

## **BILL ANALYSIS**

Senate Research Center  
76R12122 PB-F

C.S.S.B. 956  
By: Madla  
Economic Development  
4/15/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, Article 21.15-7, Insurance Code, requires the commissioner of insurance to review and evaluate the current agents' licensing statutes and make recommendations to the legislature to reduce the number and type of agency licenses, determine which statutory provisions should apply uniformly to all insurance licenses, address new marketing methods, and to address any other problems which may exist. C.S.S.B. 956 consolidates agent licenses and promotes uniformity in the regulation of agents.

### **PURPOSE**

As proposed, C.S.S.B. 956 sets forth provisions regulating certain insurance agents; consolidating insurance agents licenses; and providing penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of insurance in SECTIONS 1.01, 1.02, 1.06, and 1.11(Section 4, Article 21.01, Insurance Code; Sections 3(c),(d), (e), and (f), Article 21.01-1, Insurance Code; Section 5A(a), Article 21.01-2, Insurance Code, and Section 2 (n) (4) and Article 21.07, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL INSURANCE AGENTS

SECTION 1.01. Amends Article 21.01, Insurance Code, as follows:

Art. 21.01. New heading: PURPOSE; CONSOLIDATION OF LICENSES; APPLICATION; CERTIFICATE OF AUTHORITY OR LICENSE REQUIRED; RULEMAKING AUTHORITY

Sec. 1. PURPOSE. Provides that it is the intent of the legislature to simplify and reform the regulation of insurance agents in this state by consolidating the types of licenses issued to insurance agents under this subchapter. Provides that this chapter is also intended to promote uniformity in the licensing, examination, continuing education, and disciplinary requirements for agents.

Sec. 2. CERTIFICATE OF AUTHORITY OR LICENSE REQUIRED. Prohibits any person from acting as an agent or otherwise, in soliciting or receiving applications for insurance of any kind whatever in this state, or in any manner to aid in the transaction of the business of any insurance company incorporated in this state, or out of it, without first procuring a license for certificate of authority from the Texas Department of Insurance (department), rather than the State Board of Insurance (board).

Sec. 3. APPLICATION. Provides that, except as otherwise provided by this code, this subchapter applies to each person licensed in accordance with certain chapters, articles, sections, and subsections. Provides that except as otherwise provided by law, each reference in this code and other laws of this state to a particular type of license authorizing an agent to engage in the business of insurance in this state means a license designation as made by amendment, enactment, or reenactment of or to Chapter 21A, of this code by the 76th Legislature, Regular Session, 1999, or subsequent amendments to that subchapter. Provides that a reference in this chapter to a satisfactory provision applies to all reenactments, revisions, or amendments of that provision.

Sec. 4. RULES. Authorizes the commissioner of insurance (commissioner) to adopt rules as necessary to implement this subchapter and to meet the minimum requirements of federal law and regulations.

SECTION 1.02. Amends Article 21.01-1, Insurance Code, as follows:

Art. 21.01-1. New heading: AGENTS' QUALIFYING EXAMINATION; CONTINUING EDUCATION REQUIREMENTS FOR AGENTS

Sec. 1. EXAMINATION ADMINISTRATION. Authorizes the commissioner, rather than the State Board of Insurance, to accept examinations administered by a testing service as satisfying the examination requirements of persons seeking license as agents, counselors, or adjusters under this code. Requires the commissioner to hold a public hearing in accordance with Chapter 2001, Government Code and to adopt rules and standards as may be deemed appropriate by the commissioner, rather than board, to implement the authority granted in this article. Requires the department, rather than the State Board of Insurance, to administer any required qualifying examination in accordance with this article. Authorizes the commissioner to adopt rules relating to the scope, type, and conduct of the written examinations and the times and places in this state at which the examinations will be conducted. Authorizes the commissioner's rules to designate textbooks, manuals, and other materials to be studied by applicants in preparation for examinations conducted under this subsection. Authorizes those textbooks, manuals, or other materials to consist of material available to an applicant by purchase for the publisher or of material prepared at the direction of the commissioner and distribute to an applicant on request and on payment of the reasonable cost of the material. Requires all examination questions to be prepared from the contents of the textbooks, manuals, and other materials designated or prepared by the commissioner under this subsection. Deletes text regarding the provisions of Section 5 of the Administrative Procedure of the Texas Register Act (Article 6252-13a, V.T.C.S., and the provisions of the respective statutes governing the issuance of the license sought by the applicant. Makes conforming and nonsubstantive changes.

Sec. 2. EXAMINATION OF LICENSE APPLICANT. Requires each applicant, except as provided by Subsection (c), for a license to act as an insurance agent in this state to submit to a personal written examination that is prescribed by the department and administered in the English or Spanish language, and must pass the examination to the satisfaction of the department. Requires the examination to determine certain applicant competencies. Requires the department to charge each applicant an examination fee in an amount determined by the department as necessary for administration of the examination. Requires the fee to accompany each application to take the examination. Provides that the fee is nonrefundable other than for failure of an applicant to appear and take the examination after an applicant has given at least 24 hours notice of an emergency situation to the department and received the department's approval of refund of the fee. Requires the commissioner to prescribe a limited written licensing examination for applicants for a limited license under Article 21.07-1 or Article 21.14 of this code. Requires a limited examination to be administered according to the provisions of this article. Requires determination of certain applicant competencies and understandings. Prohibits the department from requiring a person to take an examination under this article under certain conditions, including if the person is an applicant for a general life, accident, and health license who was authorized to solicit insurance on behalf of a fraternal benefit society on September 1, 1999, if the applicant had, does not, or limits certain solicitations of insurance; holds a certain license in a certain capacity; and requires each examination administered under this article to be offered in English and Spanish.

Sec. 3. CONTINUING EDUCATION REQUIREMENTS. Provides that the department has exclusive jurisdiction for all matters relating to the continuing education of insurance agents who are licensed under this code. Requires each individual, except as provided by Subsection (d) of this section, who holds a license issued by the department to complete continuing education. Requires all continuing education hours to be completed before the expiration date of an individual's license. Requires a person who holds a life, accident, or a property and casualty license to complete 15 hours of continuing education annually. Prohibits an agent from being required to complete more than 15 continuing education hours annually as a result of holding more than one license for which continuing education is required. Requires an individual who holds a limited life, accident, and health license, or a limited property and casualty license to complete five

hours of continuing education annually. Requires each individual who holds a license issued by the department to complete 4 hours of continuing education in ethics during each license renewal period. Requires at least 50 percent of all required continuing education hours to be completed in a classroom setting or a classroom equivalent setting approved by the department. Authorizes the department to grant reciprocity to license holders who complete continuing education requirements in other professions or in associations with professional designations in an insurance-related field. Authorizes the department, on a timely written request of an agent, to extend the time for an agent to comply with the continuing education requirements of this section or may exempt an agent from some or all of the requirements for a licensing period if the department finds that the agent is unable to comply with the requirements because of illness, medical disability, or another extenuating circumstance beyond the control of the agent. Requires the commissioner, by rule, to prescribe the criteria for an exemption or extension under this subsection. Provides that an individual who has continuously held a license issued under this code to operate as an insurance agent for the 20 years preceding September 1, 1999, is exempt from the continuing education requirements of this section. Authorizes the commissioner, by rule, to provide for other reasonable exemptions. Requires the department to certify continuing education programs for agents. Authorizes only a program that satisfies the criteria established by rule by the commissioner to receive designation. Requires the certification criteria to be designed to ensure that continuing education programs enhance the knowledge, understanding, and professional competence of the license holder. Requires a nonrefundable certification fee, in an amount set by the commissioner as necessary for administering the program, to accompany each application for certification of a continuing education program. Requires the fee to be established by rule and based on a graduated scale according to the number of hours required to complete the program. Requires each continuing education program provider to register with the department as a course provider. Requires the department to assess a registration fee for each application for registration as a provider, set by the commissioner in an amount necessary for the proper administration of this section. Authorizes the commissioner to adopt rules establishing the requirements for continuing education program providers. Authorizes the department to negotiate agreements with independent contractors under which the independent contractor certifies and registers continuing education courses and providers. Authorizes the department to require those independent contractors to correspond directly with providers with regard to the administration of continuing education programs, and the contractors may collect fees from the providers for administration of the programs. Provides that the department retains the authority to establish the scope and type of continuing education requirements for each type of license. Authorizes the commissioner to appoint an advisory council to furnish the commissioner with information and assistance in the conduct of the continuing education program for agents licensed under this subchapter. Requires an advisory council, if appointed, to be composed of nine members, four of whom must be public members. Provides that the public members are entitled to reimbursement for their reasonable travel expenses in attending meetings of the advisory council, subject to any applicable limit in the General Appropriations Act. Sets forth public member prohibitions.

