

By: Turner

H.B. No. 2616

A BILL TO BE ENTITLED

AN ACT

relating to the termination of agreements with certain insurance agents.

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

SECTION 1. Subchapter A, Chapter 21, Insurance Code, is amended by adding Article 21.14A to read as follows:

Art. 21.14A. PROCEDURES ON TERMINATION OF PROPERTY AND CASUALTY AGENT

Sec. 1. DEFINITION. In this article, "agent" means a captive agent who holds a general property and casualty agent license as that term is described by Section 2, Article 21.14, of this code.

Sec. 2. TERMINATION FOR CAUSE. (a) An insurer may terminate a contractual agreement with an agent if:

(1) the agent is insolvent;

(2) the agent breaches a fiduciary duty or trust;

(3) the agent fails to perform duties in accordance with the contractual agreement;

(4) the agent commits gross and wilful misconduct;

(5) the agent fails to pay to the insurer money owed to the insurer after receipt by the agent of a written demand for the money from the insurer; or

(6) the department revokes the agent's license.

(b) The termination by an insurer of a contractual agreement

1 with an agent for a cause described by Subsection (a) of this  
2 section is not a wrongful or unjustified termination for purposes  
3 of this article.

4 Sec. 3. PROHIBITED GROUNDS FOR TERMINATION. (a) An insurer  
5 may not cancel or terminate a contractual agreement with an agent or  
6 reduce or restrict an agent's authority to conduct business under  
7 the contract:

8 (1) based on the loss experience for the agent's  
9 customers and former customers if:

10 (A) the agent followed underwriting guidelines  
11 current at the time coverage for the customers was written;

12 (B) the insurer required the agent to submit the  
13 application for insurance for underwriting approval by the insurer;

14 (C) all material information on the application  
15 was fully completed;

16 (D) the information provided by the applicant for  
17 insurance was not altered or omitted on the application by the  
18 agent; and

19 (E) the policy was subject to approval by the  
20 insurer; or

21 (2) because of the predominant geographic location of  
22 the agent's customers.

23 (b) An insurer may not, in order to avoid the prohibition  
24 provided by Subsection (a) of this section, commit any of the  
25 following acts in a manner designed to impact a selected agent or  
26 the business produced by that agent:

27 (1) condition the acceptance of any type of property

1 or casualty insurance on the sale of other types of insurance:

2 (A) to the same customers of the agent; or

3 (B) as a percentage of the agent's total sales;

4 (2) restrict or limit the number of policies an agent  
5 may sell unless all agents of that insurer are subject to analogous  
6 restrictions or limitations;

7 (3) restrict or limit the types of insurance coverage  
8 or amounts of insurance an agent may sell unless all agents of that  
9 insurer are subject to analogous restrictions or limitations; or

10 (4) reduce an agent's level of compensation or  
11 commission unless all agents of that insurer are subject to similar  
12 reductions.

13 (c) The termination by an insurer of a contractual agreement  
14 with an agent in violation of Subsection (a) of this section may be  
15 a wrongful or unjustified termination for purposes of this article.

16 SECTION 2. This Act takes effect September 1, 2003.