

1-1 By: Lucio S.B. No. 1291
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 May 2, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 2, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1291 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the termination of agreements with certain insurance
1-11 agents.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 4051, Insurance Code, is amended by
1-14 adding Subchapter I to read as follows:

1-15 SUBCHAPTER I. TERMINATION OF CERTAIN CAPTIVE AGENTS

1-16 Sec. 4051.401. DEFINITION. In this subchapter, "agent"
1-17 means a captive agent who:

1-18 (1) primarily represents one insurer or the
1-19 subsidiaries and affiliates of that insurer; and

1-20 (2) holds a general property and casualty agent
1-21 license under this chapter.

1-22 Sec. 4051.402. TERMINATION FOR CAUSE. (a) An insurer may
1-23 terminate a contractual agreement with an agent if:

1-24 (1) the agent breaches a fiduciary duty or trust;

1-25 (2) the agent commits gross and wilful misconduct;

1-26 (3) the agent fails to pay to the insurer money owed to
1-27 the insurer after receipt by the agent of a written demand for the
1-28 money from the insurer; or

1-29 (4) the department revokes the agent's license.

1-30 (b) The termination by an insurer of a contractual agreement
1-31 with an agent for a cause described by Subsection (a) is not a
1-32 breach of the contractual agreement for purposes of this
1-33 subchapter.

1-34 Sec. 4051.403. PROHIBITED GROUNDS FOR TERMINATION OF
1-35 CONTRACTUAL AGREEMENT. (a) An insurer may not cancel or terminate
1-36 a contractual agreement with an agent or reduce or restrict an
1-37 agent's authority to conduct business under the contract based on
1-38 the loss experience for the agent's customers and former customers
1-39 if:

1-40 (1) the agent followed underwriting guidelines
1-41 current at the time coverage for the customers was written;

1-42 (2) the insurer required the agent to submit the
1-43 application for insurance for underwriting approval by the insurer;

1-44 (3) all material information on the application was
1-45 fully completed;

1-46 (4) the information provided by the applicant for
1-47 insurance was not altered or omitted on the application by the
1-48 agent; and

1-49 (5) the policy was subject to approval by the insurer.

1-50 (b) The termination by an insurer of a contractual agreement
1-51 with an agent in violation of Subsection (a) is a wrongful or
1-52 unjustified termination and a breach of the contractual agreement.

1-53 SECTION 2. This Act takes effect September 1, 2005.

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