

By: Smithee

H.B. No. 4030

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the licensing and regulation of insurance
3 professionals.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 443.156(a), Insurance Code, is amended
6 to read as follows:

7 (a) Every person who represented the insurer as an agent and
8 receives notice in the form prescribed in Section 443.155 that the
9 insurer is the subject of a liquidation order, not later than the
10 30th day after the date of the notice, shall provide to the
11 liquidator, in addition to the information the agent may be
12 required to provide pursuant to Section 443.010, the information in
13 the agent's records related to any policy issued by the insurer
14 through the agent and any policy issued by the insurer through an
15 agent under contract to the agent~~[, including the name and address~~
16 ~~of any subagent]~~. For purposes of this subsection, a policy is
17 issued through an agent if the agent has a property interest in the
18 expiration of the policy or if the agent has had in the agent's
19 possession a copy of the declarations of the policy at any time
20 during the life of the policy, except where the ownership of the
21 expiration of the policy has been transferred to another.

22 SECTION 2. Section 521.151, Insurance Code, is amended to
23 read as follows:

24 Sec. 521.151. APPLICABILITY OF SUBCHAPTER. This subchapter

1 applies to any legal entity engaged in the business of insurance in
2 this state, including:

- 3 (1) a capital stock insurance company;
- 4 (2) a mutual insurance company;
- 5 (3) a title insurance company;
- 6 (4) a fraternal benefit society;
- 7 (5) a local mutual aid association;
- 8 (6) a statewide mutual assessment company;
- 9 (7) a county mutual insurance company;
- 10 (8) a Lloyd's plan;
- 11 (9) a reciprocal or interinsurance exchange;
- 12 (10) a stipulated premium company;
- 13 (11) a group hospital service corporation;
- 14 (12) a farm mutual insurance company;
- 15 (13) a risk retention group;
- 16 (14) an eligible surplus lines insurer; and
- 17 (15) an agent, broker, or adjuster [~~, or life and~~
18 ~~health insurance counselor~~].

19 SECTION 3. Section 541.002(2), Insurance Code, is amended
20 to read as follows:

- 21 (2) "Person" means an individual, corporation,
22 association, partnership, reciprocal or interinsurance exchange,
23 Lloyd's plan, fraternal benefit society, or other legal entity
24 engaged in the business of insurance, including an agent, broker,
25 or adjuster [~~, or life and health insurance counselor~~].

26 SECTION 4. Section 544.001, Insurance Code, is amended to
27 read as follows:

1 Sec. 544.001. APPLICABILITY OF SUBCHAPTER. This subchapter
2 applies to:

3 (1) any legal entity engaged in the business of
4 insurance in this state, including:

- 5 (A) a capital stock insurance company;
- 6 (B) a mutual insurance company;
- 7 (C) a title insurance company;
- 8 (D) a fraternal benefit society;
- 9 (E) a local mutual aid association;
- 10 (F) a statewide mutual assessment company;
- 11 (G) a county mutual insurance company;
- 12 (H) a Lloyd's plan;
- 13 (I) a reciprocal or interinsurance exchange;
- 14 (J) a stipulated premium company;
- 15 (K) a group hospital service corporation;
- 16 (L) a farm mutual insurance company;
- 17 (M) a risk retention group;
- 18 (N) an eligible surplus lines insurer; and
- 19 (O) an agent, broker, or adjuster~~[, or life and~~
20 ~~health insurance counselor]~~; and

21 (2) a health maintenance organization.

22 SECTION 5. Section 544.051, Insurance Code, is amended to
23 read as follows:

24 Sec. 544.051. APPLICABILITY OF SUBCHAPTER. This subchapter
25 applies to any individual, corporation, association, partnership,
26 or other legal entity engaged in the business of insurance,
27 including:

- 1 (1) a fraternal benefit society;
- 2 (2) a county mutual insurance company;
- 3 (3) a Lloyd's plan;
- 4 (4) a reciprocal or interinsurance exchange;
- 5 (5) a farm mutual insurance company; and
- 6 (6) an agent, broker, or adjuster [~~, or life and health~~
7 ~~insurance counselor~~].