SECTION 1.03. Redesignates Section 2, Article 21.01-2, Insurance Code, as Section 1A, Article 21.01-2, Insurance Code, and amends Section 1A, Article 21.01-2, as follows:

Sec. 1A. New heading: EXPIRATION AND RENEWAL OF LICENSES. Provides that except as provided by this section, each agent license issued by the department expires on the fifth anniversary of the date of issuance unless suspended or revoked by the commissioner. Authorizes a person to renew a license, rather than an unexpired license, that has not expired or has not been suspended or revoked by filing a properly completed renewal application with the department. Provides that on filing of a completed renewal application not later than the expiration date of the license accompanied by the renewal fee set by the commissioner, the original license continues in force until the department issues the renewal license; or the commissioner issues an order revoking the license. Authorizes a person to renew a license by filing a renewal application with the department and paying the department the required renewal fee and an additional fee that is equal to one-half of the renewal fee, rather than license fee, for the license, if a person's license has been expired for 90 days or less. Prohibits a person from renewing a license, if a person's license has been expired for more than 90 days but less than one year, but is entitled to a new license without taking the applicable examination, if the person submits a new application, the license fee, and an additional fee equal to one-half of the license fee to the department. Prohibits a person from renewing a license, if a person's license has been expired for one year or more, rather than 90 days. Authorizes the department to renew without reexamination an expired license of a person who was

licensed in this state, moved to another state, and is currently licensed and has been in continual practice in the other state for the period preceding application. Requires the department, at least 30 days before the expiration of a person's license, to send written notice of the impending license expiration to the person at the person's last known mailing address according to the records of the department. Requires license fees, for the licensing period in which the license expiration is changed, to be prorated so that each license holder shall pay only that portion of the license fee that is allocable to the period, rather than the number of months, during which the license is valid. Provides that this section is not applicable to a license issued under Article 21.07-6 or 21.07-7 of this code. Makes conforming changes.

SECTION 1.04. Amends Article 21.02-2, Insurance Code, by adding Section 2A, as follows:

Sec. 2A. PROHIBITED ACTIVITIES. Prohibits a person licensed under this code who receives a commission or other consideration for services as an insurance agent from receiving an additional fee for those services provided to the same client except for a fee described by Article 21.35A or 21.35B of this code. Prohibits an insurer or licensed insurance agent engaged in the business of insurance in this state from paying, directly or indirectly, and from accepting, any commission or other valuable consideration to or from any person for services performed by that person as an insurance agent as required by the laws of this state. Provides that this subsection does not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because the person ceased to hold a license to act as an insurance agent. Prohibits an insurance agent licensed under this code from paying, allowing, or giving, or offering to pay, allowing, or giving, directly or indirectly, to any person who is not a licensed insurance agent, any rebate of premiums payable, commission, paid employment, or contract for service, or any other valuable consideration or inducement, that is not specified in the policy or contract of insurance for or on account of the solicitation or negotiation of insurance contracts. Provides that, in addition to any other penalty imposed under this code, a person who is determined by the department to have committed conduct described by this subsection is barred from receiving a license as an insurance agent before the fifth anniversary of the date of the determination. Sets forth who this subsection applies to including a person who solicits any contract of insurance or acts as an agent for a person, including an insurance company, association, or organization, not authorized to engage in the business of insurance in this state without holding a license issued under Article 1.14-2 of this code. Prohibits a person who has had an insurance license revoked in this state or any other state from soliciting or otherwise transacting business under Chapter 10 of this code, unless it is determined by the department to be in the public interest to allow the person to act in that capacity. Prohibits a person who has had an insurance license revoked in this state or any other state from acting as an officer, director, member, manager, or partner, or as a shareholder with a controlling interest, of an entity licensed under this subchapter unless it is determined by the department to be in the public interest, to allow the person to act in that capacity. Prohibits a property and casualty agent from knowingly granting, writing, or permitting a greater amount of insurance against loss by fire than the reasonable value of the subject of insurance.

SECTION 1.05. Redesignates Section 5, Article 21.01-2, Insurance Code, as Section 3A, Article 21.01-2, Insurance Code, and amends Section 3A, Article 21.02-2, Insurance Code, as follows:

Sec. 3A. New heading: DENIAL OR REFUSAL OF LICENSE APPLICATION; SUSPENSION OR REVOCATION OF LICENSES; DISCIPLINE OF LICENSE HOLDERS. Authorizes, rather than requires, in addition to any other remedy available under Section 7, Article 1.10, of this code, the department to refuse issue an original license, revoke, suspend, or refuse to renew a license, place on probation, a person whose license has been suspended, assess an administrative penalty, or reprimand a license holder for a violation of this code, another insurance law of this state, or a rule of the commissioner. Sets forth certain actions of an applicant or license holder, individually or through any officer, director, or shareholder which would authorize the department to discipline a license holder or deny a license application under this article. Prohibits an individual whose license application is denied or whose license has been revoked under this article from applying for any license as an insurance agent before the fifth anniversary of the effective date of the denial or revocation; or if the applicant or license holder seeks judicial review of the department's action, the date of the final court order or decree affirming that action. Authorizes the commissioner to deny a timely application filed under Subsection (d) of this section, if the applicant does not show good cause why the denial or revocation of the previous license application should not be considered a bar to the issuance of a new license. Provides that this

subsection does not apply to an applicant whose license application was denied for failure to pass a required written examination; or submit a properly completed license application. Authorizes the department, instead of or in addition to taking disciplinary action under this section, to order that a license holder who is currently afflicted with a disability to be placed on disability probation under the terms and conditions specified under Article 21.15-6 of this code and department rules. Provides that Subsections (c) - (f) of this section do not apply to a person who is licensed under, or holds a certificate of authority issued under, Chapter 9 of this code. Deletes text requiring the commissioner to prescribe procedures by which all decisions to deny, suspend, or revoke a license, or to refuse to renew a license, are made by or are appealable to the commissioner.

SECTION 1.06. Amends Article 21.01-2, Insurance Code, by adding Sections 4A, 5A, and 6A, as follows:

Sec. 4A. JUDICIAL REVIEW. Sets forth the conditions under which a license holder may appeal as provided by Article 1.04 of this code.

Sec. 5A. AUTOMATIC FINES. Authorizes the commissioner to establish, by rule, monetary fines for certain violations to expedite the department's processing of certain violations of this code. Sets forth certain violations for which fines are authorized to be assessed. Prohibits this section from being construed to limit the department's authority to take any other disciplinary action against a license holder as provided under another provision of this code. Provides that if a person disputes an assessment of a fine under this section, the matter is a contested case subject to Chapter 2001, Government Code.

Sec. 6A. ENFORCEMENT OF SUBCHAPTER. Authorizes the attorney general, a district or county attorney, or the department acting through the commissioner to institute an injunction proceeding or any other proceeding to enforce this subchapter and to enjoin any person, firm, corporation, or bank from engaging or attempting to engage in the business of insurance in violation of this code or any other insurance law of this state. Provides that the provisions of this section are cumulative of the other penalties or remedies provided by this article.

SECTION 1.07. Amends Article 21.04, Insurance Code, as follows:

Art. 21.04. New heading: LICENSE HOLDER DEEMED COMPANY'S AGENT.

SECTION 1.08. Amends Article 21.06, Insurance Code, as follows:

Art. 21.06. New heading: AUTHORITY TO APPOINT AGENTS. Requires each foreign or domestic insurance company, by resolution of its board of directors, to designate an officer or agent, rather than some officer or agent, who is empowered to appoint or employ its agent in this state, and such officer or agent shall promptly notify the department, rather than board, in writing of the name, title, and address of each person so appointed or employed. Provides that the authority of that designee to act on behalf of the insurance company continues in force, unless revoked by the commissioner, rather than board, for cause or canceled at the request of the insurance company, until the first day of March after its issuance, and must be renewed annually. Deletes text regarding the board being required to issue a certificate to a person, including a copy of a certificate of authority.

SECTION 1.09. Amends Section 1, Article 21.07, Insurance Code, as follows:

Sec. 1. New heading: APPLICABILITY OF ARTICLE. Requires no person to act as an agent of any insurance company, health maintenance organization, or other type of insurance carrier licensed to do business in the State of Texas and which insurance carrier's agents are required to be licensed under the provision of this subchapter, rather than Article, on the date that this Act shall become effective, unless that person, rather than individual or entity, shall have first procured a license from the department as provided by this subchapter, and no such insurance carrier shall appoint any person to act as its agent unless such person shall have obtained a license under the provisions of this subchapter, rather than article, and no such person who obtains a license shall engage in business as an agent until that person shall have been appointed to act as an agent by some duly authorized insurance carrier designated by the provisions of this code, rather than Article and authorized to do business in the State of Texas. Sets forth what the provisions of this

subchapter do not apply to. Deletes text authorizing any person, corporation, or bank desiring to act as an agent of any insurance carrier licensed to do business in the State of Texas and writing a health and accident insurance to obtain a separate license as an agent to write health and accident insurance. Deletes existing Subsections (b) and (c).

