

BILL ANALYSIS

H.B. 2145
By: Smithee
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that in recent years the Texas Department of Insurance (TDI) has struggled to keep up with insurance agent license applications in Texas. Although TDI reportedly strives for a turnaround time of under 30 days on license applications, some applicants report having had to wait up to three times that long after successfully completing an examination to receive a full license. Without a license, an applicant is unable to work as an insurance agent, so there is concern that these long delays result in a loss of income for the applicant and a loss for the Texas economy.

Interested parties note that while some applicants are using temporary license provisions currently available in statute to start working while waiting for their license applications to be processed by TDI, this option is not available for all applicants. Additionally, the temporary license was not designed to be used in this manner and has certain restrictions that create barriers for many license applicants. The parties contend that there is a need to establish procedures to give qualified applicants provisional authority to begin working while waiting for TDI to process their applications. H.B. 2145 seeks to establish such procedures.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2145 amends the Insurance Code to authorize the Texas Department of Insurance (TDI), in conjunction with an insurance agent license application, to issue a provisional permit to an applicant for certain insurance agent licenses who is being considered for appointment as an insurance agent by another insurance agent, an insurer, or a health maintenance organization (HMO). The bill applies to an applicant for a general property and casualty insurance agent license; county mutual insurance agent license; general life, accident, and health insurance agent license; funeral prearrangement life insurance agent license; or license to act as a life insurance agent who writes policies that do not exceed \$25,000 on any one life.

H.B. 2145 authorizes TDI to issue a provisional permit on receipt of a written application for a provisional permit; a properly completed license application, nonrefundable fee, and each other item required for the applicable license; the nonrefundable fee set by TDI for the issuance of the provisional permit; and a certificate signed by the appointing agent, insurer, or HMO stating certain information regarding the applicant's training, passage of the examination required for the

issuance of the license, background, and supervision by the appointed agent, insurer, or HMO. The bill establishes that an applicant is not qualified to receive a provisional permit if the applicant has not taken the examination required for the issuance of the permanent insurance agent license for which the applicant applied.

H.B. 2145 authorizes an applicant to proceed to act as an insurance agent if a provisional permit is not received from TDI before the eighth day after the date the application, nonrefundable fee, and other required items are delivered or mailed to TDI and the applicant or appointing agent, insurer, or HMO has not been notified that the application for the permit is incomplete or is or may be denied.

H.B. 2145 sets the term of a provisional permit to expire on the earlier of the 90th day after the date the permit is issued or the date a license is issued or the license application is denied. The bill establishes that the provisional authority of an applicant to act as an agent automatically extends until the earlier of the date the license is issued or the license application is denied or the 90th day after the expiration of the 90-day period if the license, or a notice that the license is denied, is not received from TDI on or before the 90th day after the date the application, nonrefundable fee, and other required items are delivered or mailed to TDI.

H.B. 2145 authorizes TDI to notify the applicant or appointing agent, insurer, or HMO that the license application is incomplete or is or may be denied at any time before the issuance or denial of a license. The bill requires an applicant who receives such a notice to immediately cease acting as an insurance agent and requires an appointing agent, insurer, or HMO that receives such a notice to immediately notify the applicant of the notice. The bill authorizes an applicant to resume working as an agent after receiving a notice that the application is incomplete after the applicant submits to TDI the information required to complete the application or has the appointing agent, insurer, or HMO submit the information, unless the applicant or appointing agent, insurer, or HMO has been notified that the provisional permit is or may be denied.

H.B. 2145 specifies that an applicant provisionally acting as an insurance agent before receiving such a notice, if applicable, is not engaged in the unauthorized business of insurance and any transaction entered into by the applicant before receiving the notice, if applicable, is presumed lawful. The bill restricts an applicant to provisionally acting as an insurance agent only for the appointing agent, insurer, or HMO but authorizes an appointing insurer to include appointments for one or more affiliated insurers that are part of the same insurance holding company group.

H.B. 2145 subjects an applicant for a provisional permit whose license application is denied or whose license is revoked to Insurance Code provisions restricting application for a license after the denial of a license application or revocation of license with respect to an application for a provisional permit.

H.B. 2145 prohibits a provisional permit holder who is acting under the authority of that permit from engaging in an insurance solicitation, sale, or other agency transaction that the permit holder knows or should know will result or is intended to result in the purchase of a new life insurance or annuity contract and, with regard to an existing individual life insurance or annuity contract as a result of that purchase, certain actions relating to the termination of the contract; conversion, continuation, or reduction in value of the contract; amendment of the contract; reissuance of the contract; or pledging of the contract as collateral or subjection of the contract to borrowing. The bill prohibits a provisional permit holder who is acting under the authority of that permit from directly or indirectly receiving a commission or other compensation that results or may result from such a solicitation, sale, or other agency transaction. The bill prohibits a person who holds a permanent license from circumventing or attempting to circumvent the intent of the prohibition against replacing an existing life insurance or annuity contract.

H.B. 2145 vests an appointing agent, insurer, or HMO that allows a permit holder to act as an insurance agent under a provisional permit with supervisory responsibility over the provisional

permit holder.

EFFECTIVE DATE

September 1, 2015.