

BILL ANALYSIS

Senate Research Center
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S.B. 1291
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In Texas, captive insurance agents are 5,500 small business owners who write three-fourths of the state's homeowners insurance and most of the state's automobile coverage. As proposed, S.B. 1291 relates to the termination of agreements with certain insurance agents for reasons other than just and reasonable cause. This legislation helps balance the interests of companies and the interests of Texas policyholders by empowering captive agents to better represent their customers without fear of retribution from their companies.

S.B. 1291 outlines logical and acceptable reasons for the termination of a captive agent's contract. An insurer may terminate a contractual agreement with an agent if the agent breaches a fiduciary duty or trust, commits gross and willful misconduct, fails to pay to the insurer, or the Department of Insurance revokes the agent's license.

S.B. 1291 also outlines grounds that an insurer cannot cancel or terminate a contractual agreement with an agent. The bill prohibits the cancellation or termination of the agreement if the agent follows all company underwriting guidelines with the insurer. The bill also prohibits the termination of a contract if the termination is based on the predominant geographic location of the agent's customers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 4051, Insurance Code, as effective April 1, 2005, by adding Subchapter I, as follows:

SUBCHAPTER I. TERMINATION OF CERTAIN CAPTIVE AGENTS

Sec. 4051.401. DEFINITION. Defines "agent."

Sec. 4051.402. TERMINATION FOR CAUSE. (a) Authorizes an insurer to terminate a contractual agreement with an agent if certain circumstances are present.

(b) Provides that the termination by an insurer of a contractual agreement with an agent for a cause described by Subsection (a) is not a breach of the contractual agreement for purposes of this subchapter.

Sec. 4051.403. PROHIBITED GROUNDS FOR TERMINATION OF CONTRACTUAL AGREEMENT. (a) Prohibits an insurer from canceling or terminating a contractual agreement with an agent or from reducing or restricting an agent's authority to conduct business under the contract based on the loss experience for the agent's customers and former customers if certain circumstances apply or because of the predominant geographic location of the agent's customers.

(b) Provides that the termination by an insurer of a contractual agreement with an agent in violation of Subsection (a) is a wrongful or unjustified termination and a breach of the contractual agreement.

SECTION 2. Effective date: September 1, 2005.