SECTION 1.10. Amends Section 1A, Article 21.07, Insurance Code, unless the context clearly indicates otherwise in this subchapter, to define “agent,” “bank,” “control,” “corporation,” “individual,” “insurance company,” “partnership,” “person,” and “sub-agent.” Deletes the existing definition of “person.”

SECTION 1.11. Amends Section 2, Article 21.07, Insurance Code, to require any person who desires to become an agent for an insurance company or health maintenance organization, rather than a casualty company writing accident and health insurance, or any other type of insurance carrier licensed to do business in the State of Texas, the agents of which are required to be licensed under this subchapter, to submit an application for a license in the form required by the department to the department. Requires each applicant for a license to act as an insurance agent in this state to file a completed application on forms developed by the department to the commissioner. Requires the commissioner to establish, by rule, the requirements for a properly completed application. Prohibits the commissioner from granting a license as an insurance agent to write any form of insurance unless the department finds certain conditions exist. Provides that this section does not prohibit an applicant insuring property that the applicant owns or in which the applicant has an interest, but it is the intent of this section to prohibit coercion of insurance and to preserve to each individual, the right to choose the individual’s own agent or insurance company, and to prohibit the licensing of a person to engage in the insurance business principally to handle business that the applicant controls only through ownership, mortgage or sale, family relationship, or employment. Requires an applicant for an original license to have a bona fide intention to engage in business in which, in any calendar year, at least 25 percent of the total volume of premiums is derived from persons other than the applicant and from property other than that on which the applicant controls the placing of insurance through ownership, mortgage, sale, family relationship, or employment. Prohibits the department from denying a license application solely on the ground that the applicant will act only part-time as an agent. Requires the department to issue a license to an individual to engage, rather than or to a general partnership engaging, in the business of insurance, if the department finds that the individual meets certain requirements. Authorizes an individual engaging in the insurance business as a sole proprietorship under the authority of a license issued under this subchapter to incorporate, but the corporation does not have greater license authority than that granted to the license holder in the holder’s individual capacity. Requires each individual license holder to notify the department on a monthly basis of certain events. Requires the department to issue a license to a corporation or partnership if the department finds that a corporation or partnership is organized under the laws of this state or any other state or territory of the United States; admitted to conduct business in this state by the secretary of state, if so required; and authorized by its articles of incorporation or its partnership agreement to act as an insurance agent; the corporation or partnership meets the definition of that entity adopted under Section 1A of this article; at least one officer of the corporation or one active partner of the partnership and all other persons performing any acts of an agent on behalf of the corporation or partnership in this state are individually licensed by the department separately from the corporation or partnership; the corporation or partnership will have the ability to pay any sums up to \$25,000 which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error, or omission of the corporation or partnership or any person for whose acts the corporation or partnership is legally liable in the conduct of its business under this code, rather than article. Requires such ability to be maintained in certain ways including an errors and omissions policy insuring such corporation or partnership against errors and omissions in at least the sum of \$250,000, rather than the sum of \$100,000. Requires such ability to be maintained, rather than proven, in certain ways. Requires a binding commitment to issue such a policy or bond to be sufficient in connection with any application for license; the corporation or partnership intends to be actively engaged in the business of insurance as required under Subsection (c) of this section; each branch location from which the corporation or partnership will conduct its business in this state under authority of an insurance license is separately registered with the department; the corporation or partnership has submitted the application, appropriate fees, and any other information required by the department; and an officer, director, member, manager, partner, or any other person who has the right or ability to control the license holder has not had a license suspended or revoked or been the subject of any other disciplinary action by the insurance regulator of this or any other state or committed an act for which a license may be denied under Article 21.01-2 of this code. Requires each corporation or partnership licensed as an agent under this subchapter to file, under oath, on a form developed by the department, biographical information for each, rather than a list of the name for all, of its executive officers and directors or unlicensed partners who administer the entity’s operations in this state, and shareholders who

are in control of the corporation, or any other partners who have the right or ability to control the partnership. Requires a biographical form for each individual who is in control of the parent entity, if any corporation or partnership is owned, in whole or in part, by another entity. Requires each corporation or partnership to notify the department on a monthly basis of certain events. Requires the department to issue a license to a bank in the manner provided for the licensing of a corporation under this section. Prohibits a person from acquiring in any manner, any ownership interest in an entity licensed as an agent under this subchapter if the person is, or after the acquisition would be, directly or indirectly, in control of the license holder, or otherwise acquire control of or exercise any control over the license holder, unless the person has filed certain information with the department under oath. Sets forth the information filed under oath with the department. Authorizes the commissioner to require that the information required by Subdivisions (1) through (4) of that subsection for an individual be provided regarding each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member, if a person required to file a statement under Subsection (p) of this section is a partnership, limited partnership, syndicate, or other group. Authorizes the commissioner to require that the information required by Subdivisions (1) through (4) of that subsection be provided regarding the corporation; each individual who is an executive officer or director of the corporation; and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of the corporation, if a partner, member, or person is a corporation or the person required to file the statement under Subsection (p) of this section is a corporation. Authorizes the department to disapprove an acquisition of control, if, after notice and opportunity for hearing, the commissioner makes certain determinations. Provides that, notwithstanding Subsection (o) of this section, a change in control is considered approved if the department has not proposed to deny the requested change before the 91st day after the date of receipt by the department of all information required by this section. Requires the commissioner to be the corporation's or partnership's attorney for service of process on whom all lawful process, notice, or demand may be served in any legal proceeding against the corporation or partnership under certain conditions. Requires the department to deny, revoke, or suspend the license of a corporation or partnership to act as an agent as provided by Article 21.01-2 of this code, if a corporation or partnership that holds an agent's license does not maintain the qualifications necessary for issuance of the license. Deletes text requiring an application to bear a signed endorsement by an office or property authorized representative of the insurance carrier. Deletes text requiring a partner in the partnership to be licensed individually as an agent under this article. Deletes text regarding a Texas corporation organized or existing under the Texas Business Corporation Act or the Texas Professional Corporation Act having its principal place of business in the State of Texas and having as its purposes the authority to act as an agent covered by this article. Deletes text providing that every officer, director, and shareholder of the corporation is individually licensed under the provisions of this article, or that every officer and director of the corporation is individually licensed under this article, that the corporation is a wholly owned subsidiary of a parent corporation that is licensed under this article, and that every shareholder of the parent corporation is individually licensed under this article. Deletes text regarding a deposit of cash or securities of the class authorized by Articles 2.08 and 2.10, Insurance Code, as amended having a fair market value of \$25,000 with the comptroller and its use. Deletes text regarding the tender of such securities. Deletes text requiring an agent's license to be canceled; an unlicensed person acquiring shares in a corporation and not disposing of them within a period of 90 days to a licensed agent; and any such corporation being required to have the power to redeem the shares of any shareholder under certain conditions. Deletes text regarding shareholders with its application for renewal license. Deletes text requiring each corporation to notify the department upon any change in its officers, directors, or shareholders. Deletes text prohibiting a corporation from owning any interest in another corporation licensed under this Article and requiring each owner of an interest in a corporation licensed under this Article to be a natural person who holds a valid license under this article. Deletes existing subsection (e). Deletes text regarding a binding commitment to issue such a policy or bond, or the tender of applicable securities, being sufficient in connection with an application for license. Deletes text regarding nothing in this subsection permitting an unlicensed employee or agent of a bank to perform any act of an agent under this Article without obtaining a license. Deletes text authorizing a bank licensed as an agent under this Article from having additional offices from which the business of insurance is conducted only in a place with a population of 5,000 or less and being required to comply with the department's regulations regarding additional offices. Deletes text requiring a bank licensed as an agent under this article from maintaining the insurance records of the bank. Deletes text requiring the license of a bank to act as an agent to be canceled or denied, if at any time, a bank that holds an agent's license does not maintain the qualifications necessary to obtain a license. Deletes text requiring each bank licensed as an agent under this article to file under oath with its application for license renewal a list of the name and address of the bank and of each officer and director of the bank, as defined by Article 21.02 of this code, and other biographical information as required by the department. Deletes text requiring each bank to notify the department of any change in its officers and directors, and any

change in other persons who will be acting as agents. Makes conforming and nonsubstantive changes.

