

## **BILL ANALYSIS**

Senate Research Center  
87R26309 MWC-F

C.S.H.B. 4030  
By: Smithee (Hancock)  
Business & Commerce  
5/13/2021  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Insurance Code requires the Texas Department of Insurance (TDI) 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.

H.B. 4030 would make changes related to the designation of subagents, life and health insurance counselor licenses, home office salaried employee designations, temporary licenses, provisional licenses, continuing education requirements, nonresident agent licenses, nonresident adjusters, public adjuster commissions, and insurance services representative licenses.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 4030 amends current law relating to the licensing and regulation of insurance professionals.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of insurance is rescinded in SECTION 22 (Section 4052.005, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 443.156(a), Insurance Code, as follows:

(a) Requires every person who represented the insurer as an agent and receives notice in the form prescribed in Section 443.155 (Notice to Creditors and Others) that the insurer is the subject of a liquidation order, not later than the 30th day after the date of the notice, to provide to the liquidator, in addition to the information the agent may be required to provide pursuant to Section 443.010 (Cooperation of Officers, Owners, and Employees), the information in the agent's records related to any policy issued by the insurer through the agent and any policy issued by the insurer through an agent under contract to the agent, rather than information including the name and address of any subagent.

SECTION 2. Amends Section 521.151, Insurance Code, as follows:

Sec. 521.151. APPLICABILITY OF SUBCHAPTER. Provides that Subchapter D (Race-Based Insurance Registry) applies to any legal entity engaged in the business of insurance in this state, including an agent, broker, or adjuster, rather than an agent, broker, adjuster, or life and health insurance counselor.

SECTION 3. Amends Section 541.002(2), Insurance Code, to redefine "person" for purposes of Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices).

SECTION 4. Amends Section 544.001, Insurance Code, as follows:

Sec. 544.001. APPLICABILITY OF SUBCHAPTER. Provides that Subchapter A (General Prohibitions Against Discrimination by an Insurer or Health Maintenance Organization) applies to any legal entity engaged in the business of insurance in this state, including an agent, broker, or adjuster, rather than an agent, broker, adjuster, or life and health insurance counselor.

SECTION 5. Amends Section 544.051, Insurance Code, as follows:

Sec. 544.051. APPLICABILITY OF SUBCHAPTER. Provides that Subchapter B (Other General Prohibitions Against Discrimination by Insurers) applies to any individual, corporation, association, partnership, or other legal entity engaged in the business of insurance, including an agent, broker, adjuster, rather than an agent, broker, adjuster, or life and health insurance counselor.

SECTION 6. Amends Section 1131.056(a), Insurance Code, to redefine "agent" for Section 1131.056 (Principals).

SECTION 7. Amends Section 4001.002(b), Insurance Code, by deleting existing text providing that Title 13 (Regulation of Professionals) does not apply to a full-time home office salaried employee of an insurer authorized to engage in the business of insurance in this state, other than an employee who solicits or receives an application for the sale of insurance through an oral, written, or electronic communication in accordance with Subchapter G, Chapter 405. Makes nonsubstantive changes.

SECTION 8. Amends Section 4001.003(1), Insurance Code, to redefine "agent" for purposes of Title 13.

SECTION 9. Amends Section 4001.051(b), Insurance Code, as follows:

(b) Provides that, regardless of whether the act is done at the request of or by the employment of an insurer, broker, or other person, a person is the agent of the insurer for which the act is done or risk is taken for purposes of the liabilities, duties, requirements, and penalties provided by Title 13 or Chapter 21, rather than provided by Title 13, Chapter 21, or a provision listed in Section 4001.009 (References to Other Law), if the person commits certain actions.

SECTION 10. Amends Section 4001.106(b), Insurance Code, as follows:

(b) Deletes existing text requiring the Texas Department of Insurance (TDI) to issue a license to a corporation or partnership if TDI determines that each location from which the corporation or partnership will engage in business in this state under authority of a license issued by TDI is registered separately with TDI. Makes nonsubstantive changes.

SECTION 11. Amends Section 4001.153, Insurance Code, as follows:

Sec. 4001.153. APPLICATION FOR AND ISSUANCE OF TEMPORARY LICENSE.  
(a) Creates this subsection from existing text. Requires TDI, except as provided by Subsection (b), to issue a temporary license immediately on receipt of a properly completed application executed by the applicant in the form required by Section 4001.102 (License Application) and accompanied by certain items.

(b) Authorizes TDI to deny a license application under Subchapter D (Temporary License) if TDI determines that any of the grounds exist for license denial or disciplinary action under Section 4005.101 (Grounds for License Denial or Disciplinary Action) of this code or Chapter 53 (Consequences of Criminal Conviction), Occupations Code.

SECTION 12. Amends Section 4001.155, Insurance Code, as follows:

Sec. 4001.155. TERM OF TEMPORARY LICENSE. Provides that a temporary license is valid for 180, rather than 90, days after the date of issuance.

SECTION 13. Amends Section 4001.352, Insurance Code, as follows:

Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes TDI to suspend the issuance of a provisional permit under Subchapter H (Provisional Permit) if:

(1) TDI's processing time for license applications has not exceeded 21 days in any month in the preceding 90 days before the suspension; and

(2) TDI provides notice both on its Internet 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.

SECTION 14. Amends Section 4002.003(a), Insurance Code, as follows:

(a) Deletes existing text prohibiting TDI from requiring a person to take an examination under Chapter 4002 (Examination of License Applicants) if the person is an applicant for a life and health insurance counselor license who is designated as a chartered life underwriter (CLU), chartered financial consultant (ChFC), or certified financial planner (CFP). Makes nonsubstantive changes.

