

1-1 By: Smithee, Frullo, Sheets H.B. No. 2145
 1-2 (Senate Sponsor - Creighton)
 1-3 (In the Senate - Received from the House April 20, 2015;
 1-4 April 23, 2015, read first time and referred to Committee on
 1-5 Business and Commerce; May 11, 2015, reported adversely, with
 1-6 favorable Committee Substitute by the following vote: Yeas 7,
 1-7 Nays 1; May 11, 2015, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17		X		
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 2145 By: Creighton

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to provisional authority for certain individual insurance
 1-23 license applicants to act as insurance agents; authorizing a fee;
 1-24 requiring an occupational provisional permit; adding provisions
 1-25 that may be subject to a criminal penalty.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Chapter 4001, Insurance Code, is amended by
 1-28 adding Subchapter H to read as follows:

1-29 SUBCHAPTER H. PROVISIONAL PERMIT

1-30 Sec. 4001.351. APPLICABILITY. This subchapter applies only
 1-31 to an applicant for a license as an agent under:

1-32 (1) Subchapters B and E, Chapter 4051; and

1-33 (2) Subchapters B, D, and E, Chapter 4054.

1-34 Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. The
 1-35 department may, in conjunction with a license application under
 1-36 Section 4001.102, issue a provisional permit to an applicant who is
 1-37 being considered for appointment as an agent by another agent, an
 1-38 insurer, or a health maintenance organization.

1-39 Sec. 4001.353. APPLICATION FOR AND ISSUANCE OF PROVISIONAL
 1-40 PERMIT. (a) The department may issue a provisional permit under
 1-41 this subchapter on receipt of:

1-42 (1) a written application for a provisional permit;

1-43 (2) a properly completed license application,
 1-44 nonrefundable fee, and each other item required for a license under
 1-45 this chapter and Subchapter B or E, Chapter 4051, or Subchapter B,
 1-46 D, or E, Chapter 4054, as applicable;

1-47 (3) the nonrefundable fee in an amount authorized by
 1-48 Subsection (c); and

1-49 (4) a certificate signed by the appointing agent,
 1-50 insurer, or health maintenance organization stating that:

1-51 (A) the applicant completed the training, if any,
 1-52 and passed the examination required for the issuance of the license
 1-53 for which the application is submitted;

1-54 (B) the appointing agent, insurer, or health
 1-55 maintenance organization completed a background check on the
 1-56 applicant that shows that the applicant has not been convicted of:

1-57 (i) a felony; or

1-58 (ii) an act that requires the applicant to
 1-59 receive written consent under 18 U.S.C. Section 1033 to engage in
 1-60 the business of insurance;

2-1 (C) the applicant has not responded
 2-2 affirmatively to any question on the license application that
 2-3 indicates the applicant has a criminal conviction or has been
 2-4 involved in an administrative action that may disqualify the
 2-5 applicant from receiving a license; and

2-6 (D) the appointing agent, insurer, or health
 2-7 maintenance organization will supervise the work of the applicant.

2-8 (b) An applicant is not qualified to receive a provisional
 2-9 permit if the applicant has not taken and passed the examination
 2-10 required for the issuance of the permanent license for which the
 2-11 applicant applied under Section 4001.102.

2-12 (c) The nonrefundable fee described by Subsection (a) shall
 2-13 be set by the department in an amount that:

2-14 (1) is reasonable and necessary to implement this
 2-15 subchapter; and

2-16 (2) may not exceed the amount of the fee required for
 2-17 an application for a permanent license.

2-18 Sec. 4001.354. AUTHORITY TO ACT AS AGENT UNDER PROVISIONAL
 2-19 PERMIT. (a) An applicant may proceed to act as an agent if:

2-20 (1) a provisional permit is not received from the
 2-21 department before the eighth day after the date the application,
 2-22 nonrefundable fee, and other items required under Section
 2-23 4001.353(a) are delivered or mailed to the department; and

2-24 (2) the applicant or appointing agent, insurer, or
 2-25 health maintenance organization has not been notified that the
 2-26 application for the permit is incomplete or is or may be denied.

2-27 (b) An applicant may act as an agent only for the appointing
 2-28 agent, insurer, or health maintenance organization except that an
 2-29 appointing insurer may include appointments for one or more
 2-30 affiliated insurers that are part of the same insurance holding
 2-31 company group.

2-32 Sec. 4001.355. TERM OF PROVISIONAL PERMIT. (a) Except as
 2-33 provided by Subsection (b), a provisional permit expires on the
 2-34 earlier of:

2-35 (1) the 90th day after the date the permit is issued;
 2-36 or

2-37 (2) the date a license is issued or the license
 2-38 application is denied.

2-39 (b) If the license, or a notice that the license is denied,
 2-40 is not received from the department on or before the 90th day after
 2-41 the date the application, nonrefundable fee, and other items
 2-42 required under Section 4001.353(a) are delivered or mailed to the
 2-43 department, the authority of the applicant to act as an agent under
 2-44 this subchapter automatically extends until the earlier of the date
 2-45 the license is issued or the license application is denied or the
 2-46 90th day after the expiration of the 90-day period under Subsection
 2-47 (a).

2-48 Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) The
 2-49 department may notify the applicant or appointing agent, insurer,
 2-50 or health maintenance organization that the license application is
 2-51 incomplete or is or may be denied at any time before the issuance or
 2-52 denial of a license.

2-53 (b) An applicant who receives a notice under Subsection (a)
 2-54 shall immediately cease acting as an agent under this subchapter.
 2-55 An appointing agent, insurer, or health maintenance organization
 2-56 that receives notice under Subsection (a) shall immediately notify
 2-57 the applicant of the notice.

2-58 (c) An applicant acting as an agent under this subchapter
 2-59 before receiving a notice under Subsection (a), if applicable, is
 2-60 not engaged in the unauthorized business of insurance and any
 2-61 transaction entered into by the applicant before receiving the
 2-62 notice, if applicable, is presumed lawful.

2-63 (d) A notification under this section applies only to a
 2-64 provisional permit, and the department shall continue to process an
 2-65 application for a license unless the license has been denied.

2-66 Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. If the
 2-67 applicant's license application is denied or the applicant's
 2-68 license is revoked, an applicant is subject to Section 4005.105
 2-69 with respect to an application for a provisional permit under this

3-1 subchapter.
3-2 Sec. 4001.358. COMPLIANCE WITH OTHER LAW. (a) A
3-3 provisional permit holder who is acting under the authority of that
3-4 permit is subject to all provisions of this code regulating the
3-5 solicitation and sale of insurance that relate to the type of
3-6 permanent license for which the provisional permit holder applied.
3-7 (b) A provisional permit holder that applied for a life and
3-8 annuity license must comply with Chapter 1114 with respect to the
3-9 replacement of life insurance policies and annuities.
3-10 (c) A person who holds a permanent license may not
3-11 circumvent or attempt to circumvent the intent of this section by
3-12 acting for or with a provisional permit holder.
3-13 Sec. 4001.359. SUPERVISORY RESPONSIBILITY. An appointing
3-14 agent, insurer, or health maintenance organization that allows a
3-15 permit holder to act as an agent under a provisional permit has
3-16 supervisory responsibility over the permit holder.
3-17 SECTION 2. The change in law made by this Act applies only
3-18 to an applicant who files a license application on or after the
3-19 effective date of this Act.
3-20 SECTION 3. This Act takes effect September 1, 2015.

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