SECTION 1.12. Amends Article 21.07, Insurance Code, by adding Section 3A, as follows:

Sec. 3A. TEMPORARY LICENSE. Authorizes the department to issue a temporary agent's license to an applicant for a license under Section 2 of this article who is being considered for appointment as an agent by an insurer or health maintenance organization. Provides that an applicant for a temporary license is not required to pass a written examination and the temporary license is valid for the 90 days after the date of issuance. Requires the department to issue a temporary license immediately on receipt by the department of a properly completed application executed by the person in the form required by Section 2 of this article, accompanied by the nonrefundable filing fee set by the department and a certificate signed by an officer or properly authorized representative of the insurer or health maintenance organization including certain statements. Authorizes the insurer or health maintenance organization to assume that the temporary license will be issued in due course and the applicant may proceed to act as an agent, if the temporary license is not received from the department before the eight day after the date on which the application, certificate, and nonrefundable fee are delivered or mailed to the department and the insurer or health maintenance organization has not been notified that the application is denied. Prohibits a temporary license from being renewed or issued more than once in a consecutive six-month period to the same applicant, from being granted to a person who does not intend to apply for a license to sell insurance or membership to the public generally, and from being used to obtain commissions from sales made to persons who have family, employment, or business relationships with the temporary license holder. Prohibits an insurer or health maintenance organization from knowingly paying, directly or indirectly, to the holder of a temporary license under this section, and a temporary license holder from receiving or accepting, a commission on the sale of certain contracts of insurance or memberships. Prohibits a person who has been issued a temporary license under this section and is acting under the authority of the temporary license from engaging in any insurance solicitation, sale, or other agency transaction that results in or is intended to result in the replacement of any existing individual life insurance policy form or annuity contract that is in force, or receiving, directly or indirectly, any commission or other compensation that may or does result from such a solicitation, sale, or other agency transaction. Prohibits a person who holds a permanent license from circumventing or attempting to circumvent the intent of this subsection by acting for or with a person holding a temporary license. Defines "replacement." Authorizes the department to cancel, suspend, or revoke the temporary appointment powers of an insurer or health maintenance organization if, after notice and opportunity for hearing, the commissioner finds that that insurer or health maintenance organization has abused the temporary appointment powers. Provides that an appeal from the department's decision is subject to Article 1.04 of this code. Sets forth, in considering whether abuse has occurred, what the department may consider. Requires the insurer or health maintenance organization to administer at least 40 hours of training to each applicant for a temporary license not later than the 14th day after the date on which the application, certificate, and nonrefundable fee are delivered or mailed to the department. Requires at least 10 hours to be taught in a classroom setting, including an accredited college, university, junior college, or community college, a business school, or a private institute or classes sponsored by the insurer or health organization and especially established for this purpose. Sets forth the knowledge the training program required to be provided to an applicant. Authorizes the commissioner to require an affected insurer or health maintenance organization to file with the department a description of the insurer's or health maintenance organization's training program and may require the insurer or health maintenance organization to obtain the approval of the department before continuing to use the training program, if the commissioner finds under Subsection (g) of this section that an abuse of temporary appointment powers has occurred. Requires each insurer or maintenance organization to ensure that, during any two consecutive calendar quarters, at least 70 percent of the insurer's or health maintenance organization's applicants for temporary licenses sit for the required licensing examination. Requires at least 50 percent of the applicants taking the examination to pass during that period. Prohibits an insurer or health maintenance organization from making more than 250 appointments of temporary license holders during a calendar year.

SECTION 1.13. Amends Section 6, Article 21.07, Insurance Code, as follows:

Sec. 6. New heading: FILING OF ADDITIONAL APPOINTMENTS. Authorizes an agent, except as specifically prohibited by another provision of this code, to represent and act as an agent



for more than one insurance carrier at any time while the agent's license is in force, if the agent so desires. Requires any such agent and the insurance carrier involved to file with the department, rather than must give notice to the State Board of Insurance of, any additional appointment, rather than appointments, authorizing an agent to act a agent for an additional insurance carrier or carriers not later than the 30th day after the effective date of the appointment. Requires the filing, rather than such notice, to include certain items. Provides that an appointment made under this article to authorize an agent to act as an agent for an insurance carrier continues in effect without the necessity of renewal until it is terminated or withdrawn by the insurance carrier or agent. Requires the insurance carrier to follow the procedures established under Section 6B of, rather than as provided by this section or is otherwise terminated in accordance with, this article, if an agent is terminated for cause. Provides that each renewal license issued to an agent authorizes the agent to represent and act for the insurance carriers for which the agent holds an appointment until the appointment is terminated or withdrawn, and that agent is considered to be the agent of the appointing insurance carriers for the purposes of this code. Authorizes an agent appointed under this section to act on behalf of the appointing carrier before the department receives a filing made under this section. Provides that a person acting as a sub-agent is not required to be separately appointed by each insurance carrier that has appointed the licensed person who has designated the sub-agent in writing to the department. Requires termination of the sub-agent by the licensed person to be reported promptly to the department and terminates the sub-agent's authority to act for the licensed person and that person's insurance carriers.

SECTION 1.14. Amends Article 21.07, Insurance Code, by adding Sections 6B, 6C, 6D, and 6E, as follows:

Sec. 6B. INSURANCE CARRIER TO NOTIFY DEPARTMENT OF TERMINATION OF CONTRACT; COMMUNICATION PRIVILEGED. Requires each insurance carrier, on termination of an agent for cause, to immediately file a statement of the facts relating to the termination of the appointment and the date and cause of the termination with the department. Requires the department, on receipt of the statement, to record the termination of the appointment of that agent to represent the insurance carrier in this state. Provides that a document, record, statement, or other information required to be made or disclosed to the department under this section is privileged and confidential communication and is not admissible in evidence in any court action or proceeding except under a subpoena issued by a court of record. Provides that an insurance carrier, an employee or agent of the carrier, or any other person, acting without malice, is not liable for providing the information required to be disclosed under this section.

Sec. 6C. FEES; USE OF FUNDS. Requires the department to collect from each agent of an insurance carrier writing insurance in this state under this code, a non-refundable license fee and a non-refundable appointment fee for each appointment by an insurance carrier. Requires these fees, together with examination fee, license fees, and license renewal fees, to be deposited to the credit of the Texas Department of Insurance operating fund. Authorizes the department to use any portion of the fees collected to enforce this subchapter; to employ persons as it considers necessary to investigate and make reports regarding alleged violations of this code and misconduct on the part of agents; and to pay the salaries and expenses of those persons and office employees and other expenses necessary to enforce this subchapter from the fees collected. Authorizes a person employed by the department under this section to administer an oath and examine under oath any person considered necessary in gathering information and evidence and to have that information and evidence reduced to writing if considered necessary, and all such expenses shall be paid from the fees. Requires the department to set the fees in amounts reasonable and necessary to implement this subchapter.

Sec. 6D. DUPLICATE LICENSE FEE. Requires the department to collect in advance from an agent requesting a duplicate license, a fee in an amount set by the department. Requires the fee collected under this section to be deposited to the credit of the Texas Department of Insurance operating fund.

Sec. 6E. REQUIREMENT TO APPOINT SUB-AGENT. Requires a general agent to submit to the department in writing, in the form prescribed by the department, notice of the sub-agent's appointment, if a general life, accident, and health agent or general property and casualty agent who has been appointed by an insurance carrier that has a permit to do business in this state desires to appoint a sub-agent in the operation of an insurance business. Requires the notice to be

accompanied by a nonrefundable fee in an amount determined by the commissioner.

## ARTICLE 2. LIFE, ACCIDENT, AND HEALTH LICENSES

SECTION 2.01. Amends Chapter 21A, Insurance Code, by adding Article 21.07-1, as follows:

### Art. 21.07-1. TEXAS LIFE, ACCIDENT, AND HEALTH AGENTS LICENSE ACT

Sec. 1. SHORT TITLE; APPLICATION. Authorizes this article to be cited as the Texas Life, Accident, and Health Agents License Act. Provides that each agent of an insurance company authorized to provide life, accident, and health insurance coverage in this state is subject to this article. Sets forth the persons this article applies to.

Sec. 2. GENERAL LIFE, ACCIDENT, AND HEALTH LICENSE; LICENSE REQUIRED. Sets forth certain persons, acting in certain ways, whom are required to have a general life, accident, and health insurance license including an agent writing fixed or variable annuity contracts or variable life contracts. Defines “combination company.” Requires each person who acts as a combination life insurance agent for a combination company to have a general life, accident, and health license. Authorizes a combination company and a combination life insurance agent to also write ordinary life insurance contracts. Provides that except as otherwise provided by this subsection, a general life, accident, and health license is required for an agent writing life, accident, and health insurance for a fraternal benefit society under Chapter 10 of this code. Provides that a license is not required for an agent, regularly salaried officer, employee, representative, or member of a fraternal benefit society who devotes less than 50 percent of the person’s time to the solicitation or procurement of insurance contracts for the society. Provides that a person who, in the preceding calendar year, has solicited or procured certain amounts on certain insurance contracts on behalf of a fraternal benefit society is presumed to have devoted 50 percent or more of the person’s time to the solicitation or procurement of insurance contracts. Sets forth certain amounts and certain contracts solicited and procured including life insurance contracts that generate, in the aggregate, more than \$20,000 of direct premium for all lives insured for the preceding calendar year, if no interest-sensitive life insurance certificate is solicited or procured with a face amount of insurance that exceeds \$35,000 unless the person has obtained the designation of “Fraternal Insurance Counselor.”

