

- SUBJECT:** Licensing of insurance agents
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 8 ayes — Smithee, Eiland, Burnam, G. Lewis, J. Moreno, Olivo, Seaman, Thompson
0 nays
1 absent — Wise
- SENATE VOTE:** On final passage, April 26 — voice vote
- WITNESSES:** None
- BACKGROUND:** The 75th Legislature enacted SB 206 by Madla, requiring the insurance commissioner to review and evaluate insurance agent licensing statutes to address new methods of marketing insurance, determine which provisions of the statutes should apply to all licenses, and examine ways to streamline the number of licenses required in Texas. The commissioner issued a report based in part on the findings of an advisory committee of representatives from the insurance industry. The commissioner’s report noted 20 problems with current law and recommended changes to address those issues. Currently, the Texas Department of Insurance (TDI) issues 15 different types of licenses, subdivided into 46 different statutory authorities.
- DIGEST:** SB 956 would reorganize the current insurance agent license structure into four basic license types:
- general life, accident, and health;
 - general property and casualty;
 - limited life, accident, and health; and
 - limited property and casualty.
- SB 957 by Madla, which addresses other changes recommended by the commissioner, would create another category of licenses called “specialty licenses.”

General license holders could write the same types of insurance as limited or specialty license holders could write without obtaining an additional license. Temporary licenses valid for 90 days would be issued to people being considered for appointment as agents.

General life, accident, and health. The general life, accident, and health insurance license would be required for the following agents:

- agents writing life, accident, and health insurance for a life insurance company;
- agents writing only accident and health insurance;
- agents representing a health maintenance organization;
- agents writing fixed or variable annuity contracts or variable life contracts;
- industrial life insurance agents for industrial companies who write only weekly premium life insurance on a debit basis under the Insurance Code;
- agents writing life, accident, or health insurance for a stipulated premium insurance company, except for agents writing only life insurance less than \$15,000 for a stipulated premium insurance company;
- certain agents writing insurance outside of this country on U.S. military installations or with military personnel;
- agents for fraternal benefit societies who spend more than 50 percent of their time soliciting and procuring insurance contracts; and
- all other agents required to have the license by the commissioner.

The general life, accident, and health insurance license would be required for agents of fraternal benefit societies who write policies generating more than \$20,000 in direct premiums annually, insurance contracts covering more than 25 people, or variable life insurance or annuity contracts.

Limited life, accident, and health. The limited life, accident, and health insurance license would be required for the following agents:

- agents working for a company that writes only job-protection insurance;
- agents for local mutual aid associations, local mutual burial associations, or statewide mutual aid associations;
- agents writing only policies providing ambulance expense coverage or lump-sum accidental death or dismemberment coverage;

- agents writing prepaid legal services contracts;
- agents writing credit insurance, except for those agents required to have specialty licenses;
- anyone marketing, offering for sale, or delivering credit insurance products for a retailer, bank, or other savings institution, finance company, or production credit association; and
- all other agents required to have the license by the commissioner.

Different versions of the limited life, accident, and health insurance license would be required for funeral prearrangement life insurance agents and for agents selling life insurance policies that did not exceed \$15,000 on any one life.

General property and casualty. The general property and casualty insurance license would be required for the following agents:

- agents writing property and casualty insurance for authorized property and casualty insurance companies;
- sub-agents of licensed agents who solicit and bind insurance risks on behalf of the agent; and
- all other agents required to have the license by the commissioner.

An applicant for a property and casualty license could be issued an emergency license for up to 180 days to preserve the agency's assets in the event of an agent's death, disability, or insolvency to preserve the agency's assets.

A separate insurance service representative license would be required for salaried employees assigned to perform duties within a property and casualty agent's office. General property and casualty insurance license provisions would apply to the insurance service representative license, except for proof of financial responsibility.

Limited property and casualty. The limited property and casualty insurance license would be required for the following agents:

- agents writing insurance only on growing crops;
- agents writing insurance for a farm mutual insurance company whose policies generated more than \$50,000 in direct premiums annually;

- agents writing all insurance related to motor vehicles;
- agents writing prepaid legal services contracts;
- agents writing insurance for companies who exclusively offer industrial fire insurance policies and whose policies generate more than \$20,000 in direct premium annually;
- agents writing credit insurance, except for those agents required to have specialty licenses; and
- all other agents required to have the license by the commissioner.

A modified version of the limited property and casualty license would be required for county mutual insurance company agents.

Licenses for corporations and partnerships. The bill would allow partnerships as well as corporations to hold insurance agent licenses. Instead of the current requirement that every officer, director, and shareholder be licensed as an insurance agent, SB 956 would require only one corporate officer or active partner to hold an agent's license. Everyone acting as an agent for a corporation or partnership still would have to hold an agent's license.

The errors and omissions insurance coverage required for licensed business entities as proof of financial responsibility would be increased from \$100,000 with a maximum \$10,000 deductible to \$250,000 with a maximum deductible of 10 percent of the policy's face value. Business entities could satisfy this financial responsibility requirement with a \$25,000 surety bond as well, but they no longer could satisfy the requirement by paying a \$25,000 deposit to the comptroller.

