

**House Bill 2145**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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, D, or E, Chapter 4054, as applicable;
- (3) the nonrefundable fee in an amount set by the department for the issuance of the provisional permit; and
- (4) a certificate signed by the appointing agent, insurer, or health maintenance organization stating that:
  - (A) the applicant completed the training, if any, and passed the examination required for the issuance of the license for which the application is submitted;
  - (B) the appointing agent, insurer, or health maintenance organization completed a background check on the applicant that shows that the applicant has not been convicted of:
    - (i) a felony; or

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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 Subchapter B or E, Chapter 4051, or Subchapter B, D, or E, Chapter 4054, as applicable;
- (3) the nonrefundable fee in an amount authorized by Subsection (c); and
- (4) a certificate signed by the appointing agent, insurer, or health maintenance organization stating that:
  - (A) the applicant completed the training, if any, and passed the examination required for the issuance of the license for which the application is submitted;
  - (B) the appointing agent, insurer, or health maintenance organization completed a background check on the applicant that shows that the applicant has not been convicted of:
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(ii) an act that requires the applicant to receive written consent under 18 U.S.C. Section 1033 to engage in the business of insurance;

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

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

(b) 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 license for which the applicant applied under Section 4001.102.

Sec. 4001.354. AUTHORITY TO ACT AS AGENT PENDING RECEIPT OF PROVISIONAL PERMIT. An applicant may proceed to act as an agent if:

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

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

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

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

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

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

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

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

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

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

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

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

(b) An applicant may act as an agent only for the appointing

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

- (1) the 90th day after the date the permit is issued; or
- (2) the date a license is issued or the license application is denied.

(b) If the license, or a notice that the license is denied, is not received from the department on or before the 90th day after the date the application, nonrefundable fee, and other items required under Section 4001.353(a) are delivered or mailed to the department, the authority of the applicant to act as an agent under this subchapter 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 under Subsection (a).

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

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

(c) Unless the applicant or appointing agent, insurer, or health maintenance organization has been notified that the

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agent, insurer, or health maintenance organization except that an appointing insurer may include appointments for one or more affiliated insurers that are part of the same insurance holding company group.

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

- (1) the 90th day after the date the permit is issued; or
- (2) the date a license is issued or the license application is denied.

(b) If the license, or a notice that the license is denied, is not received from the department on or before the 90th day after the date the application, nonrefundable fee, and other items required under Section 4001.353(a) are delivered or mailed to the department, the authority of the applicant to act as an agent under this subchapter 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 under Subsection (a).

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

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

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provisional permit is or may be denied, an applicant may resume working as an agent after receiving a notice that the application is incomplete under Subsection (a) after the applicant submits to the department the information required to complete the application or has the appointing agent, insurer, or health maintenance organization submit the information.

(d) An applicant acting as an agent under this subchapter before receiving a notice under Subsection (a), 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.

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

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

Sec. 4001.358. REPLACEMENT OF EXISTING LIFE INSURANCE OR ANNUITY CONTRACT PROHIBITED.

(a) A provisional permit holder who is acting under the authority of that permit may not:

(1) engage in an insurance solicitation, sale, or other agency transaction that the permit holder knows or should know will

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(c) An applicant acting as an agent under this subchapter before receiving a notice under Subsection (a), 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.

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

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

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

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result or is intended to result in:

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

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

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

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

(iii) amendment of the contract to reduce:

(a) benefits; or

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

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

(v) pledge of the contract as collateral or subjection of the contract to borrowing, whether in a single loan or under a schedule of borrowing, for amounts that in the aggregate exceed 25 percent of the loan value prescribed by the contract;  
or

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

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

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

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

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

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

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

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

SECTION 2. Same as House version.

SECTION 3. Same as House version.

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