

INSURANCE CODE

TITLE 13. REGULATION OF PROFESSIONALS

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 4001. AGENT LICENSING IN GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4001.001. PURPOSE. It is the intent of the legislature to:

(1) simplify and reform the regulation of agents and other persons regulated under this title in this state by consolidating the kinds of licenses issued to those persons under this title; and

(2) promote uniformity in the licensing, examination, continuing education, and disciplinary requirements for those persons in this state and with other states.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.002. APPLICABILITY.

(a) Except as otherwise provided by this code, this title applies to each person licensed under:

- (1) Subchapter H, Chapter 885;
- (2) Subchapter F, Chapter 911;
- (3) Section 912.251;
- (4) Subchapter E, Chapter 981;
- (5) Subchapter D, Chapter 1152;
- (6) Subchapter C or D of this chapter;
- (7) Subtitle B, C, or D of this title; or
- (8) Subsection (c), Article 5.13-1.

(a-1) Except as otherwise provided by this code, this title applies to each individual who holds a specialty certification under Subchapter H, Chapter 4054.

(b) This title does not apply to:

(1) a resident of this state who arbitrates in the adjustment of losses between an insurer and an insured, a marine adjuster who adjusts particular or general average losses of vessels or cargoes if the adjuster paid an occupation tax of \$200

for the year in which the adjustment is made, or a practicing attorney at law in this state, acting in the regular transaction of the person's business as an attorney at law, who is not a local agent and is not acting as an adjuster for an insurer;

(2) an attorney in fact or the traveling salaried representative of a reciprocal or interinsurance exchange admitted to engage in the business of insurance in this state as to business transacted through the attorney in fact or salaried representative;

(3) the attorney in fact for a Lloyd's plan;

(4) the group motor vehicle insurance business or the group motor vehicle department of a company engaged in that business; or

(5) a salaried employee who is not involved in soliciting or negotiating insurance in the office of an agent and who devotes the employee's full time to clerical and administrative services, including the incidental taking of information from customers and receipt of premiums in the office of an agent, if:

(A) the employee does not receive any commissions; and

(B) the employee's compensation is not varied by the volume of premiums taken and received.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2J.001, eff. April 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1338 (S.B. [79](#)), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 643 (S.B. [1623](#)), Sec. 16, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. [4030](#)), Sec. 7, eff. September 1, 2021.

Sec. 4001.003. DEFINITIONS. Unless the context clearly indicates otherwise, in this title:

(1) "Agent" means a person who is an authorized agent of an insurer or health maintenance organization and any other person who performs the acts of an agent, whether through an oral,

written, electronic, or other form of communication, by soliciting, negotiating, procuring, or collecting a premium on an insurance or annuity contract, or who represents or purports to represent a health maintenance organization, including a health maintenance organization offering only a single health care service plan, in soliciting, negotiating, procuring, or effectuating membership in the health maintenance organization. The term does not include:

(A) a regular salaried officer or employee of an insurer, health maintenance organization, or agent who:

(i) devotes substantially all of the officer's or employee's time to activities other than the solicitation of applications for insurance, annuity contracts, or memberships;

(ii) does not receive a commission or other compensation directly dependent on the business obtained; and

(iii) does not solicit or accept from the public applications for insurance, annuity contracts, or memberships;

(B) an employer or an employer's officer or employee or a trustee of an employee benefit plan, to the extent that the employer, officer, employee, or trustee is engaged in the administration or operation of an employee benefits program involving the use of insurance or annuities issued by an insurer or memberships issued by a health maintenance organization, if the employer, officer, employee, or trustee is not directly or indirectly compensated by the insurer or health maintenance organization issuing the insurance or annuity contracts or memberships;

(C) except as otherwise provided by this code, a depository institution, or an officer or employee of a depository institution, to the extent that the depository institution or officer or employee collects and remits premiums or charges by charging those premiums or charges against accounts of depositors on the orders of those depositors; or

(D) a person or the employee of a person who has contracted to provide administrative, management, or health care services to a health maintenance organization and who is

compensated for those services by the payment of an amount computed as a percentage of the revenues, net income, or profit of the health maintenance organization, if that method of compensation is the sole basis for subjecting that person or the employee of the person to this title.

(2) "Control" means the power to direct or cause the direction of the management and policies of a license holder, whether directly or indirectly. For the purposes of this title, a person is considered to control:

(A) a corporate license holder if the person, individually or acting with others, directly or indirectly, holds with the power to vote, owns, or controls, or holds proxies representing, at least 10 percent of the voting stock or voting rights of the corporate license holder; or

(B) a partnership if the person through a right to vote or through any other right or power exercises rights in the management, direction, or conduct of the business of the partnership.