Sec. 3. AUTHORITY TO WRITE ADDITIONAL PRODUCT LINES. Authorizes a person who holds a general life, accident, and health license issued under the requirements of this subchapter to write additional types of insurance contracts as provided under Section 5 of this article or under a specialty license program established by the department without obtaining an additional license.

Sec. 4. LIMITED LIFE, ACCIDENT, AND HEALTH LICENSE. Defines “funeral prearrangement life insurance agent,” and “job protection insurance.” Sets forth certain agents this section applies to. Requires a person to whom this article applies to hold a limited life, health, and accident license under this article. Authorizes the commissioner to adopt rules as necessary to implement this article. Sets forth, notwithstanding this section or any other law, prohibited actions of a funeral prearrangement life insurance agent. Authorizes a person who holds a limited life, accident, and health license issued under this section to write only the types of insurance products described by this section. Provides that an applicant for a limited life, accident, and health license is not eligible for a temporary license under Section 4 of this article.

## ARTICLE 3. PROPERTY AND CASUALTY LICENSES

SECTION 3.01. Amends Article 21.14, Insurance Code, as follows:

### Art. 21.14. New heading: TEXAS PROPERTY AND CASUALTY AGENTS LICENSE ACT

Sec. 1. SHORT TITLE; APPLICATION. Authorizes this article to be cited as the Texas Property and Casualty Agents License Act. Provides that each agent of an insurance company authorized to provide property casualty insurance coverage in this state is subject to this article. Provides that this article applies to each person who performs that acts of an agent, as defined by Article 21.02 of this code, whether through certain modes of communication, by the solicitation

of, negotiation for, procurement of, or collection of premiums on an insurance contract offered by any type of insurance carrier authorized to sell certain property and casualty insurance products in this state.

Sec. 2. GENERAL PROPERTY AND CASUALTY LICENSE; LICENSE REQUIRED. Sets forth certain persons acting in certain manners who are required to have a general property and casualty license.

Sec. 3. AUTHORITY TO WRITE ADDITIONAL PRODUCT LINES. Authorizes a person who holds a general property and casualty license issued under this chapter to write additional types of insurance contracts as provided under Section 6 of this article or under a specialty license program established by the department.

Sec. 4. AUTHORITY TO WRITE ACCIDENT AND HEALTH INSURANCE. Authorizes a person who holds a general property and casualty license issued under this subchapter to write health and accident insurance for a property and casualty insurer authorized to sell those insurance products in this state without holding a license issued under Article 21.07-1 of this code.

Sec. 5. EMERGENCY LICENSE WITHOUT EXAMINATION. Authorizes the department, in the event of the death or disability of a property and casualty agent or if a property and casualty agent is found to be insolvent and unable to pay for premiums as they become due to an insurer, to issue to an applicant for a property and casualty license an emergency property and casualty license without examination, if it is established to the satisfaction of the department that the emergency license is necessary for the preservation of the agency assets of a deceased, disabled, or insolvent property and casualty agent. Provides that an emergency license is valid for 90 days in any 12 consecutive months and may be renewed by the department for an additional 90 days during the 12-month period if the other requirements of this subchapter are met.

Sec. 6. LIMITED PROPERTY AND CASUALTY LICENSE. Sets forth, notwithstanding any other law, the limited property and casualty license requirement for each person who desires to act as an agent writing certain types of insurance and prepaid legal services contracts including any form of insurance authorized under Chapter 16 of this code for a farm insurance company, except that a license is not required under this subsection for a person who wrote policies that generated, in the aggregate, less than \$20,000 in direct premium for the preceding calendar year; and only industrial fire insurance policies covering dwellings, household goods, and wearing apparel on a weekly, monthly, or quarterly basis on a continuous premium payment plan written for an insurance company whose business is devoted exclusively to that business as described by Article 17.02 of this code, except that a license is not required under this subsection for a person who wrote industrial fire insurance policies that generated, in the aggregate, less than \$20,000 in direct premium for the preceding calendar year. Provides that Subsection (a) (1) of this section applies to a production credit association or bank for a cooperative, as provided under the farm credit system under 12 U.S.C. 2001 et seq., as amended. Authorizes a person who holds a limited property and casualty license issued under this subchapter to write only the types of insurance products designated on the license by the department.

Sec. 7. FULL-TIME HOME OFFICE EMPLOYEES: MANDATORY REGISTRATION, CONTINUING EDUCATION REQUIREMENTS, AND NOTIFICATION TO CONSUMERS; DISCIPLINARY ACTIONS. Requires each actual full-time home office salaried employee of an insurance carrier licensed to do business in this state who solicits or receives an application for the sale of insurance through certain communication modes to register with the commissioner. Requires an insurance carrier licensed to do business in this state whose general plan of operation includes the use of employees described by Subsection (a) of this section to certify to the commissioner that each of those employees receives at least 15 hours of continuing education annually. Requires each continuing education course provided by the insurance carrier to be submitted to the department for approval as provided by Section 3, Article 21.01-1, of this code. Requires a person registered under this section to comply with the continuing education requirements adopted under Section 3, Article 21.01-1, of this code, as if the person were a licensed agent. Sets forth the required design of an employees continuing education which will impart certain competencies and knowledge. Requires the registration of an actual full-time home office salaried employee to be suspended and the employer insurance carrier may be disciplined for any act for which an agent may be disciplined under Article 21.01-2 of this code. Requires

each registrant under this section to disclose the fact of the registration when making certain modes of communication to solicit or receive an application for the sale of insurance. Requires each person who registers under this section to submit a nonrefundable registration fee in an amount determined by the department.

Sec. 8. INSURANCE SERVICE REPRESENTATIVE LICENSE. Provides that an insurance service representative license is required for each person who is employed on a salaried basis to perform assigned duties only within the office of a property and casualty agent. Authorizes to those duties to include the issuance of insurance binders only with the express approval of the property and casualty agent who supervises the insurance service representative. Provides that the provisions of Subchapter A of this chapter that apply to a general license apply to a license issued under this section, except that proof of financial responsibility is not required of a person licensed only as an insurance service representative. Deletes heading to existing Article 21.14; deletes existing Sections 1 - 16, 18 - 27; and Sections 3a, 5a, 5b, and 5c, 6a, and 20a.

#### ARTICLE 4. NONRESIDENT AGENT LICENSE

SECTION 4.01. Amends Section 1, Article 21.11, Insurance Code, to require the department to license a person who is not a resident of this state to act as a nonresident agent if the department finds certain conditions exist including an applicant for the nonresident license, if an individual holds a license, rather than subject to Subsection (b) of this section, holds a license, as an agent in the state of residence and either obtained the license by passing a written examination or held the license before the time a written examination was required to obtain the license; or subject to Subsection (b) of this section, has passed the examination for an agent's license required under Article 21.01-1 of this code and satisfies the requirements adopted under Section 2, Article 21.07, of this code for licensing of an individual. Authorizes the commissioner to enter into a reciprocal agreement with the appropriate official of another state waiving the written examination requirement for an applicant who is a resident if certain conditions are met. Authorizes a person who resides in a town through which the state line runs and whose residence is located in the town in the adjoining state to be licensed as a resident agent if the person maintains the person's business office in this state. Authorizes the department, rather than requires the department, to waive any license requirement for an applicant with a valid license from another state or jurisdiction that has license requirements substantially equivalent to those of this state. Requires the commissioner to be the attorney for service of process on whom all lawful process, notice, or demand may be served in any legal proceeding against a nonresident agent licensed to transact business in this state if certain conditions exist. Makes conforming and nonsubstantive changes.

SECTION 4.02. Amends Sections 2(a) and (b), Article 21.11, Insurance Code, as follows:

(a) Provides that except as otherwise specifically provided by this code, rather than this section, a license under this article to an individual who is not a resident of this state grants the same rights and privileges afforded to a resident license holder.

(b) Provides that a person who holds a license issued under this article and who is in compliance with the continuing education requirements of the person's state of residence is exempt from the continuing education requirements imposed under Article 21.01-1 of this code. Deletes text regarding under a license issued under Article 21.14 of this code; and may not take certain actions.

SECTION 4.03. Amends Section 3, Article 21.11, Insurance Code, to provide that this subchapter applies to licensing of a nonresident agent under this article. Deletes existing Subdivision(3), and Subsections (b), (c), (d), and (e). Deletes text regarding Article 21.01-2 of this code. Makes a conforming change.

