

1-1 By: Eiland (Senate Sponsor - Watson) H.B. No. 2456
1-2 (In the Senate - Received from the House May 12, 2009;
1-3 May 13, 2009, read first time and referred to Committee on Business
1-4 and Commerce; May 22, 2009, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to insurance agent qualifications to sell certain products
1-9 or product lines.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 4001.101, Insurance Code, is amended to
1-12 read as follows:

1-13 Sec. 4001.101. LICENSE OR CERTIFICATE OF AUTHORITY
1-14 REQUIRED; DESIGNATED PRODUCT CERTIFICATE. (a) Unless the person
1-15 holds a license or certificate of authority issued by the
1-16 department and, if required by rules adopted under Chapter 4008, a
1-17 certificate to sell a designated product or product line, a person
1-18 may not:

1-19 (1) solicit or receive an application for insurance in
1-20 this state; or

1-21 (2) aid in the transaction of the business of an
1-22 insurer.

1-23 (b) A person may not act as an agent of a health maintenance
1-24 organization or other type of insurer authorized to engage in
1-25 business in this state unless the person holds:

1-26 (1) a license issued by the department as provided by
1-27 this title; and

1-28 (2) if required by rules adopted under Chapter 4008, a
1-29 certificate to sell a designated product or product line.

1-30 (c) An insurer described by Subsection (b) may not appoint a
1-31 person to act as its agent unless the person holds:

1-32 (1) a license under this title; and

1-33 (2) if required by rules adopted under Chapter 4008, a
1-34 certificate to sell a designated product or product line.

1-35 (d) This subchapter does not permit an employee or agent of
1-36 a corporation or partnership to perform an act of an agent under
1-37 this title without obtaining:

1-38 (1) a license; and

1-39 (2) if required by rules adopted under Chapter 4008, a
1-40 certificate to sell a designated product or product line.

1-41 SECTION 2. Section 4004.053(a), Insurance Code, is amended
1-42 to read as follows:

1-43 (a) An individual who holds a general life, accident, and
1-44 health license, a life agent license, a life and health insurance
1-45 counselor license, a general property and casualty license, or a
1-46 personal lines property and casualty license must complete 15 hours
1-47 of continuing education annually. If the individual holds more
1-48 than one license for which continuing education is otherwise
1-49 required, the individual is not required to complete more than 15
1-50 continuing education hours annually. An individual who is required
1-51 under rules adopted under Chapter 4008 to hold a certificate to sell
1-52 a designated product or product line may use continuing education
1-53 programs administered under Section 4004.151 to satisfy the annual
1-54 continuing education requirements under this subsection.

1-55 SECTION 3. Chapter 4004, Insurance Code, is amended by
1-56 adding Subchapter D to read as follows:

1-57 SUBCHAPTER D. AGENT EDUCATION PROGRAMS

1-58 FOR COMPLEX PRODUCTS

1-59 Sec. 4004.151. AGENT EDUCATION PROGRAMS. The department
1-60 shall administer continuing education and precertification
1-61 training programs required by rules adopted under Chapter 4008.

1-62 Sec. 4004.152. PROGRAM ADMINISTRATION. (a) The department
1-63 shall administer a program described by Section 4004.151 in a
1-64 manner consistent with the administration of continuing education

programs under Subchapter C.

(b) The department may enter into agreements with independent contractors for programs described by Section 4004.151 in the manner prescribed by Section 4004.104 for continuing education programs.

SECTION 4. Section 4005.102, Insurance Code, is amended to read as follows:

Sec. 4005.102. REMEDIES FOR VIOLATION OF INSURANCE LAWS OR COMMISSIONER RULES. In addition to any other remedy available under Chapter 82, for a violation of this code, another insurance law of this state, or a rule of the commissioner, the department may:

- (1) deny an application for:
 - (A) an original license; or
 - (B) a certificate issued under Chapter 4008;
- (2) suspend, revoke, or deny renewal of:
 - (A) a license; or
 - (B) a certificate issued under Chapter 4008;
- (3) place on probation a person whose license has been suspended;
- (4) assess an administrative penalty; ~~or~~
- (5) reprimand a license holder; or
- (6) require a license holder to qualify, or re-qualify if the agent has already qualified, for a certificate to sell a product or product line designated by rule under Chapter 4008.