(3) "Corporation" means a legal entity that is organized under the business corporation laws or limited liability company laws of this state or another state and that has as one of its purposes the authority to act as an agent.

(4) "Depository institution" means:

(A) a bank or savings association as defined by 12 U.S.C. Section 1813, as amended;

(B) a foreign bank that maintains a branch, agency, or commercial lending company in the United States;

(C) a federal or state credit union as defined by 12 U.S.C. Section 1752, as amended;

(D) a bank branch; or

(E) a bank subsidiary, as defined by state or federal law.

(5) "Individual" means a natural person. The term includes a resident or a nonresident of this state.

(6) "Insurer" means an insurance company or insurance carrier regulated by the department. The term includes:

(A) a stock life, health, or accident insurance

company;

(B) a mutual life, health, or accident insurance

company;

(C) a stock fire or casualty insurance company;

(D) a mutual fire or casualty insurance company;

(E) a Mexican casualty insurance company;

(F) a Lloyd's plan;

(G) a reciprocal or interinsurance exchange;

(H) a fraternal benefit society;

(I) a stipulated premium company;

(J) a nonprofit or for-profit legal services corporation;

(K) a statewide mutual assessment company;

(L) a local mutual aid association;

(M) a local mutual burial association;

(N) an association exempt under Section [887.102](#);

(O) a nonprofit hospital, medical, or dental service corporation, including a company subject to Chapter [842](#);

(P) a health maintenance organization;

(Q) a county mutual insurance company; and

(R) a farm mutual insurance company.

(7) "Partnership" means an association of two or more persons organized under the partnership laws or limited liability partnership laws of this state or another state. The term includes a general partnership, limited partnership, limited liability partnership, and limited liability limited partnership.

(8) "Person" means an individual, partnership, corporation, or depository institution.

(9) Repealed by Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. [4030](#)), Sec. 22(1), eff. September 1, 2021.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. [4030](#)), Sec. 8, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. [4030](#)), Sec. 22(1), eff. September 1, 2021.

Sec. 4001.004. LIMITED LIABILITY COMPANIES. The licensing and regulation of a limited liability company are subject to each provision of this title that applies to a corporation licensed under this title.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.005. RULES. The commissioner may adopt rules necessary to implement this title and to meet the minimum requirements of federal law, including regulations.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.006. FEES. (a) The department shall collect from each agent of an insurer writing insurance in this state under this code:

- (1) a nonrefundable license application fee; and
- (2) a nonrefundable appointment fee for each appointment of the agent by an insurer.

(b) The department shall deposit the fees described by Subsection (a), together with other license application fees, examination fees, and license renewal application fees, to the credit of the Texas Department of Insurance operating account.

(c) The department shall set the fees in amounts reasonable and necessary to implement this title and may use any portion of those fees to enforce this title.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1172 (S.B. [876](#)), Sec. 1, eff. September 1, 2015.

Sec. 4001.007. INVESTIGATION OF ALLEGED VIOLATIONS. (a) The department may:

- (1) employ persons as the department considers necessary to investigate and make reports regarding alleged violations of this code and misconduct on the part of agents; and

- (2) pay the salaries and expenses of those persons and office employees and other expenses necessary to enforce this title from the fees described by Section [4001.006](#).

(b) A person employed by the department under this section may:

(1) administer the oath to, and examine under oath, any person considered necessary in gathering information and evidence; and

(2) have that information and evidence reduced to writing if considered necessary.

(c) All expenses related to the activities described by Subsection (b) shall be paid from the fees described by Section [4001.006](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.008. COMMISSIONER AGENT FOR SERVICE OF PROCESS. In the manner provided by Subchapter [C](#), Chapter [804](#), the commissioner is a corporation's or partnership's agent for service of process in a legal proceeding against the corporation or partnership if:

(1) the corporation or partnership is licensed to engage in business in this state and does not appoint or maintain an agent for service in this state;

(2) an agent for service cannot be found with reasonable diligence; or

(3) the license of the corporation or partnership is revoked.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER B. ACTS CONSTITUTING ACTING AS AGENT; CONSEQUENCES OF AGENT'S ACTIONS

Sec. 4001.051. ACTS CONSTITUTING ACTING AS AGENT. (a) This section applies regardless of whether an insurer is incorporated under the laws of this state or another state or a foreign government.

