

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 957
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Economic Development
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Committee Report (Substituted)

DIGEST

Currently, the Insurance Code maintains specific requirements for issuing a license to a person who provides insurance services. Upon a review of the licensing statutes, the Agents' Licensing Advisory Committee recommended, with the support of the insurance commissioner, several changes to the licensing requirements. One of the changes to the licenses issued by the Texas Department of Insurance (department) would be to create a "specialty" license for a business, instead of for an individual employee, that provides point of sale insurance products, such as credit insurance, rental car insurance, and travel insurance. The department also would no longer require an adjuster license to retain a place of business in Texas, or a life insurance agent to possess three years prior experience, but would require counselors of life and health insurance to maintain continuing education credentials. C.S.S.B. 957 would amend certain licensing requirements for a specialty license, a life and health insurance counselor license, an adjuster license, an agricultural insurance license, and a self service storage facility license.

PURPOSE

As proposed, C.S.S.B. 957 amends the licensing requirements of certain persons who provide services related to the business of insurance.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of insurance in SECTION 1.01, SECTION 1.02, SECTION 3.01, and SECTION 4.01 (Article 21.09, 21-07-2, Insurance Code; 21.07-4, V.T.C.S.; and Art. 21.14-2, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Chapter 21A, Insurance Code, by adding Article 21.09, as follows:

Art. 21.09. SPECIALTY LICENSES

Sec. 1. GENERAL PROVISIONS. Authorizes the commissioner of insurance (commissioner) to issue a specialty license to certain applicants. Provides that a specialty license authorizes the license holder to act as an agent for certain insurers. Provides that a person who holds a license under this article is a "specialty license holder." Sets forth requirements that specialty license holder applicants must submit to the commissioner. Sets forth conditions that entitle a salaried employee to a specialty license. Requires each license holder under this article to conduct a training program for each individual acting on behalf of the license holder. Requires the training program to be submitted to the commissioner for approval and to meet certain standards. Requires a specialty license holder to comply with all applicable provisions, except certain premium collection activities. Sets forth conditions that permit insurance to be issued under this article. Authorizes the commissioner to use certain disciplinary actions and penalties against a specialty license holder who violates this subchapter. Prohibits a specialty license holder from promoting himself or herself as a licensed insurance agent. Provides that a person who holds a license under Article 21.07-1, V.T.C.S., or 21.14, Insurance Code, or holds a substantially equivalent license under this code, as determined by the commissioner of insurance, is not required to obtain a specialty license, but must meet all requirements of this article of an insurance product subject to this article. Requires each insurance company appointing an agent under this article to submit a certification of the appointment with an affirmation of meeting relevant requirements and declaring the insurer trustworthy and competent. Provides that an examination is not required for the license and continuing education requirements do not apply to the license. Authorizes certain persons

who hold a license to assign and transfer to the agent's employer any commission, fee, or other compensation, under certain circumstances.

Sec. 2. RENTAL CAR COMPANIES. Defines "rental agreement," "rental car company," "renter," and "vehicle." Requires the commissioner to issue a Section 1 specialty license to a rental car company that complies with this section. Authorizes the rental car company or franchisee licensed under Section 1 to act as an agent for certain insurance coverages. Prohibits insurance from being issued under this section unless certain conditions are met.

Sec. 3. CREDIT INSURANCE. Defines "credit insurance," "credit insurance agent," and "credit property insurance." Authorizes the commissioner to issue a Section 1 license to a retail distributor of goods, an automobile dealer, a bank, a state or federal savings and loan, a state or federal credit union, a finance company, a production credit association, a manufactured home retailer, or a mobile home retailer that complies with this section for the limited purposes set forth in this section, notwithstanding certain provisions. Authorizes a credit insurance agent to act as the agent of certain other companies regarding the sale of their credit insurance. Provides that the authority conferred under this section specifically permits the sale of both individuals and group credit insurance. Prohibits insurance from being issued under this section unless the disclosures in Section 1(g) are prominently displayed and available in brochures for the prospective consumer.

Sec. 4. TRAVEL INSURANCE LICENSE. Defines "planned trip," "travel agency," and "traveler." Authorizes the commissioner to issue a Section 1 specialty license to a travel agency or a public carrier that complies with this section. Authorizes a travel agency to act as an agent for certain insurance coverages for any authorized insurer. Prohibits insurance from being issued under this section unless the disclosures in Section 1(g) are prominently displayed and available to the prospective traveler.