SECTION 4.04. Amends Sections 4 and 5, Article 21.11, Insurance Code, as follows:

Sec. 4. HOME OFFICE EMPLOYEE. Provides that this article does not affect the authority established under Section 7, rather than Section 20, Article 21.14 of this code of an actual full-time home office salaried employee of an insurance carrier licensed to do business in this state.

Sec. 5. RULES. Authorizes the commissioner to adopt rules as necessary to implement this article and to meet the minimum requirements of federal law and regulations.

#### ARTICLE 5. CONFORMING AMENDMENTS

SECTION 5.01. Amends Section 1, Article 3.71, Insurance Code, to authorize any person who is licensed as a general life, accident, and health agent, rather than insurance agent, or as a general property and casualty agent, rather than local recording agent, under Article 21.07-1, rather than the provisions of Articles 21.07, 21.07-1, or 21.14 of this code, rather than of the Insurance Code of the State of Texas, to act as such agent. Makes conforming changes.

SECTION 5.02. Amends Section 7, Article 3.75, Insurance Code, as follows:

Sec. 7. VARIABLE CONTRACT AGENTS LICENSE. Prohibits any person from taking certain actions regarding any variable contract, unless such person shall have a valid and current license issued under Article 21.07-1 of this code, rather than a certificate from the State Board of Insurance, authorizing such person to act within this state as a general life, accident, and health, agent, rather than variable agent. Provides that the licensing and regulation of a person acting as a variable agent is subject to the same provisions applicable to the licensing and regulation of other agents under Chapter 21A, of this code. Deletes text prohibiting any such certificate from being issued unless certain conditions are met. Deletes existing Sections (b), (c), (d), (e), (f), (g), and (h).

SECTION 5.03. Amends Subsection (c), Article 5.13-1, Insurance Code, to require the right of such insurers to issue prepaid legal services contracts on certain bases is hereby recognized, and qualified agents of such insurers who are licensed under Article 21.07-1 or 21.14, rather than Articles 21.07 and 21.14, of this code, rather than of the Insurance Code, as amended, and Chapter 213, Acts of the 54th Legislature, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code, to be authorized to write such coverages under such rules as the commissioner may prescribe. Makes conforming changes.

SECTION 5.04. Amends Chapter 10, Insurance Code, by adding Article 10.37-3, as follows:

Art. 10.37-3. AGENT'S LICENSE REQUIRED. Prohibits a person from soliciting or procuring insurance contracts on behalf of a fraternal benefit society unless the person meets certain conditions. Provides that the licensing and regulation of agents for fraternal benefit societies under this chapter is subject to the requirements adopted under Chapter 21A, of this code and other existing or subsequent applicable laws governing the licensing of those agents. Provides that a provision of such a law is applicable to a license applicant and license holder under this chapter.

SECTION 5.05. Amends Article 16.24A, Insurance Code, as follows:

Art. 16.24A. New heading: LICENSING OF AGENTS. Prohibits any person or firm from soliciting, writing, signing, executing, or delivering insurance policies, binding insurance risks, collecting premiums, or otherwise acting in the capacity of an insurance agent, rather than a local recording agent, in the solicitation or sale of insurance for a farm mutual insurance company unless the person or firm holds a license issued, rather than is licensed, under Chapter 21A, rather than Article 21.14, of this code. Deletes text regarding who qualifies for a license as an agricultural insurance agent.

SECTION 5.06. Amends Section 9, Article 17.25, Insurance Code, to require agents for such companies to be licensed and appointed as provided by Chapter 21A, rather than in Article 21.07 or 21.14, of this code.

SECTION 5.07. Amends Sections 4, 19, and 21, Article 21.07-3, Insurance Code (Managing General Agents' Licensing Act), as follows:

Sec. 4. New heading: REDEMPTION OF SHARES. Deletes existing Subsections (a), (b), (c), (d), (f), (g), (h), (i), and (j). Makes a conforming change.

Sec. 19. New heading: ADMINISTRATION AND REGULATION OF MANAGING GENERAL AGENTS; VIOLATIONS OF ACT. Provides that the licensing and regulation of a person acting as a managing general agent is subject to the laws and requirements applicable to the licensing and regulation of other agents under Chapter 21A, Insurance Code. Requires any person, firm, or corporation who violates any of the provisions of this Act or any rule, regulation, or order adopted under this Act or Chapter 21A, Insurance Code, to be subject to Sections 2A, 3A, 4A, 5A, 6A, Article 21.01-2, Insurance Code. Deletes text regarding sanctions under. Makes

conforming changes.

Sec. 21. ADMINISTRATION OF ACT. Deletes text regarding regulations. Makes conforming changes.

SECTION 5.08. Amends Article 22.14, Insurance Code, to require all agents of stipulated premium companies to be licensed in accordance with the provisions of Subchapter A of Chapter 21 of this code, rather than Article 21.07 of Chapter 21 of this code.

SECTION 5.09. Amends Chapter 23, Insurance Code, by adding Article 23.23A, as follows:

Art. 23.23A. REGULATION OF AGENTS. Provides that the licensing and regulation of an agent authorized to solicit prepaid legal services contracts for corporations complying with this chapter is subject to Chapter 21A, of this code.

## ARTICLE 6. SURPLUS LINES

SECTION 6.01. Amends Section 2(a) (1), Article 1.14-2, Insurance Code, to define “surplus lines agent.”

SECTION 6.02. Amends Section 2(a) (2), Article 1.14-2, Insurance Code, to require a surplus lines agent, as a condition of being licensed as a surplus lines agent and as a condition of continuing to be licensed as a surplus lines agent, to offer the proof of financial responsibility in respect of transactions with insured under policies of surplus lines insurance as required by reasonable rules, rather than reasonable rules and regulations, of the department. Deletes text regarding offering proof of solvency and demonstrating capacity. Makes conforming and nonsubstantive changes.

SECTION 6.03. Amends Section 2(a) (3), Article 1.14-2, Insurance Code, to require any surplus lines license granted under the Article 21.07-3, V.T.C.S. (Managing General Agents’ Licensing Act), rather than Acts, 1967, 60th Legislature, Chapter 727, but not licensed under Article 21.14 of this code to be limited to the acceptance of business originating through a regularly licensed general property and casualty agent, rather than recording agent, and does not, rather than shall not, authorize the surplus lines agency to transact business directly with the applicant for insurance.

SECTION 6.04. Amends Section 4(b), Article 1.14-2, Insurance Code, to authorize the department to issue a surplus lines license to an applicant if the applicant submits a properly completed license application and an application fee as determined by the department and the department determines that the applicant, rather than an agent as defined by Subdivision (1) of Subsection (a) of Section 2 is a certain individual; is a corporation or partnership that has at least one certain officer or director or at least one certain active partner; is currently licensed as a general property and casualty agent under Article 21.14 of this code or as a managing general agent under the Managing General Agent’s Licensing Act (Article 21.07-3, Vernon’s Texas Insurance Code); and provides proof of financial responsibility as required under Section 2 of this article; and is a nonresident insurance agent authorized under Article 21.11 of this code who holds a general property and casualty license from the department and whose authority as a surplus lines agent is limited to acting on behalf of a purchasing group operating in this state in the placement of liability insurance for risks located in this state. Deletes text regarding submitting a completed license application on a form approved by the department and passing a qualifying examination approved by the department. Deletes text regarding certain conditions placed on an agent.

SECTION 6.05. Amends Section 4(c), Article 1.14-2, Insurance Code, to provide that in addition to the requirements of this article, the administration and regulation of a surplus lines agent’s license is governed Chapter 21A, of this code, except that Article 21.07 of this code does not apply to a license issued under this article. Deletes text regarding unless the State Board of Insurance adopts a system for staggered renewal of licenses, each license issued is for a two year term.

SECTION 6.06. Amends Section 4(d), Article 1.14-2, Insurance Code, to authorize the department to revoke or suspend the license or deny the renewal of that license in accordance with Article 21.01-2 of this code, if a license holder does not maintain the qualifications necessary to obtain the license. Deletes text regarding by filing a completed application and paying a nonrefundable renewal fee not to exceed \$50, an unexpired license may be renewed.