(b) 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 this title or Chapter 21 if the person:

- (1) solicits insurance on behalf of the insurer;
- (2) receives or transmits other than on the person's own behalf an application for insurance or an insurance policy to or from the insurer;
- (3) advertises or otherwise gives notice that the person will receive or transmit an application for insurance or an insurance policy;
- (4) receives or transmits an insurance policy of the insurer;
- (5) examines or inspects a risk;
- (6) receives, collects, or transmits an insurance premium;
- (7) makes or forwards a diagram of a building;
- (8) takes any other action in the making or consummation of an insurance contract for or with the insurer other than on the person's own behalf; or
- (9) examines into, adjusts, or aids in adjusting a loss for or on behalf of the insurer.

(c) This section does not authorize an agent to orally, in writing, or otherwise alter or waive a term or condition of an insurance policy or an application for an insurance policy.

(d) The referral by an unlicensed person of a customer or potential customer to an agent is not an act of an agent under this section unless the unlicensed person discusses specific insurance policy terms or conditions with the customer or potential customer. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. 4030), Sec. 9, eff. September 1, 2021.

Sec. 4001.052. SOLICITOR OF APPLICATION FOR INSURANCE CONSIDERED AGENT OF INSURER. (a) A person who solicits an application for life, accident, or health insurance or property or casualty insurance is considered the agent of the insurer issuing a policy on the application and not the agent of the insured in any controversy between the insurer and the insured, the insured's

beneficiary, or the insured's dependents.

(b) The agent may not alter or waive a term or condition of the application or policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.053. PERSONAL LIABILITY FOR ACTING AS AGENT. A person who takes an action listed in Section 4001.051 for or on behalf of an insurer before the insurer complies with the requirements of the laws of this state is personally liable to the holder of any insurance policy with respect to which the action was taken for any loss covered by the insurance policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.054. LIABILITY OF AGENT AND INSURER FOR TAXES.

(a) If a person takes an action in this state listed in Section 4001.051 for or on behalf of an insurer, the insurer is considered to be engaged in the business of insurance in this state and is subject to the same state, county, and municipal taxes as an insurer that has been legally qualified and admitted to engage in the business of insurance in this state.

(b) Taxes shall be assessed against and collected from an insurer under this section in the same manner as taxes are assessed against and collected from insurers that are legally qualified and admitted to engage in the business of insurance in this state.

(c) A person who takes an action by means of which an insurer is considered to be engaged in the business of insurance in this state under this section is personally liable for any taxes assessed against the insurer under this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 4001.101. LICENSE OR CERTIFICATE OF AUTHORITY REQUIRED; DESIGNATED PRODUCT CERTIFICATE. (a) Unless the person holds a license or certificate of authority issued by the department and, if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line, a person

may not:

- (1) solicit or receive an application for insurance in this state; or
- (2) aid in the transaction of the business of an insurer.

(b) A person may not act 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:

- (1) a license issued by the department as provided by this title; and
- (2) if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line.

(c) An insurer described by Subsection (b) may not appoint a person to act as its agent unless the person holds:

- (1) a license under this title; and
- (2) if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line.

(d) 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:

- (1) a license; and
- (2) if required by rules adopted under Chapter 4008, a certificate to sell a designated product or product line.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 451 (H.B. 2456), Sec. 1, eff. June 19, 2009.

Sec. 4001.102. LICENSE APPLICATION. (a) To become an agent for an insurer or health maintenance organization, a person must submit to the department a completed license application in the form required by the department.

(b) The commissioner by rule shall prescribe the requirements for a properly completed application.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.103. FAILURE TO PROVIDE COMPLETE SET OF

FINGERPRINTS: GROUND FOR DENIAL OF APPLICATION. (a) In this section, "authorization" means any authorization issued by the department to engage in an activity regulated under this title, including a license or permit.

(b) The department may deny an application for an authorization if the applicant fails to provide a complete set of fingerprints on request by the department.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.104. ISSUANCE OF LICENSE: INTENT TO ACTIVELY ENGAGE IN BUSINESS OF INSURANCE FOR GENERAL PUBLIC. (a) The department may not issue a license as an agent to write any line of insurance unless the department determines that:

(1) the applicant is or intends to be actively engaged in the soliciting or writing of insurance for the general public and is to be actively engaged in the business of insurance; and

(2) the application is not made to evade the laws against rebating and discrimination, either for the applicant or for another person.

(b) This subchapter does not prohibit an applicant from insuring property that the applicant owns or in which the applicant has an interest. It is the intent of this subchapter to prohibit coercion of insurance and to preserve to each individual the right to choose that individual's own agent or insurer and to prohibit the licensing of an applicant to engage in the business of insurance principally to handle business that the applicant controls only through ownership, mortgage, sale, family relationship, or employment. An applicant for an original license must have a bona fide intention to engage in business in which, in any calendar year, at least 25 percent of the total volume of premiums is derived from persons other than the applicant and from property other than that on which the applicant controls the placing of insurance through ownership, mortgage, sale, family relationship, or employment.