8 SECTION 6. Section 1131.056(a), Insurance Code, is amended
9 to read as follows:

10 (a) In this section, "agent" includes a general agent [~~,~~
11 ~~subagent~~] or a salesperson.

12 SECTION 7. Section 4001.002(b), Insurance Code, is amended
13 to read as follows:

14 (b) This title does not apply to:

15 (1) a resident of this state who arbitrates in the
16 adjustment of losses between an insurer and an insured, a marine
17 adjuster who adjusts particular or general average losses of
18 vessels or cargoes if the adjuster paid an occupation tax of \$200
19 for the year in which the adjustment is made, or a practicing
20 attorney at law in this state, acting in the regular transaction of
21 the person's business as an attorney at law, who is not a local
22 agent and is not acting as an adjuster for an insurer;

23 (2) [~~a full-time home office salaried employee of an~~
24 ~~insurer authorized to engage in the business of insurance in this~~
25 ~~state, other than an employee who solicits or receives an~~
26 ~~application for the sale of insurance through an oral, written, or~~
27 ~~electronic communication in accordance with Subchapter C, Chapter~~

1 ~~4051,~~

2 ~~(3)~~ an attorney in fact or the traveling salaried
3 representative of a reciprocal or interinsurance exchange admitted
4 to engage in the business of insurance in this state as to business
5 transacted through the attorney in fact or salaried representative;

6 (3) ~~(4)~~ the attorney in fact for a Lloyd's plan;

7 (4) ~~(5)~~ the group motor vehicle insurance business
8 or the group motor vehicle department of a company engaged in that
9 business; or

10 (5) ~~(6)~~ a salaried employee who is not involved in
11 soliciting or negotiating insurance in the office of an agent and
12 who devotes the employee's full time to clerical and administrative
13 services, including the incidental taking of information from
14 customers and receipt of premiums in the office of an agent, if:

15 (A) the employee does not receive any
16 commissions; and

17 (B) the employee's compensation is not varied by
18 the volume of premiums taken and received.

19 SECTION 8. Section 4001.003(1), Insurance Code, is amended
20 to read as follows:

21 (1) "Agent" means a person who is an authorized agent
22 of an insurer or health maintenance organization [~~a subagent,~~
23 and any other person who performs the acts of an agent, whether
24 through an oral, written, electronic, or other form of
25 communication, by soliciting, negotiating, procuring, or
26 collecting a premium on an insurance or annuity contract, or who
27 represents or purports to represent a health maintenance

1 organization, including a health maintenance organization offering
2 only a single health care service plan, in soliciting, negotiating,
3 procuring, or effectuating membership in the health maintenance
4 organization. The term does not include:

5 (A) a regular salaried officer or employee of an
6 insurer, health maintenance organization, or agent who:

7 (i) devotes substantially all of the
8 officer's or employee's time to activities other than the
9 solicitation of applications for insurance, annuity contracts, or
10 memberships;

11 (ii) does not receive a commission or other
12 compensation directly dependent on the business obtained; and

13 (iii) does not solicit or accept from the
14 public applications for insurance, annuity contracts, or
15 memberships;

16 (B) an employer or an employer's officer or
17 employee or a trustee of an employee benefit plan, to the extent
18 that the employer, officer, employee, or trustee is engaged in the
19 administration or operation of an employee benefits program
20 involving the use of insurance or annuities issued by an insurer or
21 memberships issued by a health maintenance organization, if the
22 employer, officer, employee, or trustee is not directly or
23 indirectly compensated by the insurer or health maintenance
24 organization issuing the insurance or annuity contracts or
25 memberships;

26 (C) except as otherwise provided by this code, a
27 depository institution, or an officer or employee of a depository

1 institution, to the extent that the depository institution or
2 officer or employee collects and remits premiums or charges by
3 charging those premiums or charges against accounts of depositors
4 on the orders of those depositors; or

5 (D) a person or the employee of a person who has
6 contracted to provide administrative, management, or health care
7 services to a health maintenance organization and who is
8 compensated for those services by the payment of an amount computed
9 as a percentage of the revenues, net income, or profit of the health
10 maintenance organization, if that method of compensation is the
11 sole basis for subjecting that person or the employee of the person
12 to this title.

