

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 2145  
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Business & Commerce  
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Committee Report (Substituted)

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

Interested parties contend that in recent years the Texas Department of Insurance (TDI) has struggled to keep up with insurance agent license applications in Texas. Although TDI reportedly strives for a turnaround time of under 30 days on license applications, some applicants report having had to wait up to three times that long after successfully completing an examination to receive a full license. Without a license, an applicant is unable to work as an insurance agent, so there is concern that these long delays result in a loss of income for the applicant and a loss for the Texas economy.

Interested parties note that while some applicants are using temporary license provisions currently available in statute to start working while waiting for their license applications to be processed by TDI, this option is not available for all applicants. Additionally, the temporary license was not designed to be used in this manner and has certain restrictions that create barriers for many license applicants. The parties contend that there is a need to establish procedures to give qualified applicants provisional authority to begin working while waiting for TDI to process their applications. C.S.H.B. 2145 seeks to establish such procedures.

C.S.H.B. 2145 amends current law relating to provisional authority for certain individual insurance license applicants to act as insurance agents, authorizes a fee, requires an occupational provisional permit, and adds provisions that may be subject to a criminal penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 4001, Insurance Code, by adding Subchapter H, as follows:

#### **SUBCHAPTER H. PROVISIONAL PERMIT**

Sec. 4001.351. **APPLICABILITY.** Provides that this subchapter applies only to an applicant for a license as an agent under Subchapters B (General Property and Casualty License) and E (County Mutual Agent License), Chapter 4051; and Subchapters B (General Life, Accident, and Health License), D (Funeral Prearrangement Life Insurance License), and E (Life Insurance Not Exceeding \$25,000), Chapter 4054.

Sec. 4001.352. **AUTHORITY TO ISSUE PROVISIONAL PERMIT.** Authorizes the Texas Department of Insurance (TDI) to, in conjunction with a license application under Section 4001.102 (License Application), issue a provisional permit to an applicant who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization.

Sec. 4001.353. **APPLICATION FOR AND ISSUANCE OF PROVISIONAL PERMIT.**  
(a) Authorizes TDI to issue a provisional permit under this subchapter on receipt of:

- (1) a written application for a provisional permit;

(2) a properly completed license application, nonrefundable fee, and each other item required for a license under this chapter and Subchapter B or E, Chapter 4051, or Subchapter B, D, or E, Chapter 4054, as applicable;

(3) the nonrefundable fee in an amount authorized by Subsection (c); and

(4) a certificate signed by the appointing agent, insurer, or health maintenance organization stating that:

(A) the applicant completed the training, if any, and passed the examination required for the issuance of the license for which the application is submitted;

(B) the appointing agent, insurer, or health maintenance organization completed a background check on the applicant that shows that the applicant has not been convicted of a felony or an act that requires the applicant to receive written consent under 18 U.S.C. Section 1033 to engage in the business of insurance;

(C) the applicant has not responded affirmatively to any question on the license application that indicates the applicant has a criminal conviction or has been involved in an administrative action that may disqualify the applicant from receiving a license; and

(D) the appointing agent, insurer, or health maintenance organization will supervise the work of the applicant.

(b) Provides that an applicant is not qualified to receive a provisional permit if the applicant has not taken the examination required for the issuance of the permanent license for which the applicant applied under Section 4001.102.

(c) Requires that the nonrefundable fee described by Subsection (a) be set by TDI in an amount that is reasonable and necessary to implement this subchapter, and prohibits it from exceeding the amount of the fee required for an application for a permanent license.

Sec. 4001.354. **AUTHORITY TO ACT AS AGENT UNDER PROVISIONAL PERMIT.** (a) Authorizes an applicant to proceed to act as an agent if:

(1) a provisional permit is not received from TDI before the eighth day after the date the application, nonrefundable fee, and other items required under Section 4001.353(a) are delivered or mailed to TDI; and

(2) the applicant or appointing agent, insurer, or health maintenance organization has not been notified that the application for the permit is incomplete or is or may be denied.

(b) Authorizes an applicant to act as an agent only for the appointing agent, insurer, or health maintenance organization except that an appointing insurer is authorized to include appointments for one or more affiliated insurers that are part of the same insurance holding company group.

Sec. 4001.355. **TERM OF PROVISIONAL PERMIT.** (a) Provides that except as provided by Subsection (b), a provisional permit expires on the earlier of the 90th day after the date the permit is issued, or the date a license is issued or the license application is denied.

(b) Provides that, if the license, or a notice that the license is denied, is not received from TDI on or before the 90th day after the date the application,

nonrefundable fee, and other items required under Section 4001.353(a) are delivered or mailed to TDI, the authority of the applicant to act as an agent under this subchapter automatically extends until the earlier of the date the license is issued or the license application is denied or the 90th day after the expiration of the 90-day period under Subsection (a).

Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) Authorizes TDI to notify the applicant or appointing agent, insurer, or health maintenance organization that the license application is incomplete or is or may be denied at any time before the issuance or denial of a license.

(b) Requires an applicant who receives a notice under Subsection (a) to immediately cease acting as an agent under this subchapter. Requires an appointing agent, insurer, or health maintenance organization that receives notice under Subsection (a) to immediately notify the applicant of the notice.

(c) Provides that an applicant acting as an agent under this subchapter before receiving a notice under Subsection (a), if applicable, is not engaged in the unauthorized business of insurance and any transaction entered into by the applicant before receiving the notice, if applicable, is presumed lawful.

(d) Provides that a notification under this section applies only to a provisional permit, and requires TDI continue to process an application for a license unless the license has been denied.

Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. Provides that, if the applicant's license application is denied or the applicant's license is revoked, an applicant is subject to Section 4005.105 (Application for License After Denial of Application or Revocation of License) with respect to an application for a provisional permit under this subchapter.

Sec. 4001.358. COMPLIANCE WITH OTHER LAW. (a) Provides that a provisional permit holder who is acting under the authority of that permit is subject to all provisions of this code regulating the solicitation and sale of insurance that relate to the type of permanent license for which the provisional permit holder applied.

(b) Requires a provisional permit holder that applied for a life and annuity license to comply with Chapter 1114 (Replacement of Certain Life Insurance Policies and Annuities) with respect to the replacement of life insurance policies and annuities.

(c) Prohibits a person who holds a permanent license from circumventing or attempting to circumvent the intent of this section by acting for or with a provisional permit holder.

Sec. 4001.359. SUPERVISORY RESPONSIBILITY. Provides that an appointing agent, insurer, or health maintenance organization that allows a permit holder to act as an agent under a provisional permit has supervisory responsibility over the permit holder.

SECTION 2. Provides that the change in law made by this Act applies only to an applicant who files a license application on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2015.