(c) The department may not deny a license application solely on the ground that the applicant will act only part-time as an agent.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.105. ISSUANCE OF LICENSE TO INDIVIDUAL. The department shall issue a license to an individual to engage in business as an agent if the department determines that the individual:

- (1) is at least 18 years of age;
- (2) has passed the licensing examination required under this code within the past 12 months;
- (3) has not committed an act for which a license may be denied under Subchapter C, Chapter 4005; and
- (4) has submitted the application, appropriate fees, and any other information required by the department.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.106. ISSUANCE OF LICENSE TO CORPORATION OR PARTNERSHIP. (a) In this section, "customer" means a person or firm to which a corporation or partnership sells or attempts to sell an insurance policy or from which a corporation or partnership accepts an application for insurance.

(b) The department shall issue a license to a corporation or partnership if the department determines that:

- (1) the corporation or partnership is:
 - (A) organized under the laws of this state or another state; and
 - (B) authorized by its articles of incorporation or its partnership agreement to act as an agent;
- (2) at least one officer of the corporation or one active partner of the partnership and all other persons performing any acts of an agent on behalf of the corporation or partnership in this state are individually licensed by the department separately from the corporation or partnership;
- (3) the corporation or partnership will have the ability to pay any amount up to \$25,000 that it might become legally obligated to pay under a claim made against it by a customer and caused by a negligent act, error, or omission of the corporation or partnership or a person for whose acts the corporation or partnership is legally liable in the conduct of its business under

this code;

(4) if engaged in the business of insurance, the corporation or partnership intends to be actively engaged in that business as required under Section 4001.104(a);

(5) the corporation or partnership has submitted the application, appropriate fees, and any other information required by the department; and

(6) an officer, director, member, manager, partner, or other person who has the right or ability to control the corporation or partnership has not:

(A) had a license suspended or revoked or been the subject of any other disciplinary action by a financial or insurance regulator of this state, another state, or the United States; or

(B) committed an act for which a license may be denied under Subchapter C, Chapter 4005.

(c) A corporation or partnership shall maintain the ability to pay a claim described by Subsection (b)(3) by obtaining:

(1) an errors and omissions policy insuring the corporation or partnership against errors and omissions in at least the amount of \$250,000, with a deductible of not more than 10 percent of the full amount of the policy, issued by:

(A) an insurer authorized to engage in the business of insurance in this state; or

(B) if a policy cannot be obtained from an insurer authorized to engage in the business of insurance in this state, a surplus lines insurer under Chapter 981; or

(2) a bond in the principal amount of \$25,000 that is:

(A) executed by the corporation or partnership as principal and a surety company authorized to engage in business in this state as surety;

(B) payable to the department for the use and benefit of customers of the corporation or partnership; and

(C) conditioned that the corporation or partnership shall pay any final judgment recovered against it by a customer.

(d) A binding commitment to issue a policy or bond described

by Subsection (c) is sufficient in connection with an application for a license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 162 (H.B. 2503), Sec. 1, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. 4030), Sec. 10, eff. September 1, 2021.

Sec. 4001.107. ISSUANCE OF LICENSE TO DEPOSITORY INSTITUTION. The department shall issue a license to a depository institution in the manner provided by this subchapter for the licensing of a corporation.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.108. ISSUANCE OF LICENSE TO ENTITY CHARTERED BY FEDERAL FARM CREDIT ADMINISTRATION. The department may license an entity chartered by the federal Farm Credit Administration under the farm credit system established under 12 U.S.C. Section 2001 et seq., as amended, to solicit insurance in this state as provided by 12 U.S.C. Section 2218, as amended. The department shall issue the license in the manner provided by this subchapter for the licensing of a corporation.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER D. TEMPORARY LICENSE

Sec. 4001.151. AUTHORITY TO ISSUE TEMPORARY LICENSE. The department may issue a temporary agent's license to an applicant for a license under Section 4001.102 who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.152. EXAMINATION NOT REQUIRED. An applicant is not required to pass a written examination to obtain a temporary license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.153. APPLICATION FOR AND ISSUANCE OF TEMPORARY LICENSE. (a) Except as provided by Subsection (b), the department shall issue a temporary license immediately on receipt of a properly completed application executed by the applicant in the form required by Section 4001.102 and accompanied by:

(1) the nonrefundable filing fee set by the department; and

(2) a certificate signed by an officer or properly authorized representative of an agent, insurer, or health maintenance organization stating that:

(A) the applicant is being considered for appointment by the agent, insurer, or health maintenance organization as its full-time agent;

(B) the agent, insurer, or health maintenance organization desires that the applicant be issued a temporary license; and

(C) the applicant will complete training as prescribed by Section 4001.160 under the agent's, insurer's, or health maintenance organization's supervision.