Sec. 5. SELF SERVICE STORAGE FACILITY LICENSE. Defines "rental agreement," "self service storage facility," "renter," and "storage space." Authorizes the commissioner to issue a specialty license under Section 1 to a self storage facility that complies with this section. Authorizes the licensed facility to act as an agent for any authorized insurer only in connection with the rental of storage space and only with respect to certain insurance coverages. Prohibits the insurance from being issued unless the disclosure requirements under Section 1(1g) are prominently displayed in certain literature that is readily available.

Sec. 6. RULES. Authorizes the commissioner to adopt rules necessary to implement this article and to meet the minimum requirements of federal law and regulations.

ARTICLE 2. LIFE AND HEALTH INSURANCE COUNSELOR LICENSE

SECTION 2.01. Transfers Article 21.07-2, V.T.C.S., to the Insurance Code, and amends Article 21.07-2, as follows:

Art. 21.07-2. New heading: LIFE AND HEALTH INSURANCE COUNSELOR LICENSE

Sec. 1. DEFINITION OF TERM. Redefines "Life and Health Insurance Counselor."

Sec. 2. New heading: LICENSE REQUIRED; ISSUANCE BY DEPARTMENT. Prohibits a person from acting as a Life and Health Insurance Counselor without a license issued by the Texas Department of Insurance (department), rather than issued by the Board of Insurance Commissioners. Makes a nonsubstantive change.

Sec. 3. EXEMPTIONS. Prohibits this article from applying to a regular salaried officer or employee of an authorized insurer issuing policies of life or health insurance.

Sec. 4. CONTRACT, WRITING REQUIRED; DUPLICATES; OTHER REQUISITES. Makes conforming and nonsubstantive changes.

Sec. 4a. PROHIBITION OF DUAL COMPENSATION. Prohibits a person licensed under Article 21.07-1, rather than Article 21.07, V.T.C.S., and who receives certain commissions under

Article 21.07-1 from receiving a fee for services under that article. Makes conforming and nonsubstantive changes.

Sec. 5. **MODE OF LICENSING AND REGULATION.** Requires the licensing and regulation of a Life and Health Insurance Counselor to be subject to the same licensing requirements as the agent under this subchapter, rather than agents of legal reserve life insurance companies as provided in Article 21.07-1, Insurance Code, 1951. Requires an applicant to sit for the Article 21.01-1 examination that includes certain subjects. Requires the department to issue a license for a person who holds a Life Insurance Counselor license on September 1, 1999, issued by the department, rather than issued by the Texas State Board of Insurance, without further examination. Deletes requirements regarding documentation and examination requirements. Makes conforming and nonsubstantive changes.

Sec. 6. **INTENT OF LEGISLATURE; STATUTES AND AMENDMENTS APPLICABLE.** Sets forth the legislative intent and exception as provided by this article. Makes conforming and nonsubstantive changes.

Sec. 7. **New heading: VIOLATIONS.** Establishes that a person who commits a violation of this article is subject to license revocation under Article 21.01-2, rather than Section 5, Insurance Code. Deletes violation of this article regarding a person acting as a life insurance counselor. Makes nonsubstantive changes.

Sec. 8. **PARTIAL INVALIDITY.** Makes nonsubstantive changes.

Sec. 9. **CONTINUING EDUCATION.** Requires a person who holds a license under this article to complete continuing education as required by rules of the department or any applicable article of this code.

Sec. 10. **RULES.** Authorizes the commissioner to adopt rules to implement this article and to meet the minimum requirements of federal law and regulations.

Sec. 11. **REFERENCES IN OTHER LAW.** Provides that certain references in law mean this article.

ARTICLE 3. ADJUSTERS LICENSES

SECTION 3.01. Amends Article 21.07-4, V.T.I.S., by amending Sections 15-17 and 23 and adding Section 24, as follows:

Sec. 15. **PLACE OF BUSINESS.** Deletes “in this state” provision in a requirement that every licensed adjuster must have and maintain in this state a place of business accessible to the public. Requires the licensee to promptly notify the commissioner of any change in the location of the business. Deletes requirement that the address of business appear on the license. Makes conforming and nonsubstantive changes.

Sec. 16. **EXPIRATION AND RENEWAL OF LICENSES.** Provides that expiration and renewal of the licenses are governed rules by rules of the department or other certain laws. Deletes certain license expiration and renewal provisions.

Sec. 17. **DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.** Authorizes the department to discipline an adjuster or deny an application under certain rules. Authorizes the rules to specify grounds for discipline that are comparable to grounds for discipline of other license holders under this subchapter, rather than grounds under Section 5, Article 21.01-2, Insurance Code. Deletes certain causes for dismissal. Deletes provision authorizing a denied applicant to seek judicial review.

