

By: Lucio

S.B. No. 1291

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. Chapter 4051, Insurance Code, as effective April 1, 2005, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TERMINATION OF CERTAIN CAPTIVE AGENTS

Sec. 4051.401. DEFINITION. In this subchapter, "agent" means a captive agent who holds a general property and casualty agent license under this chapter.

Sec. 4051.402. TERMINATION FOR CAUSE. (a) An insurer may terminate a contractual agreement with an agent if:

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

(2) the agent commits gross and wilful misconduct;

(3) 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

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

(b) 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) An insurer may not cancel or terminate

1 a contractual agreement with an agent or reduce or restrict an
2 agent's authority to conduct business under the contract:

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

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

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

9 (C) all material information on the application
10 was fully completed;

11 (D) the information provided by the applicant for
12 insurance was not altered or omitted on the application by the
13 agent; and

14 (E) the policy was subject to approval by the
15 insurer; or

16 (2) because of the predominant geographic location of
17 the agent's customers.

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

21 SECTION 2. This Act takes effect September 1, 2005.