(b) The department may deny a license application under this subchapter if the department determines that any of the grounds exist for license denial or disciplinary action under Section 4005.101, Insurance Code, or Chapter 53, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 347 (H.B. 2819), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. 4030), Sec. 11, eff. September 1, 2021.

Sec. 4001.154. AUTHORITY TO ACT AS AGENT PENDING RECEIPT OF TEMPORARY LICENSE. If a temporary license is not received from the department before the eighth day after the date the application, nonrefundable fee, and certificate are delivered or mailed to the department and the appropriate agent, insurer, or health

maintenance organization has not been notified that the application is denied, the agent, insurer, or health maintenance organization may assume that the temporary license will be issued and the applicant may proceed to act as an agent.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.155. TERM OF TEMPORARY LICENSE. A temporary license is valid for 180 days after the date of issuance.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 347 (H.B. 2819), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. 4030), Sec. 12, eff. September 1, 2021.

Sec. 4001.156. RESTRICTION ON ISSUANCE OR RENEWAL OF TEMPORARY LICENSE. (a) Repealed by Acts 2021, 87th Leg., R.S., Ch. 347 (H.B. 2819), Sec. 3, and Ch. 355 (H.B. 4030), Sec. 22(3), eff. September 1, 2021.

(b) A temporary license may not be issued to a person who does not intend to apply for a license to sell insurance or memberships to the general public.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 347 (H.B. 2819), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. 4030), Sec. 22(3), eff. September 1, 2021.

Sec. 4001.157. OBTAINING CERTAIN COMMISSIONS PROHIBITED. (a) A temporary license holder may not obtain a commission on a sale made to a person who has a family, employment, or business relationship with the temporary license holder.

(b) An agent, insurer, or health maintenance organization may not knowingly pay, directly or indirectly, to a temporary license holder, and a temporary license holder may not receive or accept, a commission on the sale of a contract of insurance or

membership covering:

- (1) the temporary license holder;
- (2) a person related to the temporary license holder by consanguinity or affinity;
- (3) a person who is or has been during the past six months the temporary license holder's employer, either as an individual or as a member of a partnership, association, firm, or corporation; or
- (4) a person who is or has been during the past six months an employee of the temporary license holder.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.158. REPLACEMENT OF EXISTING LIFE INSURANCE OR ANNUITY CONTRACT PROHIBITED. (a) A temporary license holder who is acting under the authority of that license may not:

- (1) engage in an insurance solicitation, sale, or other agency transaction that the license 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:
 - (a) benefits; or
 - (b) 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 receive a commission or other compensation that results or may result from a solicitation, sale, or other agency transaction described by Subdivision (1).

(b) A person who holds a permanent license may not circumvent or attempt to circumvent the intent of this section by acting for or with a person holding a temporary license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.159. SUSPENSION OR REVOCATION OF TEMPORARY APPOINTMENT POWERS OF AGENT, INSURER, OR HEALTH MAINTENANCE ORGANIZATION. (a) The department may suspend or revoke the temporary appointment powers of an agent, insurer, or health maintenance organization if, after notice and opportunity for hearing, the department determines that the agent, insurer, or health maintenance organization has abused the temporary appointment powers.

(b) In determining whether abuse has occurred, the department may consider:

(1) the number of temporary appointments made;

(2) the percentage of appointees taking the examination required for licensing as an agent, as provided by Section [4001.161](#); and

(3) the number of appointees who pass the examination.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.160. TRAINING OF APPLICANT FOR TEMPORARY LICENSE.

(a) An agent, insurer, or health maintenance organization that is considering appointment of a temporary license applicant as its agent shall provide at least 40 hours of training to the applicant not later than the 30th day after the date the application, nonrefundable fee, and certificate are delivered or mailed to the department.

(b) At least 10 hours of the training must be taught in a classroom setting, including:

(1) an accredited college, university, junior

college, or community college;

(2) a business school; or

(3) a private institute or classes sponsored by the agent, insurer, or health maintenance organization and specifically established for that purpose.

