

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; adding provisions that may be subject to a criminal penalty.

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

1 this chapter and Subchapter B or E, Chapter 4051, or Subchapter B,  
2 D, or E, Chapter 4054, as applicable;

3 (3) the nonrefundable fee in an amount authorized by  
4 Subsection (c); and

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

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

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

13 (i) a felony; or

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

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

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

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

1       (c) The nonrefundable fee described by Subsection (a) shall  
2 be set by the department in an amount that:

3           (1) is reasonable and necessary to implement this  
4 subchapter; and

5           (2) may not exceed the amount of the fee required for  
6 an application for a permanent license.

7       Sec. 4001.354. AUTHORITY TO ACT AS AGENT UNDER PROVISIONAL  
8 PERMIT. (a) An applicant may proceed to act as an agent if:

9           (1) a provisional permit is not received from the  
10 department before the eighth day after the date the application,  
11 nonrefundable fee, and other items required under Section  
12 4001.353(a) are delivered or mailed to the department; and

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

16       (b) An applicant may act as an agent only for the appointing  
17 agent, insurer, or health maintenance organization except that an  
18 appointing insurer may include appointments for one or more  
19 affiliated insurers that are part of the same insurance holding  
20 company group.

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

24           (1) the 90th day after the date the permit is issued;  
25 or

26           (2) the date a license is issued or the license  
27 application is denied.

1       (b) If the license, or a notice that the license is denied,  
2 is not received from the department on or before the 90th day after  
3 the date the application, nonrefundable fee, and other items  
4 required under Section 4001.353(a) are delivered or mailed to the  
5 department, the authority of the applicant to act as an agent under  
6 this subchapter automatically extends until the earlier of the date  
7 the license is issued or the license application is denied or the  
8 90th day after the expiration of the 90-day period under Subsection  
9 (a).

10       Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) The  
11 department may notify the applicant or appointing agent, insurer,  
12 or health maintenance organization that the license application is  
13 incomplete or is or may be denied at any time before the issuance or  
14 denial of a license.

15       (b) An applicant who receives a notice under Subsection (a)  
16 shall immediately cease acting as an agent under this subchapter.  
17 An appointing agent, insurer, or health maintenance organization  
18 that receives notice under Subsection (a) shall immediately notify  
19 the applicant of the notice.

20       (c) An applicant acting as an agent under this subchapter  
21 before receiving a notice under Subsection (a), if applicable, is  
22 not engaged in the unauthorized business of insurance and any  
23 transaction entered into by the applicant before receiving the  
24 notice, if applicable, is presumed lawful.

25       (d) A notification under this section applies only to a  
26 provisional permit, and the department shall continue to process an  
27 application for a license unless the license has been denied.

1       Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. If the  
2 applicant's license application is denied or the applicant's  
3 license is revoked, an applicant is subject to Section 4005.105  
4 with respect to an application for a provisional permit under this  
5 subchapter.

6       Sec. 4001.358. COMPLIANCE WITH OTHER LAW. (a) A  
7 provisional permit holder who is acting under the authority of that  
8 permit is subject to all provisions of this code regulating the  
9 solicitation and sale of insurance that relate to the type of  
10 permanent license for which the provisional permit holder applied.

11       (b) A provisional permit holder that applied for a life and  
12 annuity license must comply with Chapter 1114 with respect to the  
13 replacement of life insurance policies and annuities.

14       (c) A person who holds a permanent license may not  
15 circumvent or attempt to circumvent the intent of this section by  
16 acting for or with a provisional permit holder.

17       Sec. 4001.359. SUPERVISORY RESPONSIBILITY. An appointing  
18 agent, insurer, or health maintenance organization that allows a  
19 permit holder to act as an agent under a provisional permit has  
20 supervisory responsibility over the permit holder.

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

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

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 2145 was passed by the House on April 16, 2015, by the following vote: Yeas 144, Nays 2, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2145 on May 20, 2015, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 2145 was passed by the Senate, with amendments, on May 18, 2015, by the following vote: Yeas 29, Nays 1.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor