

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1810  
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Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Insurance Code requires the Texas Department of Insurance (TDI) to submit a report before each regular legislative session with recommended changes in state laws relating to regulation of the insurance industry or other areas under the agency's jurisdiction. In recommendations to the 87th Legislature, TDI recommended updating and modifying statutes related to agent and adjuster licensing.

S.B. 1810 would make changes related to the designation of subagents, life and health insurance counselor licenses, home office salaried employee designations, temporary licenses, provisional licenses, continuing education requirements, nonresident agent licenses, nonresident adjusters, public adjuster commissions, and insurance services representative license.

As proposed, S.B. 1810 amends current law relating to the licensing and regulation of insurance professionals.

### **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 Section 443.156(a), Insurance Code, as follows:

(a) Requires every person who represented the insurer as an agent and receives notice in the form prescribed in Section 443.155 (Notice to Creditors and Others) that the insurer is the subject of a liquidation order, not later than the 30th day after the date of the notice, to provide to the liquidator, in addition to the information the agent may be required to provide pursuant to Section 443.010 (Cooperation of Officers, Owners, and Employees), the information in the agent's records related to any policy issued by the insurer through the agent and any policy issued by the insurer through an agent under contract to the agent, including the name and address of any individual who acted for or on behalf of the agent, rather than of any subagent.

SECTION 2. Amends Section 521.151, Insurance Code, as follows:

Sec. 521.151. APPLICABILITY OF SUBCHAPTER. Provides that Subchapter D (Race-Based Insurance Registry) applies to any legal entity engaged in the business of insurance in this state, including an agent, broker, or adjuster, rather than an agent, broker, adjuster, or life and health insurance counselor.

SECTION 3. Amends Section 541.002(2), Insurance Code, to redefine "person" in Chapter 541 (Unfair Method of Competition and Unfair or Deceptive Acts or Practices).

SECTION 4. Amends Section 544.001, Insurance Code, to make conforming changes.

SECTION 5. Amends Section 544.051, Insurance Code, to make conforming changes.

SECTION 6. Amends Section 1131.056(a), Insurance Code, to redefine "agent."

SECTION 7. Amends Section 4001.002(b), Insurance Code, as follows:

(b) Deletes existing text providing that Title 7 (Life Insurance and Annuities) does not apply to full-time home office salaried employee of an insurer authorized to engage in the business of insurance in this state, other than an employee who solicits or receives an application for the sale of insurance through an oral, written, or electronic communication in accordance with Subchapter G (Registration of Home Office Employees), Chapter 4051 (Property and Casualty Agents). Makes nonsubstantive changes.

SECTION 8. Amends Section 4001.003(1), Insurance Code, to redefine "agent" for Title 13 (Regulation of Professionals).

SECTION 9. Amends Section 4001.051(b), Insurance Code, as follows:

(b) Provides that regardless of whether the act is done at the request of or by the employment of an insurer, broker, or other person, a person is the agent of the insurer for which the act is done or risk is taken for purposes of the liabilities, duties, requirements, and penalties provided by Title 13 or Chapter 21 (General Provisions), rather than provided by this title, Chapter 21, or a provision listed in Section 4001.009 (References to Other Law), if the person commits certain actions.

SECTION 10. Amends Section 4001.106(b), Insurance Code, as follows:

(b) Deletes existing text requiring the Texas Department of Insurance (TDI) to issue a license to a corporation or partnership if TDI determines that each location from which the corporation or partnership will engage in business in this state under authority of a license issued by TDI is registered separately with TDI. Makes nonsubstantive changes.

SECTION 11. Amends Section 4001.153, Insurance Code, as follows:

Sec. 4001.153. APPLICATION FOR AND ISSUANCE OF TEMPORARY LICENSE. (a) Creates this subsection from existing text. Requires TDI, except as provided by Subsection (b), to issue a temporary license immediately on receipt of a properly completed application executed by the applicant in the form required by Section 4001.102 (License Application) and accompanied by certain documents.

(b) Authorizes TDI to deny a license application under Subchapter D (Temporary License) if TDI determines that any of the grounds exist for license denial or disciplinary action under Section 4005.101 (Grounds for License Denial or Disciplinary Action) of this code or Chapter 53 (Consequences of Criminal Conviction), Occupations Code.

SECTION 12. Amends Section 4001.155, Insurance Code, as follows:

Sec. 4001.155. TERM OF TEMPORARY LICENSE. Provides that a temporary license is valid for 180 days, rather than 90 days, after the date of issuance.

SECTION 13. Amends Section 4001.352, Insurance Code, as follows:

Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. (a) Creates this subsection from existing text and makes no further changes.

(b) Prohibits TDI from issuing a provisional permit under Subchapter H (Provisional Permit) unless TDI's average license processing time exceeds 30 days.

SECTION 14. Amends Section 4002.003(a), Insurance Code, as follows:

(a) Deletes existing text prohibiting TDI from requiring a person to take an examination under Chapter 4002 (Examination of License Applicants) if the person is an applicant for a life and health insurance counselor license who is designated as a chartered life underwriter (CLU), chartered financial consultant (ChFC), or certified financial planner (CFP). Makes nonsubstantive changes.

SECTION 15. Amends Section 4004.053(a), Insurance Code, to delete existing text requiring an individual who holds a life and health insurance counselor license to complete 24 of continuing education during the license period. Makes nonsubstantive changes.

SECTION 16. Amends Section 4004.054, Insurance Code, as follows:

Sec. 4004.054. ETHICS REQUIREMENT. Requires each individual who holds a license issued by TDI to complete three hours, rather than two hours, of continuing education in ethics during each license renewal period.

SECTION 17. Amends Section 4051.051(a), Insurance Code, to delete existing text requiring a person to hold a general property and casualty license if the person acts as a subagent of a person who holds a license as an agent under Chapter 4051 who solicits and binds insurance risks for that agent. Makes nonsubstantive changes.

SECTION 18. Amends Section 4051.401, Insurance Code, as follows:

Sec. 4051.401. PERSONAL LINES PROPERTY AND CASUALTY LICENSE; LICENSE REQUIRED. Deletes existing text requiring a person to hold a personal lines property and casualty license if the person acts as a subagent of a person who holds a license as an agent under Subchapter I (Personal Lines Property and Casualty Agent) who solicits and binds insurance risks for that agent. Makes nonsubstantive changes.

SECTION 19. Amends Section 4056.052, Insurance Code, by adding Subsection (c), to require that a license issued under Section 4056.052 (Issuance of License to Nonresident Agent Licensed in Other State) be automatically suspended, canceled, or revoked if the licensee's home state suspends, cancels, or revokes the licensee's corresponding resident license.

SECTION 20. Amends Section 4056.059(b), Insurance Code, to delete existing text requiring that an application from a nonresident for a license include a clearance letter from the state authority of the state that issued the agent's prior resident license demonstrating the agent's good standing with that authority. Makes nonsubstantive changes.

SECTION 21. Amends Section 4101.002(b), Insurance Code, to provide that a nonresident adjuster who is also an employee of an insurer that is licensed in this state is not required to hold a license under Chapter 4101 (Insurance Adjusters) to adjust a single loss in this state, adjust losses arising out of a catastrophe common to all those losses, or act as a temporary substitute for a licensed adjuster.

SECTION 22. Amends Section 4102.054(a), Insurance Code, as follows:

(a) Deletes existing text authorizing the commissioner to issue a nonresident license to certain applicants for a public insurance adjuster license on determining certain criteria, including that the applicant is an individual who, if currently licensed as a resident public insurance adjuster in the applicant's state of residence, provides with the application a certificate or letter of authorization from the licensing authority of the applicant's state of residence that states that the applicant holds a current or comparable license to act as a public insurance adjuster, and meets the requirements of Subsection (b) (relating to requiring that a certificate or letter required to convey certain information), and who, if the applicant's state of residence does not require licensure as a resident public insurance adjuster and the applicant has been licensed as an adjuster, agent, broker, or other insurance representative in the applicant's state of residence or any other state within the past three years, provides with the application a certificate or letter of authorization from the licensing authority that states that the applicant holds or has held a license to act as an

adjuster, agent, broker, or other insurance representative, or meets the requirements of Subsection (c) (relating to requiring that a certificate or letter required to convey certain information). Makes nonsubstantive changes.