13 SECTION 9. Section 4001.051(b), Insurance Code, is amended
14 to read as follows:

15 (b) Regardless of whether the act is done at the request of
16 or by the employment of an insurer, broker, or other person, a
17 person is the agent of the insurer for which the act is done or risk
18 is taken for purposes of the liabilities, duties, requirements, and
19 penalties provided by this title or [7] Chapter 21[~~or a provision~~
20 ~~listed in Section 4001.009~~] if the person:

21 (1) solicits insurance on behalf of the insurer;

22 (2) receives or transmits other than on the person's
23 own behalf an application for insurance or an insurance policy to or
24 from the insurer;

25 (3) advertises or otherwise gives notice that the
26 person will receive or transmit an application for insurance or an
27 insurance policy;

- 1 (4) receives or transmits an insurance policy of the
2 insurer;
- 3 (5) examines or inspects a risk;
- 4 (6) receives, collects, or transmits an insurance
5 premium;
- 6 (7) makes or forwards a diagram of a building;
- 7 (8) takes any other action in the making or
8 consummation of an insurance contract for or with the insurer other
9 than on the person's own behalf; or
- 10 (9) examines into, adjusts, or aids in adjusting a
11 loss for or on behalf of the insurer.

12 SECTION 10. Section [4001.106\(b\)](#), Insurance Code, is amended
13 to read as follows:

14 (b) The department shall issue a license to a corporation or
15 partnership if the department determines that:

- 16 (1) the corporation or partnership is:
 - 17 (A) organized under the laws of this state or
18 another state; and
 - 19 (B) authorized by its articles of incorporation
20 or its partnership agreement to act as an agent;
- 21 (2) at least one officer of the corporation or one
22 active partner of the partnership and all other persons performing
23 any acts of an agent on behalf of the corporation or partnership in
24 this state are individually licensed by the department separately
25 from the corporation or partnership;

26 (3) the corporation or partnership will have the
27 ability to pay any amount up to \$25,000 that it might become legally

1 obligated to pay under a claim made against it by a customer and
2 caused by a negligent act, error, or omission of the corporation or
3 partnership or a person for whose acts the corporation or
4 partnership is legally liable in the conduct of its business under
5 this code;

6 (4) if engaged in the business of insurance, the
7 corporation or partnership intends to be actively engaged in that
8 business as required under Section 4001.104(a);

9 ~~(5) [each location from which the corporation or~~
10 ~~partnership will engage in business in this state under authority~~
11 ~~of a license issued by the department is registered separately with~~
12 ~~the department;~~

13 ~~(6)~~ the corporation or partnership has submitted the
14 application, appropriate fees, and any other information required
15 by the department; and

16 (6) ~~(7)~~ an officer, director, member, manager,
17 partner, or other person who has the right or ability to control the
18 corporation or partnership has not:

19 (A) had a license suspended or revoked or been
20 the subject of any other disciplinary action by a financial or
21 insurance regulator of this state, another state, or the United
22 States; or

23 (B) committed an act for which a license may be
24 denied under Subchapter C, Chapter 4005.

