

BILL ANALYSIS

Senate Research Center
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H.B. 2456
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Insurance (TDI) has received numerous complaints from consumers who have been sold an inappropriate insurance plan. Upon investigation, TDI discovered that lack of knowledge on the part of the insurance agents responsible for the transaction was a contributing factor to the problem.

H.B. 2456 allows TDI to adopt the necessary rules to make additional requirements for the licensure of insurance agents who sell certain complex plans.

H.B. 2456 relates to insurance agent qualifications to sell certain products or product lines.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 5 (Sections 4008.002-4008.004, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 4 (Section 4005.102, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4001.101, Insurance Code, as follows:

Sec. 4001.101. New heading: LICENSE OR CERTIFICATE OF AUTHORITY REQUIRED; DESIGNATED PRODUCT CERTIFICATE. (a) Prohibits a person, unless the person holds a license or certificate of authority issued by the Texas Department of Insurance (TDI) and, if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line, from soliciting or receiving an application for insurance in this state or aid in the transaction of the business of an insurer.

(b) Prohibits a person from acting as an agent of a health maintenance organization or other type of insurer authorized to engage in business in this state unless the person holds a license issued by TDI as provided by this title, and if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line. Makes nonsubstantive changes.

(c) Prohibits an insurer described by Subsection (b) from appointing a person to act as its agent unless the person holds a license under this title, and if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line. Makes nonsubstantive changes.

(d) Provides that this subchapter does not permit an employee or agent of a corporation or partnership to perform an act of an agent under this title without obtaining a license and if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line. Makes nonsubstantive changes.

SECTION 2. Amends Section 4004.053(a), Insurance Code, to authorize an individual who is required under rules adopted under Chapter 4008 to hold a certificate to sell a designated product

or product line to use continuing education programs administered under Section 4004.151 to satisfy the annual continuing education requirements under this subsection.

SECTION 3. Amends Chapter 4004, Insurance Code, by adding Subchapter D, to read as follows:

SUBCHAPTER D. AGENT EDUCATION PROGRAMS
FOR COMPLEX PRODUCTS

Sec. 4004.151. AGENT EDUCATION PROGRAMS. Requires TDI to administer continuing education and precertification training programs required by rules adopted under Chapter 4008.

Sec. 4004.152. PROGRAM ADMINISTRATION. (a) Requires TDI to administer a program described by Section 4004.151 in a manner consistent with the administration of continuing education programs under Subchapter C (Continuing Education Programs).

(b) Authorizes TDI to enter into agreements with independent contractors for programs described by Section 4004.151 in the manner prescribed by Section 4004.104 for continuing education programs.

SECTION 4. Amends Section 4005.102, Insurance Code, as follows:

Sec. 4005.102. REMEDIES FOR VIOLATION OF INSURANCE LAWS OR COMMISSIONER RULES. Authorizes TDI, in addition to any other remedy available under Chapter 82 (Sanctions), for a violation of this code, another insurance law of this state, or a rule of the commissioner of insurance (commissioner), to take certain actions, including denying an application for an original license or a certificate issued under Chapter 4008; suspending, revoking, or denying renewal of a license, or a certificate issued under Chapter 4008; or requiring a license holder to qualify, or re-qualify if the agent has already qualified, for a certificate to sell a product or product line designated by rule under Chapter 4008. Makes nonsubstantive changes.

SECTION 5. Amends Subtitle A, Title 13, Insurance Code, by adding Chapter 4008, as follows:

CHAPTER 4008. AGENT CERTIFICATION AND EDUCATION PROGRAMS FOR
COMPLEX INSURANCE PRODUCTS

Sec. 4008.001. PURPOSE. Sets forth the purpose of this chapter.

Sec. 4008.002. TRAINING AND EXAMINATION REQUIREMENTS AUTHORIZED. (a) Authorizes the commissioner to adopt rules requiring an agent who holds a license issued under this code to be certified, through specific education, training, examination, and experience requirements as provided by this chapter, before an agent may sell a product or product line designated by the commissioner.

(b) Provides that education, training, examination, and experience requirements established by rule under this chapter may be used to satisfy any other agent education, training, examination, and experience requirements otherwise established under this code.

Sec. 4008.003. RULES. (a) Requires the commissioner, in adopting rules under this chapter, to designate the products or product lines that may not be sold without certification under this chapter, and specify the reasons why it is necessary that the sale of a designated product or product line requires education, experience, or examination.

(b) Authorizes the commissioner by rule to specify any precertification education or experience that must be completed before a designated product or product line may be sold by an agent; whether an agent must complete a precertification examination concerning the designated product or product line the agent intends to sell; whether an agent certified under this chapter must complete specific

continuing education to maintain the certificate; and whether, and if so, how frequently, an agent certified under this chapter must periodically retake the examination to maintain the certificate.

Sec. 4008.004. APPLICATION OF CERTIFICATION REQUIREMENTS TO CERTAIN AGENTS. (a) Requires the commissioner by rule to establish whether the certification requirements established under this chapter for sale by an agent of a designated product or product line apply only to an agent who, as of the effective date of the certification requirement, does not hold the underlying agent license required to sell that product or product line; or to each licensed agent who engages in the sale of that product or product line.

(b) Requires the rules, if the commissioner adopts rules requiring each agent described by Subsection (a)(2) (relating to the requirement that the commissioner establish whether the certification requirements established under this chapter apply to each licensed agent who engages in the sale of a designated product or product line) to be certified under this chapter, to specify the date by which the agent must comply with the certification requirements.

Sec. 4008.005. ISSUANCE OF CERTIFICATE. Requires TDI to issue a certificate under this chapter to an agent if TDI determines that the agent has submitted a properly completed certification application to TDI in a form acceptable to TDI; has completed, within the 12-month period preceding the date of the certification application, all requirements for the certification required by rules adopted under this chapter; and has not committed an act for which a license or certification may be denied under Subchapter C (Disciplinary Actions and Procedures; Enforcement), Chapter 4005 (Conduct, Disciplinary Actions, and Sanctions).

Sec. 4008.006. CERTIFICATE EXPIRATION. Provides that unless the commissioner by rule specifies a different period, each certificate issued under this chapter expires on the expiration date of the agent's appropriate underlying license.

Sec. 4008.007. CERTIFICATE RENEWAL. (a) Authorizes an agent to renew an unexpired certificate before the expiration of the certificate by completing all renewal requirements established by rule under this chapter, and filing a properly completed renewal application with TDI in a form acceptable to TDI.

(b) Prohibits a person from renewing a certificate that has been suspended or revoked.

Sec. 4008.008. ADMINISTRATION BY TESTING SERVICE AUTHORIZED. Authorizes the commissioner to accept an examination administered by a testing service, as provided under Subchapter B (Administration of Examination by Testing Service), Chapter 4002 (Examination of License Applicants), to satisfy an examination requirement required by rule under this chapter.

SECTION 6. Effective date: upon passage or September 1, 2009.