## ARTICLE 7. REPEALER

SECTION 7.01. Repealers:

- (1) Sections 4(f), (g), and (h), Article 1.14-2, Insurance Code (Requires the commissioner of insurance to collect in advance from an agent who request a duplicate license a fee not to exceed \$20, required to be set by the State Board of Insurance; Requires the board to deposit all fees in the State Treasury to the credit of the State Board of Insurance operating fund; such fees are not redeemable; and Provides that unless the State Board of Insurance accepts a qualifying examination administered by a testing service, each person required to be examined shall pay a fee before being examined; the State Board of Insurance shall determine the amount of the fee, a certain fee must be paid, and certain paid fee may not be refunded, respectively).
- (2) Section 15, Article 17.25, Insurance Code (Violation by agent).
- (3) Section 20A.15, Insurance Code (Regulation of Agents).  
Section 20A.15A, Insurance Code (Agent for Single Health Care Service Plans).
- (4) Sections 1, 3, 4, and 6, Article 21.01-2, Insurance Code (Application, Licensing by endorsement, Continuing education, and Statutory references, respectively).
- (5) Article 21.02-1, Insurance Code (Penalty for Unlawfully Acting as an Agent).
- (6) Article 21.05, Insurance Code (Who May Not Be Agents).
- (7) Article 21.07, Insurance Code, the following sections:
  - (A) Sections 1B and 1C (Licensing of limited liability companies and Licensing of banks, respectively).
  - (B) Section 3, as amended by Chapters 596 and 972, Acts of the 75th Legislature, Regular Session, 1997 (Issuance of License Under Certain Circumstances).
  - (C) Sections 3B, 4, 4A, 5, 7, 8, 9, 10, 10A, 11, 12, 13, 14, 15, 15A, 16, 17, 18, 19, and 20 (Resident Status; Certain Nonresidents Maintaining Office in the State; Exemption of Applicant for License to Write Health and Accident Insurance; Examination of Applicant for License to Write Life Insurance Upon Any One Life in Excess of \$10,000; Failure of Applicant to Qualify for License; Expiration and Renewal of License; Temporary License; Insurance Carrier to notify State Board of Insurance of termination of contract; communications privileged; Denial, Refusal, Suspension or Revocation of License; Ineligibility based on felony conviction; Judicial review of acts of State Board of Insurance; Penalty; Texas department of insurance may establish rules and regulations; Fees and Use of Funds; Dual licensing; Certain Agents for Stipulated Premium Companies; Wording on License; Expiration of existing licenses; Assignment of Agent's Commissions; Agent for United States Military Personnel in Foreign Countries; and Duplicate License; Fee, respectively).
  - (D) Section 21, as added by Chapter 820, Acts of the 75th Legislature, Regular Session, 1997 (Rental Car Companies).
  - (E) Section 21, as added by Chapter 1196, Acts of the 75th Legislature, Regular Session, 1997 (Credit Insurance Agents).
- (8) Article 21.07A, Insurance Code (Penalty for Acting As, or Employing, Life, Health, or Accident Insurance Agent Without License).
- (9) Article 21.07-1, Insurance Code (Legal Reserve Life Insurance Agents; Examination; Licenses).
- (10) Article 21.07-3, Insurance Code, the following sections:
  - (A) Sections 4A, 4B, and 4C (Persons other than managing general agents who may share in profits of a managing general agent; Continuing requirements for licensed

corporations; and Security for liability, respectively).

(B) Section 5(h) (Prohibits except as provided herein , a licensee that qualifies under this section from being owned in whole or in part by certain banks or holding companies. Provides that this section does not apply to any licensee that on a certain date is owned by certain banks or holding companies. Requires the commissioner, before renewing a license, to require certain actions from a licensee).

(C) Sections 6 and 6A (Examination Required; Exceptions and Continuing Education, respectively).

(D) Sections 8, 9, and 10 (Conduct of Examinations; Expiration of License; Renewal; and Fees, respectively).

(E) Sections 12, 13, 14, and 15 (Denial, Refusal, Suspension, or Revocation of Licenses; Notice and Hearings: Judicial review of acts of commissioner; and Notice to last address, respectively).

(F) Section 17 (Fees Collected).

(G) Section 20 (Enforcement of Act).

(11) Section 14, Article 21.14-1, Insurance Code (Notice to Insurance Commissioners of Solicitor's Appointment; Authority to Solicit).

(12) Article 21.15, Insurance Code (Revocation of Agent's Certificate).

(13) Article 21.15-2, Insurance Code (Penalty for Soliciting Without Certificate of Authority).

(14) Article 21.15-3, Insurance Code (Agent Procuring by Fraudulent Representation; Penalty).

(15) Article 21.15-4, Insurance Code (Agent or Physician Making False Statement; Penalty).

(16) Article 21.15-7, Insurance Code (Interim Study of Agents and Agents' Licenses Statutes by Commissioner).

(17) Section 10, Article 21.58A, Insurance Code (Unlawful and prohibited practices; penalties).

(18) Article 23.23, Insurance Code (Regulation of Agents).

## ARTICLE 8. GRANDFATHER CLAUSE; TRANSITION

SECTION 8.01. Provides that on the effective date of this Act, a person who holds a license issued by the department that is in good standing is considered licensed under the applicable licensing law as amended by this Act; entitled to act as an agent under the new license type, subject to this article; and subject to the provisions of the Insurance Code as amended by this Act.

SECTION 8.02. (a) Provides that a person who, immediately before the effective date of this Act, holds an agent license issued by the Texas Department of Insurance and who obtained that license by passing a written examination is entitled to the appropriate license as provided by Chapter 21A, Insurance Code, as amended by this Act, without further examination.

(b) Provides that a person who, immediately before the effective date of this Act, holds an agent license issued by the department and who obtained that license without taking a written examination or who actually solicited insurance on behalf of a stipulated premium company, farm mutual company, or county mutual insurance company before January 1, 1999, is entitled to the appropriate license as provided by Chapter 21A, Insurance Code, as amended by this Act, but must pass the appropriate license examination not later than the second anniversary of the date of issuance, to retain the license. Provides that the license of a person who does not pass the license examinations as required by this subsection expires on the second anniversary of the date of issuance and may not be renewed.



(c) Provides that a person who, immediately before the effective date of this Act, holds an agent license issued by the department and who obtained that license without taking a written examination or who actually solicited insurance on behalf of a stipulated premium company, farm mutual company, or county mutual insurance company on or after January 1, 1999, but before the effective date of this Act, is entitled to the appropriate license as provided by Chapter 21A, Insurance Code, as amended by this Act, but must pass the appropriate license examination not later than May 31, 2000, to retain the license. Provides that the license of a person who does not pass the license examinations as required by this subsection expires on May 31, 2000.

(d) Provides that a person who has actually 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 this Act is entitled to the appropriate license as provided by Chapter 21A, Insurance Code, as amended by this Act, without further examination.

SECTION 8.03. (a) Authorizes the department to issue life, accident, and health insurance on behalf of a fraternal benefit society immediately before the effective date of this Act on submission to the department by the person certain information and fee.

(b) Requires a person, to retain a license issued under Subsection (a) of this section, who has solicited insurance on behalf of a fraternal benefit society for less than two years as of the effective date of this Act to pass the license examination required under Chapter 21A, Insurance Code, not later than the 180th day after the date of issuance of the license. Provides that the license of a person who does not pass the license examinations as required by this subsection expires on the 180th day after the date of issuance of the license and may not be renewed.

#### ARTICLE 9. EFFECTIVE DATE; TRANSITION; EMERGENCY

SECTION 9.01. Effective date: September 1, 1999.

Makes application of Section 3, Article 21.01-1, Insurance Code this Act prospective to January 1, 2001.

SECTION 9.02. Emergency clause.

#### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.02.

Amends Section 2(a), Article 21.01, Insurance Code, to require each applicant, except as provided by Subsection (c), for a license to act as an insurance agent in this state to submit a personal written examination that is prescribed by the department and administered in the English or Spanish language, and must pass the examination to the satisfaction of the department.

Amends Section 2(d), Article 21.01, Insurance Code, by adding Subdivision 9, to prohibit the department from requiring a person to take an examination under this article if the person is an applicant for a general life, accident, and health license who was authorized to solicit insurance on behalf of a fraternal benefit society on September 1, 1999, if the applicant had, does not, or limits certain solicitations of insurance; holds a certain license in a certain capacity; and requires each examination administered under this article to be offered in English and Spanish.

Amends Section 3(b) and (f), Article 21.01, Insurance Code, to prohibit an agent from being required to complete more than 15 continuing education hours annually as a result of holding, rather than including an agent who holds, more than one license for which continuing education is required. Requires each individual who holds a license issued by the department to complete 4 hours, rather than 10 hours, of continuing education in ethics during each license renewal period. Authorizes the department to negotiate agreements with independent contractors under which the independent contractor certifies and registers continuing education courses, rather than programs, and providers.

### SECTION 1.03.

Amends Section 1A(f), Article 21.01-2, Insurance Code, to authorize the department to renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in continual practice in the other state for the period preceding application, rather than two years preceding application.

### SECTION 1.04.

Amends Section 2A (d) (3), Article 21.01-2, Insurance Code, to provide that this subsection applies to a person who solicits any contract of insurance or acts as an agent for a person, including an insurance company, association, or organization, not authorized to engage in the business of insurance in this state without holding a license issued under Article 1.14-2 of this code.

