

By: Sheets

H.B. No. 686

A BILL TO BE ENTITLED

AN ACT

relating to insurance agents' ownership and use of certain information related to general property and casualty insurance policies; authorizing administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 4051, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. AGENTS' OWNERSHIP INTERESTS

Sec. 4051.451. DEFINITIONS. In this subchapter:

(1) "Expiration" means policy information and records related to a property and casualty insurance policy or an application for a property and casualty insurance policy, including:

(A) the name and address of the applicant or insured;

(B) the location and description of any property referenced in the application or covered by the policy;

(C) the value, inception date, renewal date, and expiration date of the policy;

(D) the premium, policy limits, and description of the terms and coverage of the policy; and

(E) information or records that may be:

(i) necessary for placing insurance coverage, insurance products, or insurance services; or

1 (ii) used to solicit, sell, or negotiate
2 the renewal or sale of insurance coverage, insurance products, or
3 insurance services.

4 (2) "Person" means an individual, partnership,
5 corporation, limited liability company, association, trust, or
6 other legal entity, or insurer, including a government or
7 governmental subdivision or agency.

8 (3) "Record" has the meaning assigned by Section
9 322.002, Business & Commerce Code.

10 Sec. 4051.452. APPLICABILITY OF SUBCHAPTER. This
11 subchapter applies with respect to expirations concerning coverage
12 of a risk located in this state, or an application for such
13 coverage, issued by or placed with an insurer engaged in the
14 business of property and casualty insurance in this state,
15 including:

16 (1) a stock fire or casualty company;

17 (2) a mutual fire or casualty company;

18 (3) a Mexican casualty company;

19 (4) a Lloyd's plan;

20 (5) a reciprocal or interinsurance exchange;

21 (6) a county mutual insurance company;

22 (7) a farm mutual insurance company;

23 (8) a risk retention group;

24 (9) the Medical Liability Insurance Joint
25 Underwriting Association under Chapter 2203;

26 (10) the Texas Windstorm Insurance Association under
27 Chapter 2210;

1 (11) the Texas Automobile Insurance Plan Association
2 under Chapter 2151; and

3 (12) an eligible surplus lines insurer.

4 Sec. 4051.453. EXCLUSIVE OWNERSHIP AND USE. Except as
5 provided by Section 4051.454, a general property and casualty agent
6 or surplus lines agent exclusively owns and has exclusive use of an
7 expiration directly related to an insurance application submitted
8 by or an insurance policy written through the agent for the purpose
9 of soliciting, selling, or negotiating the renewal or sale of
10 property and casualty insurance coverage, a property and casualty
11 insurance product, or a property and casualty insurance service.

12 Sec. 4051.454. EXCEPTIONS; INSURER OR MANAGING GENERAL
13 AGENT. Notwithstanding Section 4051.453, an insurer or the
14 insurer's managing general agent may use an expiration:

15 (1) to solicit, sell, or negotiate the sale or renewal
16 of property and casualty insurance coverage, a property and
17 casualty insurance product, or a property and casualty insurance
18 service with the written consent of the agent who owns the
19 expiration;

20 (2) in the normal course of business, including
21 underwriting, handling claims, and negotiating reinsurance; or

22 (3) on the request of the applicant or insured, to
23 deliver, issue for delivery, or renew a policy other than the policy
24 to which the expiration relates.

25 Sec. 4051.455. EXCEPTIONS; CAPTIVE AGENT. (a) This
26 subchapter does not apply to an expiration related to an insurance
27 policy placed or an application for an insurance policy received by

1 a captive agent.

2 (b) In this section, "captive agent" means an agent who has
3 agreed by contract to act for only one insurer and the insurer's
4 affiliated companies, if any.

5 Sec. 4051.456. EXCEPTIONS; CERTAIN AGENTS. This subchapter
6 does not apply to an expiration related to an insurance policy
7 placed or an application for an insurance policy received by an
8 agent who:

9 (1) is in default for nonpayment of premium or other
10 money due under the agent's contract or other agreement with the
11 insurer or group of affiliated insurance companies unless a bona
12 fide, good faith dispute exists concerning the money due;

13 (2) has a suspended, revoked, surrendered, or
14 terminated license; or

15 (3) has misappropriated, converted to the agent's own
16 use, or illegally withheld money belonging to an insurer, an
17 insured, or an applicant for insurance.

18 Sec. 4051.457. PRIVACY RIGHT OF APPLICANT OR INSURED NOT
19 IMPAIRED. An applicant's or insured's right to privacy related to
20 an expiration is not impaired or affected by an agent's ownership of
21 the expiration.

22 Sec. 4051.458. COMPLAINT RESOLUTION PROGRAM. The
23 department shall establish a program to resolve complaints of
24 violations of this subchapter.

25 Sec. 4051.459. ENFORCEMENT; SANCTIONS AND PENALTIES
26 AUTHORIZED. (a) The commissioner may impose sanctions as provided
27 by Chapter 82 against a person who the commissioner finds violated

1 this subchapter.

2 (b) The commissioner may use the cease and desist procedures
3 authorized by Chapter 83 against a person who the commissioner
4 finds violated this subchapter.

5 (c) In addition to a sanction authorized by this subchapter,
6 the commissioner may impose an administrative penalty in accordance
7 with Chapter 84 against a person who the commissioner finds
8 violated this subchapter.

9 SECTION 2. This Act applies only to an expiration related to
10 an insurance policy placed or an application for an insurance
11 policy received by an agent on or after September 1, 2015. A policy
12 placed or an application received before September 1, 2015, is
13 governed by the law as it existed immediately before the effective
14 date of this Act, and that law is continued in effect for that
15 purpose.

16 SECTION 3. This Act takes effect September 1, 2015.