(c) The training program must be designed to provide an applicant with basic knowledge of:

(1) the broad principles of insurance, including the licensing and regulatory laws of this state;

(2) the broad principles of health maintenance organizations, including membership requirements and related licensing and regulatory laws of this state; and

(3) the ethical obligations and duties of an agent.

(d) If the department determines under Section [4001.159](#) that an abuse of temporary appointment powers has occurred, the department may require the affected agent, insurer, or health maintenance organization to:

(1) file with the department a description of the agent's, insurer's, or health maintenance organization's training program; and

(2) obtain the approval of the department before continuing to use the training program.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 134 (H.B. [1197](#)), Sec. 1, eff. May 26, 2017.

Sec. 4001.161. DUTY TO ENSURE THAT APPLICANTS TAKE LICENSING EXAMINATION. An agent, insurer, or health maintenance organization shall ensure that, during any two consecutive calendar quarters, at least 70 percent of the agent's, insurer's, or health maintenance organization's applicants for temporary licenses take the required licensing examination. At least 50 percent of the applicants taking the examination must pass the examination during that period.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.162. RESTRICTION ON APPOINTMENT OF TEMPORARY LICENSE HOLDERS. (a) Except as provided by Subsection (b), an agent, insurer, or health maintenance organization may not appoint more than 500 temporary license holders during a calendar year.

(b) The commissioner shall adopt reasonable rules setting standards for an agent, insurer, or health maintenance organization to appoint more than 500 temporary license holders during a calendar year. The standards must include consideration of the ability of an agent, insurer, or health maintenance organization to monitor appointed temporary agents.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 201 (H.B. 1201), Sec. 1, eff. May 27, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1172 (S.B. 876), Sec. 2, eff. September 1, 2015.

SUBCHAPTER E. APPOINTMENT OF AGENT

Sec. 4001.201. APPOINTMENT REQUIRED. A person who obtains a license under this title may not engage in business as an agent unless the person has been appointed to act as an agent by an insurer designated by the provisions of this code and authorized to engage in business in this state.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.202. APPOINTMENT BY MULTIPLE INSURERS. (a) Except as specifically prohibited by this code, an agent may represent and act as an agent for more than one insurer.

(b) Not later than the 30th day after the effective date of the appointment, the agent and the insurer involved shall notify the department, on a form prescribed by the department, of any additional appointment authorizing the agent to act as agent for one or more additional insurers. The notice must be accompanied by a nonrefundable fee in an amount set by the department for each additional appointment for which the insurer applies.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.203. TERM OF APPOINTMENT. (a) An appointment authorizing an agent to act for an insurer continues in effect without the necessity of renewal until the appointment is terminated or withdrawn by the insurer or the agent.

(b) A renewal license issued to an agent authorizes the agent to represent and act for each insurer for which the agent holds an appointment until the appointment is terminated or withdrawn, and the agent is considered to be the agent of each appointing insurer for the purposes of this code.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.204. AUTHORITY TO ACT AS AGENT BEFORE NOTICE OF APPOINTMENT. An agent appointed under this subchapter may act on behalf of the appointing insurer before the department receives the notice filed under Section [4001.202\(b\)](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.206. TERMINATION OF APPOINTMENT OF AGENT FOR CAUSE; LIABILITY. (a) On termination of the appointment of an agent for cause, the insurer or agent shall immediately file with the department a statement of the facts relating to the termination of the appointment and the date and cause of the termination. On receipt of the statement, the department shall record the termination of the appointment of that agent to represent the insurer in this state.

(b) A document, record, statement, or other information required to be made or disclosed to the department under this section is a privileged and confidential communication and is not admissible in evidence in a court action or proceeding except under a subpoena issued by a court of record.

(c) A person, including an insurer or an employee or agent of an insurer, who provides without malice information required to be disclosed under this section is not liable for providing the information.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER F. REGULATION OF AGENTS

Sec. 4001.251. INCORPORATION OF SOLE PROPRIETORSHIP. An individual engaged in business as a sole proprietorship under a license issued under this title may incorporate. The corporation does not have greater license authority than that granted to the license holder in the holder's individual capacity.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.252. NOTIFICATION TO DEPARTMENT OF CERTAIN INFORMATION. (a) An individual licensed as an agent shall notify the department on a monthly basis of:

- (1) a change of the license holder's mailing address;
- (2) a felony conviction of the license holder; or
- (3) an administrative action taken against the license holder by a financial or insurance regulator of this state, another state, or the United States.