SECTION 23. Amends Section 4102.104, Insurance Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Defines "contract."

(a-1) Provides that the total commission that a public insurance adjuster is authorized to receive includes expenses, direct costs, or any other costs accrued by the public insurance adjuster from the date the insured signed the contract to the date the insured receives final payment on the claim.

(a-2) Creates this subsection from existing text. Prohibits the total commission received, except as provided by Subsection (b) (relating to prohibiting a license holder from receiving a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim) from exceeding 10 percent of the total amount paid by the insurer to settle a claim, if the insured signed the contract before the insurer paid or offered to pay any amount to settle the claim, or 10 percent of the amount equal to the total amount paid by the insurer to settle the claim minus the amount of any open offer before the insured signed the contract minus any payments initiated or made before the insured signed the contract, if the insured signed the contract after the insurer paid or offered to pay any amount to settle the claim. Deletes existing text authorizing a license holder, except as provided by Subsection (b) to receive a commission for service provided under Chapter 4102 (Public Insurance Adjusters) consisting of an hourly fee, a flat rate, a percentage of the total amount paid by an insurer to resolve a claim, or another method of compensation. Makes conforming and nonsubstantive changes.

SECTION 24. Repealer: Section 4001.003(9) (relating to the definition of "subagent"), Insurance Code.

Repealer: Section 4001.009 (References to Other Law), Insurance Code.

Repealer: Section 4001.109 (Licensing of Subagent), Insurance Code.

Repealer: Section 4001.156(a) (relating to prohibiting a temporary license from being issued to or renewed by the same person more than once in a consecutive six-month period), Insurance Code.

Repealer: Section 4001.205 (Appointment of Subagent; Termination). Insurance Code.

Repealer: Subchapter D (Insurance Service Representative License), Chapter 4051, Insurance Code.

Repealer: Subchapter G (Registration of Home Office Employees), Chapter 4051, Insurance Code.

Repealer: Chapter 4052 (Life and Health Insurance Counselors), Insurance Code.

Repealer: Section 4056.004 (Home Office Employees), Insurance Code.

Repealer: Section 4102.054(b) (relating to requiring that a certificate or letter convey certain information), Insurance Code.

Repealer: Section 4102.054(c) (relating to requiring that a certificate or letter required to convey certain information), Insurance Code.

Repealer: Section 4102.114(d) (relating to requiring certain license holders to annually submit an affidavit certifying that the licensee understands the law), Insurance Code.

SECTION 25. (a) Defines "department."

(b) Requires TDI, on the effective date of this Act, to convert all active insurance services representative licenses issued before January 1, 2021, to general property and casualty insurance agent licenses. Requires licensees to comply with all requirements of the converted license to keep the license active and in good standing. Prohibits any insurance services representative licenses issued on or after January 1, 2021, through the effective date of this Act from being renewed on expiration of the license and from converting to another license type.

(c) Requires TDI, on the effective date of this Act, to convert all active life and health insurance counselor licenses issued before January 1, 2021, to general life and health agent licenses. Requires converted licensees to comply with all requirements of the converted license to keep the license active and in good standing. Prohibits any life and health insurance counselor licenses issued on or after January 1, 2021, through the effective date of this Act from being renewed on expiration of the license and from converting to another license type.

(d) Provides that, on the effective date of this Act, any existing home office salaried employee registration is void and ceases to exist. Requires any former home office salaried employee registrant engaging in the business of insurance after the effective date of this Act to follow the requirements of the Insurance Code and any other applicable laws of this state.

SECTION 26. Effective date: September 1, 2021.