25 SECTION 11. Section 4001.153, Insurance Code, is amended to
26 read as follows:

27 Sec. 4001.153. APPLICATION FOR AND ISSUANCE OF TEMPORARY

1 LICENSE. (a) Except as provided by Subsection (b), the [The]
2 department shall issue a temporary license immediately on receipt
3 of a properly completed application executed by the applicant in
4 the form required by Section 4001.102 and accompanied by:

5 (1) the nonrefundable filing fee set by the
6 department; and

7 (2) a certificate signed by an officer or properly
8 authorized representative of an agent, insurer, or health
9 maintenance organization stating that:

10 (A) the applicant is being considered for
11 appointment by the agent, insurer, or health maintenance
12 organization as its full-time agent;

13 (B) the agent, insurer, or health maintenance
14 organization desires that the applicant be issued a temporary
15 license; and

16 (C) the applicant will complete training as
17 prescribed by Section 4001.160 under the agent's, insurer's, or
18 health maintenance organization's supervision.

19 (b) The department may deny a license application under this
20 subchapter if the department determines that any of the grounds
21 exist for license denial or disciplinary action under Section
22 4005.101 of this code or Chapter 53, Occupations Code.

23 SECTION 12. Section 4001.155, Insurance Code, is amended to
24 read as follows:

25 Sec. 4001.155. TERM OF TEMPORARY LICENSE. A temporary
26 license is valid for 180 [~~90~~] days after the date of issuance.

27 SECTION 13. Section 4001.352, Insurance Code, is amended to

1 read as follows:

2 Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT.

3 (a) The department may, in conjunction with a license application
4 under Section 4001.102, issue a provisional permit to an applicant
5 who is being considered for appointment as an agent by another
6 agent, an insurer, or a health maintenance organization.

7 (b) The department may suspend the issuance of a provisional
8 permit under this subchapter if:

9 (1) the department's processing time for license
10 applications has not exceeded 21 days in any month in the preceding
11 90 days before the suspension; and

12 (2) the department provides notice both on its
13 Internet website and to applicants for provisional licenses that
14 the provisional license applications are temporarily suspended
15 because sufficient processing time for permanent licenses is
16 available to allow for those licenses to be processed in not more
17 than 21 days for a completed application.

18 SECTION 14. Section 4002.003(a), Insurance Code, is amended
19 to read as follows:

20 (a) The department may not require a person to take an
21 examination under this chapter if the person is:

22 (1) an applicant for the renewal of an unexpired
23 license issued by the department;

24 (2) an applicant whose license issued by the
25 department expired less than one year before the date of the
26 application, if the previous license was not denied, revoked, or
27 suspended by the commissioner;

1 (3) a partnership, corporation, or depository
2 institution;

3 (4) an applicant for a life, accident, and health
4 license who is designated as a chartered life underwriter (CLU);

5 (5) ~~[an applicant for a life and health insurance
6 counselor license who is designated as a chartered life underwriter
7 (CLU), chartered financial consultant (ChFC), or certified
8 financial planner (CFP)];~~

9 ~~[(6)]~~ an applicant for a property and casualty license
10 who is designated as a chartered property casualty underwriter
11 (CPCU);

12 (6) ~~[(7)]~~ an applicant for a specialty license issued
13 under Chapter [4055](#);

14 (7) ~~[(8)]~~ a nonresident individual who is exempt from
15 the examination requirement under Chapter [4056](#); or

16 (8) ~~[(9)]~~ an applicant for a general life, accident,
17 and health license or a life agent license who was authorized to
18 solicit or procure insurance on behalf of a fraternal benefit
19 society on September 1, 1999, if the applicant:

20 (A) solicited or procured insurance on behalf of
21 the fraternal benefit society for at least 24 months preceding
22 September 1, 1999; and

23 (B) does not, on or after September 1, 1999,
24 solicit or procure:

25 (i) insurance for any other insurer or a
26 different fraternal benefit society;

27 (ii) an insurance contract from anyone

1 other than a person who is eligible for membership in the fraternal
2 benefit society; or

3 (iii) an interest-sensitive life insurance
4 contract that exceeds \$35,000 of coverage on an individual life,
5 unless the applicant is designated as a "Fraternal Insurance
6 Counselor" at the time the contract is solicited or procured.