(b) A corporation or partnership licensed as an agent under this title shall file under oath, on a form developed by the department, biographical information for:

- (1) each executive officer, director, or unlicensed partner who administers the entity's operations in this state;
- (2) each shareholder who is in control of the corporation or partner who has the right or ability to control the partnership; and
- (3) if the corporation or partnership is owned, in whole or in part, by another entity, each individual who is in control of the parent entity.

(c) A corporation or partnership shall notify the department not later than the 30th day after the date of:

- (1) a felony conviction of a licensed agent of the entity or an individual associated with the entity who is required to file biographical information with the department;
- (2) an event for which notification would be required under Section [81.003](#); or
- (3) the addition or removal of an officer, director, partner, member, or manager.

Sec. 4001.253. RESTRICTION ON ACQUISITION OF OWNERSHIP INTEREST IN ENTITY LICENSED AS AGENT. (a) A person may not acquire in any manner an ownership interest in an entity licensed as an agent under this title if the person is, or after the acquisition would be, directly or indirectly in control of the license holder, or otherwise acquire control of or exercise any control over the license holder, unless the person has filed with the department under oath:

(1) a biographical form for each person by whom or on whose behalf the acquisition of control is to be effected;

(2) a statement certifying that no person who is acquiring an ownership interest in or control of the license holder has been the subject of a disciplinary action taken by a financial or insurance regulator of this state, another state, or the United States;

(3) a statement certifying that, immediately on the change of control, the license holder will be able to satisfy the requirements for the issuance of the license to solicit each line of insurance for which it is licensed; and

(4) any additional information that the commissioner by rule may prescribe as necessary or appropriate to the protection of the insurance consumers of this state or as in the public interest.

(b) The department may require a partnership, syndicate, or other group that is required to file a statement under Subsection (a) to provide the information under that subsection for each partner of the partnership, each member of the syndicate or group, and each person who controls the partner or member. If the partner, member, or person is a corporation or the person required to file the statement under Subsection (a) is a corporation, the department may require that the information required under that subsection be provided regarding:

(1) the corporation;

(2) each individual who is an executive officer or director of the corporation; and

(3) each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of the corporation.

(c) The department may disapprove an acquisition of control if, after notice and opportunity for hearing, the commissioner determines that:

(1) immediately on the change of control the license holder would not be able to satisfy the requirements for the issuance of the license to solicit each line of insurance for which it is presently licensed;

(2) the competence, trustworthiness, experience, and integrity of the persons who would control the operation of the license holder are such that it would not be in the interest of the insurance consumers of this state to permit the acquisition of control; or

(3) the acquisition of control would violate this code or another law of this state, another state, or the United States.

(d) Notwithstanding Subsection (c), a change in control is considered approved if the department has not proposed to deny the requested change before the 61st day after the date the department receives all information required by this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.254. MAINTENANCE OF QUALIFICATIONS. The department shall, in the manner provided by Subchapter C, Chapter 4005, revoke, suspend, or refuse to renew the license of a license holder who does not maintain the qualifications necessary to obtain the license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.255. MAINTENANCE OF RECORDS. An agent shall maintain all insurance records, including all records relating to customer complaints, separate from the records of any other business in which the agent may be engaged.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER G. OTHER PERSONS WHO MAY SHARE IN PROFITS OF AGENCY

Sec. 4001.301. PROFITS AFTER DEATH OF AGENT WHO IS MEMBER OF AGENCY PARTNERSHIP. On the death of an agent who is a member of an agency partnership, the surviving spouse and children, if any, of the deceased partner, or a trust for the surviving spouse and children, may share in the profits of the agency partnership during the lifetime of the surviving spouse or children, as the case may be, as provided by:

(1) a written partnership agreement; or

(2) in the absence of a written agreement, an agreement by the surviving partner or partners and the surviving spouse, the trustee, and the legal representative of the surviving children.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.302. PROFITS AFTER DEATH OF AGENT WHO IS SOLE PROPRIETOR. (a) On the death of an agent who is a sole proprietor, unless otherwise provided by the probated will of the deceased agent, the surviving spouse and children, if any, of the deceased agent, or a trust for the surviving spouse or children, may share in the profits of the agency business of the deceased agent during the lifetime of the surviving spouse and children if the agency business is continued by an agent.

(b) The surviving spouse and children or trust is not required to qualify as an agent to share in the profits of the agency but may not perform an act of an agent in connection with the agency business without first being licensed as an agent.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.303. PROFITS AFTER DEATH OF SHAREHOLDER OF CORPORATE AGENCY. (a) On the death of a shareholder of a corporate licensed agency, the surviving spouse and children, if any, of the deceased shareholder, or a trust for the surviving spouse and children, may share in the profits of the corporate agency during the lifetime of the surviving spouse or children as provided by a contract entered into by each shareholder and the corporation.

