

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 2145  
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Business & Commerce  
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Engrossed

### **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. H.B. 2145 seeks to establish such procedures.

H.B. 2145 amends current law relating to provisional authority for certain individual insurance license applicants to act as insurance agents, authorizes a fee, and requires an occupational provisional permit.

### **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 Subchapters B or E, Chapter 4051, or Subchapters B, D, or E, Chapter 4054, as applicable;

(3) the nonrefundable fee in an amount set by TDI for the issuance of the provisional permit; 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.

Sec. 4001.354. **AUTHORITY TO ACT AS AGENT PENDING RECEIPT OF PROVISIONAL PERMIT.** 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.

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) Authorizes an applicant, unless the applicant or appointing agent, insurer, or health maintenance organization has been notified that the provisional permit is or may be denied, to resume working as an agent after receiving a notice that the application is incomplete under Subsection (a) after the applicant submits to TDI the information required to complete the application or has the appointing agent, insurer, or health maintenance organization submit the information.

(d) 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.

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

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. REPLACEMENT OF EXISTING LIFE INSURANCE OR ANNUITY CONTRACT PROHIBITED. (a) Prohibits a provisional permit holder who is acting under the authority of that permit from:

(1) engaging in an insurance solicitation, sale, or other agency transaction that the permit holder knows or should know will result or is intended to result in:

(A) the purchase of a new life insurance or annuity contract; and

(B) any of the following actions with regard to an existing individual life insurance or annuity contract as a result of that purchase:

(i) termination of the contract by lapse, forfeiture, surrender, or other means;

(ii) conversion of the contract to reduced paid-up insurance, continuation of the contract as extended term insurance, or reduction in value of the contract by the use of nonforfeiture benefits or other policy values;

(iii) amendment of the contract to reduce benefits or the term for which coverage would otherwise remain in force or for which benefits would be paid;

(iv) reissuance of the contract with a reduction in cash value; or

(v) pledge of the contract as collateral or subjection of the contract to borrowing, whether in a single loan or under a schedule of borrowing, for amounts that in the aggregate exceed 25 percent of the loan value prescribed by the contract; or

(2) directly or indirectly receiving a commission or other compensation that results or may result from a solicitation, sale, or other agency transaction described by Subdivision (1).

(b) 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.