SECTION 15. Amends Section 4004.053(a), Insurance Code, to delete existing text requiring an individual who holds a life and health insurance counselor license to complete 24 hours of continuing education during the license period.

SECTION 16. Amends Section 4004.054, Insurance Code, as follows:

Sec. 4004.054. ETHICS REQUIREMENT. Requires each individual who holds a license issued by TDI to complete three, rather than two, hours of continuing education in ethics during each license renewal period.

SECTION 17. Amends Section 4051.051(a), Insurance Code, as follows:

(a) Deletes existing text providing that a person is required to hold a general property and casualty license if the person acts as a subagent of a person who holds a license as an agent under Chapter 4051 (Property and Casualty Agents) who solicits and binds insurance risks for that agent. Makes nonsubstantive changes.

SECTION 18. Amends Section 4051.401, Insurance Code, as follows:

Sec. 4051.401. PERSONAL LINES PROPERTY AND CASUALTY LICENSE; LICENSE REQUIRED. Deletes existing text providing that a person is required to hold a personal lines property and casualty license if the person acts as a subagent of a person who holds a license as an agent under Subchapter I (Personal Lines Property and Casualty Agent) who solicits and binds insurance risks for that agent. Makes nonsubstantive changes.

SECTION 19. Amends Section 4056.052, Insurance Code, by adding Subsection (c), to require that a license issued under Section 4056.052 (Issuance of License to Nonresident Agent Licensed in Other State) be automatically suspended, canceled, or revoked if the licensee's home state suspends, cancels, or revokes the licensee's corresponding resident license.

SECTION 20. Amends Section 4056.059(b), Insurance Code, as follows:

(b) Deletes existing text requiring that an application for a comparable license for residents of this state include a clearance letter from the state authority of the state that issued the agent's prior resident license demonstrating the agent's good standing with that authority. Makes nonsubstantive changes.

SECTION 21. Amends Section 4102.054(a), Insurance Code, as follows:

(a) Deletes existing text authorizing the commissioner of insurance (commissioner) to issue a nonresident license to an applicant for a public insurance adjuster license who is not a permanent resident of this state on determining that the application meets the requirements of Chapter 4102 (Public Insurance Adjusters), the nonresident license application fee has been paid, and the applicant is an individual who if currently licensed as a resident public insurance adjuster in the applicant's state of residence, provides with the application a certificate or letter of authorization from the licensing authority of the applicant's state of residence that states that the applicant holds a current or comparable license to act as a public insurance adjuster, and meets the requirements of Subsection (b).

Deletes existing text authorizing the commissioner to issue a nonresident license to an applicant for a public insurance adjuster license who is not a permanent resident of this state on determining that the application meets the requirements of Chapter 4102, the nonresident license application fee has been paid, and the applicant is an individual who, if the applicant's state of residence does not require licensure as a resident public insurance adjuster and the applicant has been licensed as an adjuster, agent, broker, or other insurance representative in the applicant's state of residence or any other state within the past three years, provides with the application a certificate or letter of authorization from the licensing authority that states that the applicant holds or has held a license to act as an adjuster, agent, broker, or other insurance representative, and meets the requirements of Subsection (c).

Makes conforming and nonsubstantive changes.

SECTION 22. Repealer: Section 4001.003(9) (relating to defining "subagent"), Insurance Code.

Repealer: Section 4001.009 (References to Other Law), Insurance Code.

Repealer: Section 4001.109 (Licensing of Subagent), Insurance Code.

Repealer: Section 4001.156(a) (relating to prohibiting a temporary license from being issued to or renewed by the same person more than once in a consecutive six-month period), Insurance Code.

Repealer: Section 4001.205 (Appointment of Subagent; Termination), Insurance Code.

Repealer: Subchapter D (Insurance Service Representative License), Chapter 4051, Insurance Code.

Repealer: Subchapter G (Registration of Home Office Employees), Chapter 4051, Insurance Code.

Repealer: Chapter 4052 (Life and Health Insurance Counselors), Insurance Code.

Repealer: Section 4056.004 (Home Office Employees), Insurance Code.

Repealer: Section 4102.054(b) (relating to requiring that a certain certificate or letter contain certain details), Insurance Code.

Repealer: Section 4102.054(c) (relating to requiring that a certain certificate or letter contain certain details), Insurance Code.

Repealer: Section 4102.114(d) (relating to requiring the license holder to annually, after licensure as a nonresident public insurance adjuster, as a condition of doing business in this state, submit a certain affidavit), Insurance Code.

SECTION 23. (a) Defines "department."

(b) Requires TDI, on the effective date of this Act, to convert all active insurance services representative licenses issued before June 1, 2021, to general property and casualty insurance agent licenses. Requires licensees to comply with all requirements of the converted license to keep the license active and in good standing. Prohibits any insurance services representative licenses issued on or after June 1, 2021, through the effective date of this Act from being renewed on expiration of the license and from converting to another license type.

(c) Requires TDI, on the effective date of this Act, to convert all active life and health insurance counselor licenses issued before June 1, 2021, to general life and health agent licenses. Requires converted licensees to comply with all requirements of the converted license to keep the license active and in good standing. Prohibits any life and health insurance counselor licenses issued on or after June 1, 2021, through the effective date of this Act from being renewed on expiration of the license and from converting to another license type.

(d) Provides that, on the effective date of this Act, any existing home office salaried employee registration is void and ceases to exist. Requires any former home office salaried employee registrant engaging in the business of insurance after the effective date of this Act to follow the requirements of the Insurance Code and any other applicable laws of this state.

SECTION 24. Effective date: September 1, 2021.