(b) The surviving spouse and children or trust is not

required to qualify as an agent to share in the profits of the corporation but may not perform an act of an agent on behalf of the corporation without qualifying as an agent.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.304. TRANSFER OF INTEREST IN AGENCY BY AGENT WHO IS SOLE PROPRIETOR. (a) An agent who is a sole proprietor may transfer an interest in the agency to the agent's children, or a trust for the agent's children, and may operate that interest for their use and benefit. The children may share in the profits of the agency during their lifetime.

(b) The children are not required to qualify as agents to share in the profits of the agency but may not perform an act of an agent in connection with the agency business without first being licensed as agents.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4001.305. TRANSFER OF INTEREST IN AGENCY BY SHAREHOLDER OF CORPORATE AGENCY. (a) A shareholder of a corporate licensed agency may, if provided by a contract entered into by each shareholder and the corporation, transfer an interest in the agency to the shareholder's children or a trust for the shareholder's children. The children or trust may share in the profits of the agency to the extent of that interest during the children's lifetime.

(b) The children or trust is not required to qualify as an agent to share in the profits of the corporation but may not perform an act of an agent on behalf of the corporation without qualifying as an agent.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER H. PROVISIONAL PERMIT

Sec. 4001.351. APPLICABILITY. This subchapter applies only to an applicant for a license as an agent under:

- (1) Subchapters B and E, Chapter [4051](#); and
- (2) Subchapters B, D, E, and G, Chapter [4054](#).

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. 2145), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 128 (H.B. 1073), Sec. 1, eff. September 1, 2017.

Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT.

(a) The department may, in conjunction with a license application under Section 4001.102, 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.

(b) The department may suspend the issuance of a provisional permit under this subchapter if:

(1) the department's processing time for license applications has not exceeded 21 days in any month in the preceding 90 days before the suspension; and

(2) the department provides notice both on its Internet website and to applicants for provisional licenses that the provisional license applications are temporarily suspended because sufficient processing time for permanent licenses is available to allow for those licenses to be processed in not more than 21 days for a completed application.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. 2145), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 355 (H.B. 4030), Sec. 13, eff. September 1, 2021.

Sec. 4001.353. APPLICATION FOR AND ISSUANCE OF PROVISIONAL PERMIT. (a) The department may 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, E, or G, 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:

(i) a felony; or

(ii) 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) An applicant is not qualified to receive a provisional permit if the applicant has not taken and passed the examination required for the issuance of the permanent license for which the applicant applied under Section [4001.102](#).

(c) The nonrefundable fee described by Subsection (a) shall be set by the department in an amount that:

(1) is reasonable and necessary to implement this subchapter; and

(2) may not exceed the amount of the fee required for an application for a permanent license.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 128 (H.B. [1073](#)), Sec. 2, eff. September 1, 2017.

Sec. 4001.354. AUTHORITY TO ACT AS AGENT UNDER PROVISIONAL

PERMIT. (a) An applicant may proceed to act as an agent if:

(1) a provisional permit is not received from the department 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 the department; 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) An applicant may 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.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.

Sec. 4001.355. TERM OF PROVISIONAL PERMIT. (a) Except as provided by Subsection (b), a provisional permit expires on the earlier of:

(1) the 90th day after the date the permit is issued; or

(2) the date a license is issued or the license application is denied.

(b) If the license, or a notice that the license is denied, is not received from the department 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 the department, 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).

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.

Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) The department may 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) An applicant who receives a notice under Subsection (a) shall immediately cease acting as an agent under this subchapter. An appointing agent, insurer, or health maintenance organization that receives notice under Subsection (a) shall immediately notify the applicant of the notice.

(c) 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) A notification under this section applies only to a provisional permit, and the department shall continue to process an application for a license unless the license has been denied.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.

Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. If the applicant's license application is denied or the applicant's license is revoked, an applicant is subject to Section [4005.105](#) with respect to an application for a provisional permit under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.

Sec. 4001.358. COMPLIANCE WITH OTHER LAW. (a) 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) A provisional permit holder that applied for a life and annuity license must comply with Chapter [1114](#) with respect to the replacement of life insurance policies and annuities.

(c) A person who holds a permanent license may not circumvent or attempt to circumvent the intent of this section by

acting for or with a provisional permit holder.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.

Sec. 4001.359. SUPERVISORY RESPONSIBILITY. 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.

Added by Acts 2015, 84th Leg., R.S., Ch. 404 (H.B. [2145](#)), Sec. 1, eff. September 1, 2015.