7 SECTION 15. Section 4004.053(a), Insurance Code, is amended
8 to read as follows:

9 (a) An individual who holds a general life, accident, and
10 health license, a life agent license, [~~a life and health insurance
11 counselor license,~~] an adjuster license, a managing general agent
12 license, a general property and casualty license, or a personal
13 lines property and casualty license must complete 24 hours of
14 continuing education during the license period. If the individual
15 holds more than one license for which continuing education is
16 otherwise required, the individual is not required to complete more
17 than 24 continuing education hours for all licenses during the
18 license period. An individual who is required under rules adopted
19 under Chapter 4008 to hold a certificate to sell a designated
20 product or product line may use continuing education programs
21 administered under Section 4004.151 to satisfy the continuing
22 education requirements under this subsection.

23 SECTION 16. Section 4004.054, Insurance Code, is amended to
24 read as follows:

25 Sec. 4004.054. ETHICS REQUIREMENT. Each individual who
26 holds a license issued by the department shall complete three [~~two~~]
27 hours of continuing education in ethics during each license renewal

1 period.

2 SECTION 17. Section 4051.051(a), Insurance Code, is amended
3 to read as follows:

4 (a) A person is required to hold a general property and
5 casualty license if the person acts as:

6 (1) an agent who writes property and casualty
7 insurance for an insurer authorized to engage in the business of
8 property and casualty insurance in this state; or

9 ~~(2) [a subagent of a person who holds a license as an
10 agent under this chapter who solicits and binds insurance risks for
11 that agent; or~~

12 [~~(3)~~] an agent who writes any other kind of insurance
13 as required by the commissioner for the protection of the insurance
14 consumers of this state.

15 SECTION 18. Section 4051.401, Insurance Code, is amended to
16 read as follows:

17 Sec. 4051.401. PERSONAL LINES PROPERTY AND CASUALTY
18 LICENSE; LICENSE REQUIRED. A person is required to hold a personal
19 lines property and casualty license if the person acts as [+

20 [~~(1)~~] an agent who writes property and casualty
21 insurance sold to individuals and families primarily for personal
22 or household use for an insurer authorized to engage in the business
23 of property and casualty insurance in this state[~~, or~~

24 [~~(2)~~ a subagent of a person who holds a license as an
25 agent under this subchapter who solicits and binds insurance risks
26 for that agent].

27 SECTION 19. Section 4056.052, Insurance Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) A license issued under this section shall be
3 automatically suspended, canceled, or revoked if the licensee's
4 home state suspends, cancels, or revokes the licensee's
5 corresponding resident license.

6 SECTION 20. Section 4056.059(b), Insurance Code, is amended
7 to read as follows:

8 (b) A nonresident agent may apply to the department for a
9 comparable license for residents of this state. An application
10 must include:

11 (1) a notification of the agent's change of address and
12 contact information; and

13 (2) ~~[a clearance letter from the state authority of~~
14 ~~the state that issued the agent's prior resident license~~
15 ~~demonstrating the agent's good standing with that authority; and~~

16 ~~[(3)]~~ fingerprint forms in the format prescribed by
17 the department, which may be electronic.

18 SECTION 21. Section 4102.054(a), Insurance Code, is amended
19 to read as follows:

20 (a) The commissioner may issue a nonresident license to an
21 applicant for a public insurance adjuster license who is not a
22 permanent resident of this state on determining that the
23 application meets the requirements of this chapter, the nonresident
24 license application fee has been paid, and the applicant is an
25 individual who:

26 (1) is at least 18 years of age;

27 (2) except as provided by Section 4102.058, has

1 passed, to the satisfaction of the commissioner, an examination
2 approved by the commissioner and of sufficient scope as prescribed
3 by Section 4102.057;

4 (3) is self-employed as a public insurance adjuster or
5 associated with or employed by a public insurance adjusting firm or
6 other public insurance adjuster;

7 (4) is trustworthy and of a moral character that
8 reasonably ensures that the applicant will conduct the business of
9 a public insurance adjuster fairly and in good faith without
10 detriment to the public;

