

By: Smithee, Frullo, Sheets

H.B. No. 2145

A BILL TO BE ENTITLED

AN ACT

relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit.

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

SECTION 1. Chapter 4001, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PROVISIONAL PERMIT

Sec. 4001.351. APPLICABILITY. This subchapter applies only to an applicant for a license as an agent under:

(1) Subchapters B and E, Chapter 4051; and

(2) Subchapters B, D, and E, Chapter 4054.

Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. The department may, in conjunction with a license application under Section 4001.102, issue a provisional permit to an applicant who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization.

Sec. 4001.353. APPLICATION FOR AND ISSUANCE OF PROVISIONAL PERMIT. (a) The department may issue a provisional permit under this subchapter on receipt of:

(1) a written application for a provisional permit;

(2) a properly completed license application, nonrefundable fee, and each other item required for a license under this chapter and Subchapters B or E, Chapter 4051, or Subchapters B,

1 D, or E, Chapter 4054, as applicable;

2 (3) the nonrefundable fee in an amount set by the  
3 department for the issuance of the provisional permit; and

4 (4) a certificate signed by the appointing agent,  
5 insurer, or health maintenance organization stating that:

6 (A) the applicant completed the training, if any,  
7 and passed the examination required for the issuance of the license  
8 for which the application is submitted;

9 (B) the appointing agent, insurer, or health  
10 maintenance organization completed a background check on the  
11 applicant that shows that the applicant has not been convicted of:

12 (i) a felony; or

13 (ii) an act that requires the applicant to  
14 receive written consent under 18 U.S.C. Section 1033 to engage in  
15 the business of insurance;

16 (C) the applicant has not responded  
17 affirmatively to any question on the license application that  
18 indicates the applicant has a criminal conviction or has been  
19 involved in an administrative action that may disqualify the  
20 applicant from receiving a license; and

21 (D) the appointing agent, insurer, or health  
22 maintenance organization will supervise the work of the applicant.

23 (b) An applicant is not qualified to receive a provisional  
24 permit if the applicant has not taken the examination required for  
25 the issuance of the permanent license for which the applicant  
26 applied under Section [4001.102](#).

27 Sec. 4001.354. AUTHORITY TO ACT AS AGENT PENDING RECEIPT OF

1 PROVISIONAL PERMIT. An applicant may proceed to act as an agent if:

2 (1) a provisional permit is not received from the  
3 department before the eighth day after the date the application,  
4 nonrefundable fee, and other items required under Section  
5 4001.353(a) are delivered or mailed to the department; and

6 (2) the applicant or appointing agent, insurer, or  
7 health maintenance organization has not been notified that the  
8 application for the permit is incomplete or is or may be denied.

9 Sec. 4001.355. TERM OF PROVISIONAL PERMIT. (a) Except as  
10 provided by Subsection (b), a provisional permit expires on the  
11 earlier of:

12 (1) the 90th day after the date the permit is issued;  
13 or

14 (2) the date a license is issued or the license  
15 application is denied.

16 (b) If the license, or a notice that the license is denied,  
17 is not received from the department on or before the 90th day after  
18 the date the application, nonrefundable fee, and other items  
19 required under Section 4001.353(a) are delivered or mailed to the  
20 department, the authority of the applicant to act as an agent under  
21 this subchapter automatically extends until the earlier of the date  
22 the license is issued or the license application is denied or the  
23 90th day after the expiration of the 90-day period under Subsection  
24 (a).

25 Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) The  
26 department may notify the applicant or appointing agent, insurer,  
27 or health maintenance organization that the license application is

1 incomplete or is or may be denied at any time before the issuance or  
2 denial of a license.

3 (b) An applicant who receives a notice under Subsection (a)  
4 shall immediately cease acting as an agent under this subchapter.  
5 An appointing agent, insurer, or health maintenance organization  
6 that receives notice under Subsection (a) shall immediately notify  
7 the applicant of the notice.

8 (c) Unless the applicant or appointing agent, insurer, or  
9 health maintenance organization has been notified that the  
10 provisional permit is or may be denied, an applicant may resume  
11 working as an agent after receiving a notice that the application is  
12 incomplete under Subsection (a) after the applicant submits to the  
13 department the information required to complete the application or  
14 has the appointing agent, insurer, or health maintenance  
15 organization submit the information.

16 (d) An applicant acting as an agent under this subchapter  
17 before receiving a notice under Subsection (a), if applicable, is  
18 not engaged in the unauthorized business of insurance and any  
19 transaction entered into by the applicant before receiving the  
20 notice, if applicable, is presumed lawful.

21 (e) An applicant may act as an agent only for the appointing  
22 agent, insurer, or health maintenance organization except that an  
23 appointing insurer may include appointments for one or more  
24 affiliated insurers that are part of the same insurance holding  
25 company group.

26 Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. If the  
27 applicant's license application is denied or the applicant's

1 license is revoked, an applicant is subject to Section 4005.105  
2 with respect to an application for a provisional permit under this  
3 subchapter.

4 Sec. 4001.358. REPLACEMENT OF EXISTING LIFE INSURANCE OR  
5 ANNUITY CONTRACT PROHIBITED. (a) A provisional permit holder who  
6 is acting under the authority of that permit may not:

7 (1) engage in an insurance solicitation, sale, or  
8 other agency transaction that the permit holder knows or should  
9 know will result or is intended to result in:

10 (A) the purchase of a new life insurance or  
11 annuity contract; and

12 (B) any of the following actions with regard to  
13 an existing individual life insurance or annuity contract as a  
14 result of that purchase:

15 (i) termination of the contract by lapse,  
16 forfeiture, surrender, or other means;

17 (ii) conversion of the contract to reduced  
18 paid-up insurance, continuation of the contract as extended term  
19 insurance, or reduction in value of the contract by the use of  
20 nonforfeiture benefits or other policy values;

21 (iii) amendment of the contract to reduce:

22 (a) benefits; or

23 (b) the term for which coverage would  
24 otherwise remain in force or for which benefits would be paid;

25 (iv) reissuance of the contract with a  
26 reduction in cash value; or

27 (v) pledge of the contract as collateral or

1 subjection of the contract to borrowing, whether in a single loan or  
2 under a schedule of borrowing, for amounts that in the aggregate  
3 exceed 25 percent of the loan value prescribed by the contract; or

4 (2) directly or indirectly receive a commission or  
5 other compensation that results or may result from a solicitation,  
6 sale, or other agency transaction described by Subdivision (1).

7 (b) A person who holds a permanent license may not  
8 circumvent or attempt to circumvent the intent of this section by  
9 acting for or with a provisional permit holder.

10 Sec. 4001.359. SUPERVISORY RESPONSIBILITY. An appointing  
11 agent, insurer, or health maintenance organization that allows a  
12 permit holder to act as an agent under a provisional permit has  
13 supervisory responsibility over the permit holder.

14 SECTION 2. The change in law made by this Act applies only  
15 to an applicant who files a license application on or after the  
16 effective date of this Act.

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