### SECTION 1.05.

Replaces Section 3A (g), Article 21.01-2, Insurance Code, to provide that Subsections (c) - (f) of this section do not apply to a person who is licensed under, or holds a certificate of authority issued under, Chapter 9 of this code.

### SECTION 1.09.

Amends Section 1 (a) and adds Subsection (b), Article 21.07, Insurance Code, to require no person to act as an agent of any insurance company, health maintenance organization, or other type of insurance carrier licensed to do business in the State of Texas and which insurance carrier's agents are required to be licensed under the provision of this subchapter, rather than Article, on the date that this Act shall become effective, unless that person, rather than individual or entity, shall have first procured a license from the department as provided by this subchapter, and no such insurance carrier shall appoint any person to act as its agent unless such person shall have obtained a license under the provisions of this subchapter, rather than article, and no such person who obtains a license shall engage in business as an agent until that person shall have been appointed to act as an agent by some duly authorized insurance carrier designated by the provisions of this code, rather than Article and authorized to do business in the State of Texas. Sets forth what the provisions of this subchapter do not apply to.

### SECTION 1.10.

Amends Section 1A, Article 21.07, Insurance Code, to redefine "control," and "sub-agent."

### SECTION 1.11.

Amends Section 2(f) and Subsections (k) (4) (A), and (q) and adds Subsection (g) and (h), Article 21.07, Insurance Code, to require the department to issue a license to an individual to engage, rather than or to a general partnership engaging, in the business of insurance, if the department finds that the individual meets certain requirements. Requires an individual agent licensed under Section 2, Article 21.07-1, of this code or Section 2, Article 21.14, of this code who is operating as an individual agent and who is not covered by an errors and omissions insurance policy of a general agency or corporation to certify to the department that the agent will maintain the ability to pay any amount that the individual agent might become legally obligated to pay due to any claim made against the agent by a customer and caused by a negligent act, error, or omission of the individual agent or any person for whose acts the individual agent is legally liable in the conduct of business under this code. Defines "customer." Sets forth the ways in which an individual agent is required to maintain proof of the ability to pay the amount. Provides that binding commitment to issue a policy or bond described by Subsection (g) of this section is sufficient in connection with an application for a license. Provides that an individual agent licensed under both Articles 21.07-1 and 21.14 is only required to maintain one errors and omissions policy bond to comply with Subsection (g) of this section. Requires such ability to be maintained in certain ways including an errors and omissions policy insuring such corporation or partnership against errors and omissions in at least the sum of \$250,000, rather than the sum of \$100,000. Authorizes the commissioner to require that the information required by Subdivisions (1) through (4) of that subsection for an

individual be provided regarding each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member, if a person required to file a statement under Subsection (p), rather than Subsection (n), of this section is a partnership, limited partnership, syndicate, or other group. Authorizes the commissioner to require that the information required by Subdivisions (1) through (4) of that subsection be provided regarding the corporation; each individual who is an executive officer or director of the corporation; and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of the corporation, if a partner, member, or person is a corporation or the person required to file the statement under Subsection (p) rather than Subsection (n), of this section is a corporation. Redesignates Subsections (g)-(s) as (i)-(u). Makes a nonsubstantive change.

#### SECTION 1.12.

Adds Section 3A, Article 21.07, Chapter 21A, Insurance Code, regarding a temporary license.

#### SECTION 1.13.

Redesignated from proposed SECTION 1.12. Amends Section 6, Article 21.07, Insurance Code, by adding Subsection (d), to provide that a person acting as a sub-agent is not required to be separately appointed by each insurance carrier that has appointed the licensed person who has designated the sub-agent in writing to the department. Requires termination of the sub-agent by the licensed person to be reported promptly to the department and terminates the sub-agent's authority to act for the licensed person and that person's insurance carriers.

#### SECTION 1.14.

Redesignated from proposed SECTION 1.13. Amends Article 21.07, Insurance Code, by adding Section 6E, regarding a requirement to appoint sub-agent.

#### SECTION 2.01.

Amends Sections 2 (a) (4) and 3, Subsections (c) and (c) (1), Chapter 21A, Insurance Code, to set forth certain persons, acting in certain ways, whom are required to have a general life, accident, and health insurance license including an agent writing fixed or variable annuity contracts or variable life contracts. Provides that a license is not required for an agent, regularly salaried officer, employee, representative, or member of a fraternal benefit society who devotes less than 50 percent of the person's time to the solicitation or procurement of insurance contracts for the society. Sets forth certain amounts and certain contracts solicited and procured including life insurance contracts that generate, in the aggregate, more than \$20,000 of direct premium for all lives insured for the preceding calendar year, if no interest-sensitive life insurance certificate is solicited or procured with a face amount of insurance that exceeds \$35,000 unless the person has obtained the designation of "Fraternal Insurance Counselor," rather than if no permanent life insurance contract is written that exceeds \$10,000 coverage on an individual life and no term life insurance contract is written that exceeds \$50,000 of coverage on an individual life. Authorizes a person who holds a general life, accident, and health license issued under the requirements of this subchapter to write additional types of insurance contracts as provided under Section 5 of this article or under a specialty license program established by the department without obtaining an additional license. Redesignates Section 4 from proposed Section 5.

#### SECTION 3.01.

Amends Sections 2(3), 6(2), 7(b), and adds Section 6(5), Article 21.14, Insurance Code, to delete text regarding certain persons acting in certain manners who are required to have a general property and casualty license including a salaried employee of an agent or sub-agent described under Subdivision (1) or (2) of this subsection who performs assigned duties that include binding insurance risks. Sets forth, notwithstanding any other law, the limited property and casualty license requirement for each person who desires to act as an agent writing certain types of insurance and prepaid legal services contracts including any form of insurance authorized under Chapter 16 of this code for a farm insurance company, except that a license is not required under this subsection for a person who wrote policies that generated, in the aggregate, less than \$20,000 in direct

premium for the preceding calendar year; and only industrial fire insurance policies covering dwellings, household goods, and wearing apparel on a weekly, monthly, or quarterly basis on a continuous premium payment plan written for an insurance company whose business is devoted exclusively to that business as described by Article 17.02 of this code, except that a license is not required under this subsection for a person who wrote industrial fire insurance policies that generated, in the aggregate, less than \$20,000 in direct premium for the preceding calendar year. Requires each continuing education course provided by the insurance carrier to be submitted to the department for approval as provided by Section 3, Article 21.01-1, of this code. Requires a person registered under this section to comply with the continuing education requirements adopted under Section 3, Article 21.01-1, of this code, as if the person were a licensed agent. Deletes Section 6(2).

Amends Article 21.14, Insurance Code, by adding Section 8, regarding insurance service representative license.

#### SECTION 4.01.

Amends Section 1, Article 21.11, Insurance Code, to require the department to license a person who is not a resident of this state to act as a nonresident agent if the department finds certain conditions exist including an applicant for the nonresident license, if an individual holds a license, rather than subject to Subsection (b) of this section, holds a license, as an agent in the state of residence and either obtained the license by passing a written examination or held the license before the time a written examination was required to obtain the license; or subject to Subsection (b) of this section, has passed the examination for an agent's license required under Article 21.01-1 of this code and satisfies the requirements adopted under Section 2, Article 21.07, of this code for licensing of an individual.

#### SECTION 5.02.

Adds a heading.

#### SECTIONS 6.01-6.06.

Adds Article 6 regarding surplus lines.

#### SECTION 7.01.

Redesignated from proposed SECTION 6.01. Adds Subsection 1. Redesignates Subsections (1)-(17) as (2)-(18).

#### SECTION 8.01.

Redesignated from proposed SECTION 7.01.

#### SECTION 8.02.

Redesignated from proposed SECTION 7.02. Amends Subsections (b) and (c) to provide that a person who, immediately before the effective date of this Act, holds an agent license issued by the department and who obtained that license without taking a written examination or who actually solicited insurance on behalf of a stipulated premium company, farm mutual company, or county mutual insurance company before January 1, 1999, is entitled to the appropriate license as provided by Chapter 21A, Insurance Code, as amended by this Act, but must pass the appropriate license examination not later than the second anniversary of the date of issuance, to retain the license. Provides that a person who, immediately before the effective date of this Act, holds an agent license issued by the department and who obtained that license without taking a written examination or who actually solicited insurance on behalf of a stipulated premium company, farm mutual company, or county mutual insurance company on or after January 1, 1999, but before the effective date of this Act, is entitled to the appropriate license as provided by Chapter 21A, Insurance Code, as amended by this Act, but must pass the appropriate license examination not

later than May 31, 2000, to retain the license.

Adds Subsection (d) regarding a certain person being entitled to an appropriate license.

SECTION 8.03.

Redesignated from proposed SECTION 7.03. Deletes proposed Subsection (c).

SECTION 9.01.

Redesignated from proposed SECTION 8.01.

SECTION 9.02.

Redesignated from proposed SECTION 8.02.