner, if the commissioner has a contract with a testing service that is in effect on the effective date of this act, to add the public insurance adjusters examination to the scope of a contract at a fee not greater than the highest adjuster examination fee charged.

(b) Requires the commissioner of insurance to adopt the examination required by Article 21.07-5, Insurance Code (Public Insurance Adjusters), not later than January 1, 2004. Authorizes the commissioner to issue a nonrenewable, except as determined by the commissioner, temporary public insurance adjuster license, which expires June 1, 2004, to a qualified individual, except for the examination requirement, pending adoption of the examination.

(c) Requires the commissioner to adopt the code of ethics prescribed in Article 21.07-5, Insurance Code (Public Insurance Adjusters) not later than September 1, 2004.

(d) Requires the commissioner to adopt rules, subject to the provisions of Subsections (a), (b), and (c), to implement Article 21.07-5, Insurance Code (Public Insurance Adjusters), not later than January 1, 2004.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date: upon passage or September 1, 2003.