SECTION 5. Subtitle A, Title 13, Insurance Code, is amended by adding Chapter 4008 to read as follows:

CHAPTER 4008. AGENT CERTIFICATION AND EDUCATION PROGRAMS FOR COMPLEX INSURANCE PRODUCTS

Sec. 4008.001. PURPOSE. Certain insurance products are so complex that the general agent licensing and continuing education requirements are insufficient to ensure the level of agent expertise necessary to safeguard consumer interests. Agents should be equipped with the necessary skills and knowledge to assist insureds appropriately in their purchases. Requiring agent training or demonstration of knowledge before an agent may sell particularly complex products mitigates the negative impact caused by agents selling complex products without the training and knowledge necessary to sell those products in a manner that is fair and beneficial to insureds.

Sec. 4008.002. TRAINING AND EXAMINATION REQUIREMENTS AUTHORIZED. (a) The commissioner may adopt rules requiring an agent who holds a license issued under this code to be certified, through specific education, training, examination, and experience requirements as provided by this chapter, before an agent may sell a product or product line designated by the commissioner.

(b) Education, training, examination, and experience requirements established by rule under this chapter may be used to satisfy any other agent education, training, examination, and experience requirements otherwise established under this code.

Sec. 4008.003. RULES. (a) In adopting rules under this chapter, the commissioner shall:

- (1) designate the products or product lines that may not be sold without certification under this chapter; and
- (2) specify the reasons why it is necessary that the sale of a designated product or product line requires education, experience, or examination.

(b) By rule, the commissioner may specify:

- (1) any precertification education or experience that must be completed before a designated product or product line may be sold by an agent;
- (2) whether an agent must complete a precertification examination concerning the designated product or product line the agent intends to sell;
- (3) whether an agent certified under this chapter must complete specific continuing education to maintain the certificate; and
- (4) whether, and if so, how frequently, an agent certified under this chapter must periodically retake the

examination to maintain the certificate.

Sec. 4008.004. APPLICATION OF CERTIFICATION REQUIREMENTS TO CERTAIN AGENTS. (a) The commissioner by rule shall establish whether the certification requirements established under this chapter for sale by an agent of a designated product or product line apply:

(1) only to an agent who, as of the effective date of the certification requirement, does not hold the underlying agent license required to sell that product or product line; or

(2) to each licensed agent who engages in the sale of that product or product line.

(b) If the commissioner adopts rules requiring each agent described by Subsection (a)(2) to be certified under this chapter, the rules must specify the date by which the agent must comply with the certification requirements.

Sec. 4008.005. ISSUANCE OF CERTIFICATE. The department shall issue a certificate under this chapter to an agent if the department determines that the agent:

(1) has submitted a properly completed certification application to the department in a form acceptable to the department;

(2) has completed, within the 12-month period preceding the date of the certification application, all requirements for the certification required by rules adopted under this chapter; and

(3) has not committed an act for which a license or certification may be denied under Subchapter C, Chapter 4005.

Sec. 4008.006. CERTIFICATE EXPIRATION. Unless the commissioner by rule specifies a different period, each certificate issued under this chapter expires on the expiration date of the agent's appropriate underlying license.

Sec. 4008.007. CERTIFICATE RENEWAL. (a) An agent may renew an unexpired certificate before the expiration of the certificate by:

(1) completing all renewal requirements established by rule under this chapter; and

(2) filing a properly completed renewal application with the department in a form acceptable to the department.

(b) A person may not renew a certificate that has been suspended or revoked.

Sec. 4008.008. ADMINISTRATION BY TESTING SERVICE AUTHORIZED. The commissioner may accept an examination administered by a testing service, as provided under Subchapter B, Chapter 4002, to satisfy an examination requirement required by rule under this chapter.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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