Sec. 23. **DUPLICATE LICENSE; FEES.** Requires the department to collect a fee that is determined by the department for a duplicate license, rather than a fee, not to exceed \$20 and determined by the State Board of Insurance. Makes conforming and nonsubstantive changes.

Sec. 24. **RULES.** Authorizes the commissioner to adopt rules to implement this Act.

ARTICLE 4. AGRICULTURE AGENTS

SECTION 4.01. Amends Article 21.14-2, Insurance Code, as follows:

Art. 21.14-2. New heading: AGRICULTURAL INSURANCE AGENTS

Sec. 1. APPOINTING CERTAIN AGRICULTURAL INSURANCE AGENTS. Authorizes certain insurance companies licensed for insurance of risks on growing crops to appoint and act through agents who hold, rather than qualify for, a license under Article 21.14.

Sec. 2. REQUIREMENTS FOR APPOINTMENT. Requires an insurance company to submit an appointment form to the department and pay a fee determined by the commissioner, rather than require an applicant to submit an application to the State Board of Insurance on a certain form with a \$50 fee. Requires the form to be endorsed by a representative of an insurance company, rather than an agent who must also state the applicant is a resident of this state. Requires the commissioner to approve the appointment, rather than application, unless the applicant does not meet the requirements of this subchapter, rather than article. Authorizes the department to waive any examination requirement for certain qualified applicants seeking a company appointment under this article. Authorizes the department to accept continuing education hours completed under the guidelines of the Federal Crop Insurance Corporation. Deletes certain expiration requirements of the license. Deletes provision that an applicant for certain renewal licenses is not required to pass an examination or meet other requirements. Makes conforming and nonsubstantive changes.

Sec. 3. MULTIPLE APPOINTMENTS AUTHORIZED. Authorizes the license holder to act as an agent for more than one insurance company, but only in the crop insurance business. Deletes regulations regarding an authorization and the guidelines to discipline a license holder.

Sec. 4. APPLICATION OF OTHER LAW. Provides that this subchapter applies to the licensing and regulation of the agent, rather than providing that Article 21.14 does not apply to the licensing or regulation of the agent.

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

ARTICLE 5. REPEALER

SECTION 5.01. (1) Repealer: Section 21, Article 21.07, Insurance Code (Procedures to issue to car companies limited licenses as insurance agents).

(2) Repealer: Section 21, Article 21.07, Insurance Code (Credit Insurance Agent).

(3) Repealer: Article 21.07-4, V.T.I.S. (Automatic Revocation, Duplicate License; Fee).

ARTICLE 6. GRANDFATHER PROVISIONS; EFFECTIVE DATE; EMERGENCY

SECTION 6.01. Effective date: September 1, 1999.

SECTION 6.02. (a) Requires the department by January 1, 2000, to issue the license under Article 21.09, Insurance Code, to certain agents licensed by the department.

(b)-(c) Makes application of this Act prospective to January 1, 2000.

(d) Provides that a person required to be licensed under Article 21.07-2, Insurance Code, as redesignated and amended by this Act, who was not required to be licensed under Article 21.07-2, V.T.I.C., as it existed immediately before the effective of this Act, is not required to be licensed as provided by this Act before January 1, 2000.

(e) Provides that a person who holds a license as an agricultural insurance agent under Article 21.14-2, Insurance Code, is eligible for a license under Article 21.14, Insurance Code, if the person applies before March 1, 2000, but the person must pass the required examination before March

1, 2002, to maintain the license.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.01.

Amends Section 1, Article 21.09, Chapter 21A, Insurance Code, to add provisions regarding a specialty license that provide who may not use the license and who are not required to obtain the license. Adds provisions that do not require certain examinations and continuing education requirements of licensed person. Adds an authorization for a licensed person to transfer certain payments to an agent.

Amends Section 3, Article 21.09, Chapter 21A, Insurance Code, to add a provisions that includes additional businesses who the commissioner may authorize to sell certain insurance.

Deletes proposed Section 5, Article 21.09, Chapter 21A, Insurance Code, regarding assignments of commissions.

Adds Section 5, Article 21.09, Chapter 21A, Insurance Code, regarding self service storage facility license.

SECTION 2.01.

Amends Section 4a, Article 21.07-2, V.T.I.C., to makes nonsubstantive changes.

SECTION 4.01

Amends Article 21.14-1, Insurance Code, to condition when certain license holders may act as an agent.

SECTION 6.03.

Deletes proposed SECTION 6.03 regarding the emergency clause.