Nonresident agent license. SB 956 would allow TDI to license a nonresident as an insurance agent if the nonresident was licensed in another state or complied with Texas license requirements. Nonresidents who had offices in Texas towns that were divided by the state line would be licensed as resident agents.

A corporation or partnership domiciled in another state could be licensed as an agent if the entity was licensed in another state that had a reciprocal agreement with Texas waiving the exam requirement, complied with Texas license requirements, and did not include persons who were disqualified from holding a license in Texas.

Examinations. The commissioner would have to prescribe written examinations for insurance agent licenses, depending on the type of license. A written examination would not be required for:

- applicants renewing unexpired licenses;
- applicants whose licenses expired less than one year before the date of the application, if the previous license was not denied, revoked, or suspended by the commissioner;
- partnerships, corporations, or banks;
- applicants for life, accident, and health licenses designated as chartered life underwriters (CLUs);
- applicants for life and health licenses designated as CLUs, chartered financial consultants, or certified financial planners;
- applicants for property and casualty licenses designated as chartered property and casualty underwriters;
- applicants for specialty licenses;
- exempt nonresidents; and
- certain applicants authorized to solicit insurance on behalf of a fraternal benefit society as of the effective date of the bill.

Proof of financial responsibility for individual agents. Current law requires corporations licensed as insurance agents to provide proof of financial responsibility through errors and omissions insurance or a bond. SB 956 would require an individual agent who was not covered by a corporation or general agency to have an errors and omissions policy of at least \$250,000 with a maximum deductible of 10 percent of the policy's face value or a \$25,000 bond payable to TDI.

Other provisions. SB 956 contains the following additional provisions:

- continuing education requirements for most licensed insurance agents;
- a list of prohibited activities for licensed insurance agents;
- additional disciplinary procedures for TDI to use against agents who have committed certain prohibited acts;
- notification to the department from insurance carriers who terminate their contracts with agents;
- provisions for registration, continuing education, and disciplinary actions for home office employees; and

- conforming provisions to update references to the new law in the code.

Grandfather clause and transition. An agent who was licensed after taking a written examination administered by an insurer or the state would be entitled to the appropriate license under the bill without further examination.

An agent who was issued a license before January 1, 1999, without taking a written examination would be entitled to the appropriate license under the bill, but the agent would have to pass the appropriate written examination by the second anniversary of the date of issuance of the agent's license.

An agent who was issued a license on or after January 1, 1999, without taking a written examination would be entitled to the appropriate license under the bill, but the agent would have to pass the appropriate written examination by May 31, 2000.

A person who actually had solicited insurance on behalf of a stipulated premium company, farm mutual company, or county mutual insurance company for at least 24 months preceding the effective date of the bill would be entitled to the appropriate license without further examination.

People soliciting insurance on behalf of a fraternal benefit society would qualify for the life, accident, and health license, but they would have to pass a written examination within 180 days of being issued the license if they had solicited insurance on behalf of a fraternal benefit society for less than two years.

SB 956 would take effect September 1, 1999. The continuing education requirements in the bill would apply only to licenses renewed on or after January 1, 2001.

**SUPPORTERS
SAY:**

SB 956 would modernize and streamline the way insurance agents are licensed in Texas. The current system of multiple license types is cumbersome and costly for TDI to administer. This bill would simplify insurance agent licensing as much as possible and would allow TDI to spend more time on other activities.

Proposed federal legislation soon will allow banks to play a larger role in the insurance industry. SB 956 would prepare TDI to deal with the new licensing issues that will come with the changing insurance market.

Agent licensing was considered carefully in the commissioner's report and the interim study performed by the advisory committee. Though every effort has been made to correct potential problems, the full impact of SB 956 cannot be known until it is enacted into law. Insurance is a complicated industry, and any plan to change something as important as agent licensing has to have some degree of complexity.

Consumers should be protected regardless of whether they buy their insurance from a corporate agency, a general agency, or an individual agent. Required errors and omissions insurance or a bond would ensure that funds were available to pay for losses that consumers might suffer due to the wrongful acts of an insurance agent.

**OPPONENTS
SAY:**

Requiring individual agents to have \$250,000 of errors and omissions coverage or a \$25,000 bond is unnecessary. This provision of SB 956 would require agents to pay \$772 to \$990 per year for this coverage. This high cost would burden people who are acting as agents now and would prevent many people from entering the profession.

The bill would provide no exemption from the insurance or bond requirement for part-time agents. These part-time agents often write insurance in underserved areas that would be hurt if their agents no longer could afford to write insurance.

NOTES:

The House committee substitute added modified limited licenses for funeral prearrangement life insurance agents, life insurance agents selling policies of less than \$15,000, and agents for county mutual insurance companies. It also changed some provisions regarding fraternal benefit societies to conform with SB 1153 by Bivins, and made other technical changes.

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A related bill concerning specialty insurance licensing, SB 957 by Madla, passed by the Senate on April 22, and also is on the House General State Calendar for today.