

BILL ANALYSIS

C.S.H.B. 4030
By: Smithee
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Insurance (TDI) is required to submit a report before each regular legislative session with recommended changes in state laws relating to regulation of the insurance industry or other areas under the agency's jurisdiction. In recommendations to the 87th Legislature, TDI recommended updating and modifying statutes related to agent and adjuster licensing. C.S.H.B. 4030 seeks to enact certain of those recommendations, including recommended changes relating to subagent designations, life and health insurance counselors, home office salaried employees, temporary licenses, provisional licenses, continuing education requirements, nonresident agents, nonresident adjusters, and insurance services representatives.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4030 amends the Insurance Code to revise the law relating to the licensing and regulation of insurance professionals. The bill eliminates the subagent designation for individuals acting for or on behalf of an agent and removes the requirement for a corporation or partnership licensed by the Texas Department of Insurance (TDI) to register separately with TDI each of the locations from which it will conduct business in Texas.

C.S.H.B. 4030 authorizes TDI to deny an application for a temporary insurance agent license if TDI determines that any of the grounds exist for license denial or disciplinary action under applicable state law. The bill extends the period of validity for a temporary license from 90 days to 180 days and, accordingly, repeals a prohibition against a temporary license being issued to or renewed by the same person more than once in a consecutive six-month period.

C.S.H.B. 4030 authorizes TDI to suspend the issuance of a provisional permit if TDI's processing time for license applications has not exceeded 21 days in any month in the preceding 90 days before the suspension and TDI provides notice both on its website and to applicants for provisional licenses that the provisional license applications are temporarily suspended because sufficient processing time for permanent licenses is available to allow for those licenses to be processed in not more than 21 days for a completed application.

C.S.H.B. 4030 increases from two to three the number of hours of continuing education in ethics each individual who holds a TDI-issued license is required to complete during each license renewal period.

C.S.H.B. 4030 requires a license issued to a nonresident agent licensed in another state to be automatically suspended, canceled, or revoked if the licensee's home state suspends, cancels, or revokes the licensee's corresponding resident license.

C.S.H.B. 4030 removes the following requirements relating to letters of clearance or certification for certain license applicants:

- the requirement that a nonresident agent seeking to transition to a resident agent license submit with their application a clearance letter from the state authority of the state that issued the agent's prior resident license; and
- requirements for an applicant for a nonresident public insurance adjuster license to submit with their application a certificate or letter of authorization from the licensing authority of the applicant's current or former state of residence, as applicable.

C.S.H.B. 4030 repeals provisions relating to the licensure of insurance services representatives and the licensure of life and health insurance counselors and provides for the continued regulation of individuals in those professions by doing the following:

- requiring TDI to convert all active insurance services representative licenses and active life and health insurance counselor licenses issued before January 1, 2021, to general property and casualty insurance agent licenses and general life and health insurance agent licenses, respectively;
- requiring licensees to comply with all requirements of the converted license to keep the license active and in good standing; and
- prohibiting any insurance services representative licenses and life and health insurance counselor licenses issued on or after January 1, 2021, through the bill's effective date from being renewed on expiration of the license and from converting to another license type.

C.S.H.B. 4030 repeals provisions relating to the registration of home office salaried employees, establishes that any existing home office salaried employee registration is void and ceases to exist on the bill's effective date, and removes the exemption from statutory provisions relating to the regulation of insurance professionals for certain home office salaried employees. The bill requires any former home office salaried employee registrant engaging in the business of insurance after the bill's effective date to follow the requirements of the Insurance Code and any other applicable state laws.

C.S.H.B. 4030 repeals a requirement for a licensed nonresident public insurance adjuster to file an annual affidavit certifying that the licensee is familiar with and understands certain state laws and rules and the terms and conditions of the types of insurance contracts that provide coverage on real and personal property.

C.S.H.B. 4030 repeals the following provisions of the Insurance Code:

- Section 4001.003(9);
- Section 4001.009;
- Section 4001.109;
- Section 4001.156(a);
- Section 4001.205;
- Subchapters D and G, Chapter 4051;
- Chapter 4052;
- Section 4056.004;
- Sections 4102.054(b) and (c); and
- Section 4102.114(d).

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4030 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original replaced the requirement for a person who represented an insurer and receives notice that the insurer is the subject of a liquidation order to provide the name and address of any subagent to the liquidator with a requirement to provide the name and address of any individual who acted for or on behalf of the agent. The substitute removes the subagent requirement and does not replace it with anything.

The original prohibited TDI from issuing a provisional permit unless the average license processing time exceeds 30 days, whereas the substitute authorizes TDI to suspend the issuance of a provisional permit if the processing time for license applications has not exceeded 21 days in any month in the preceding 90 days before the suspension and TDI provides certain notice of the suspension on its website and to applicants.

The substitute does not contain a provision included in the original that made the exemption from licensing requirements for a nonresident adjuster who adjusts a single loss in Texas, adjusts losses arising out of a catastrophe common to all those losses, or acts as a temporary substitute for a licensed adjuster applicable only to a person who is also an employee of an insurer licensed in Texas.

The substitute does not contain provisions included in the original clarifying the limitation on the total commission a public insurance adjuster may receive.