11 (5) has never been convicted of a felony or, if
12 convicted of a felony, has received a full pardon from that
13 conviction and is otherwise relieved from any disabilities
14 connected with that conviction;

15 (6) has sufficient experience or training relating to
16 the assessment of:

17 (A) real and personal property values; and

18 (B) physical loss of or damage to real or
19 personal property that may be the subject of insurance and claims
20 under insurance;

21 (7) is sufficiently informed as to the terms and
22 effects of the types of insurance contracts that provide coverage
23 on real and personal property;

24 (8) possesses knowledge and experience adequate to
25 enable the applicant to engage in the business of a public insurance
26 adjuster fairly and without injury to the public or any member of
27 the public with whom the applicant may have business as a public

1 insurance adjuster;

2 (9) [~~if currently licensed as a resident public~~
3 ~~insurance adjuster in the applicant's state of residence, provides~~
4 ~~with the application a certificate or letter of authorization from~~
5 ~~the licensing authority of the applicant's state of residence that:~~

6 [(A) ~~states that the applicant holds a current or~~
7 ~~comparable license to act as a public insurance adjuster; and~~

8 [(B) ~~meets the requirements of Subsection (b);~~

9 [(10) ~~if the applicant's state of residence does not~~
10 ~~require licensure as a resident public insurance adjuster and the~~
11 ~~applicant has been licensed as an adjuster, agent, broker, or other~~
12 ~~insurance representative in the applicant's state of residence or~~
13 ~~any other state within the past three years, provides with the~~
14 ~~application a certificate or letter of authorization from the~~
15 ~~licensing authority that:~~

16 [(A) ~~states that the applicant holds or has held~~
17 ~~a license to act as an adjuster, agent, broker, or other insurance~~
18 ~~representative; and~~

19 [(B) ~~meets the requirements of Subsection (c);~~

20 [(11)] files proof of financial responsibility in
21 accordance with Section 4102.105; and

22 (10) [(12)] complies with any other requirements
23 under applicable state law, including provision of a complete set
24 of fingerprints on request, as provided by Section 4001.103.

25 SECTION 22. The following provisions of the Insurance Code
26 are repealed:

27 (1) Section 4001.003(9);

- 1 (2) Sections 4001.009 and 4001.109;
- 2 (3) Section 4001.156(a);
- 3 (4) Section 4001.205;
- 4 (5) Subchapters D and G, Chapter 4051;
- 5 (6) Chapter 4052;
- 6 (7) Section 4056.004;
- 7 (8) Sections 4102.054(b) and (c); and
- 8 (9) Section 4102.114(d).

9 SECTION 23. (a) In this section, "department" means the
10 Texas Department of Insurance.

11 (b) On the effective date of this Act, the department shall
12 convert all active insurance services representative licenses
13 issued before January 1, 2021, to general property and casualty
14 insurance agent licenses. Licensees must comply with all
15 requirements of the converted license to keep the license active
16 and in good standing. Any insurance services representative
17 licenses issued on or after January 1, 2021, through the effective
18 date of this Act may not be renewed on expiration of the license and
19 may not convert to another license type.

20 (c) On the effective date of this Act, the department shall
21 convert all active life and health insurance counselor licenses
22 issued before January 1, 2021, to general life and health agent
23 licenses. Converted licensees must comply with all requirements of
24 the converted license to keep the license active and in good
25 standing. Any life and health insurance counselor licenses issued
26 on or after January 1, 2021, through the effective date of this Act
27 may not be renewed on expiration of the license and may not convert

1 to another license type.

2 (d) On the effective date of this Act, any existing home
3 office salaried employee registration is void and ceases to exist.
4 Any former home office salaried employee registrant engaging in the
5 business of insurance after the effective date of this Act must
6 follow the requirements of the Insurance Code and any other
7 applicable laws of this state.

8 SECTION 24. This Act takes effect September 1, 2021.