

By: Eiland

H.B. No. 2456

A BILL TO BE ENTITLED

AN ACT

relating to insurance agent qualifications to sell certain products or product lines.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 4001.101, Insurance Code, is amended to read as follows:

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

1 person to act as its agent unless the person holds:

2 (1) a license under this title; and

3 (2) if required by rules adopted under Chapter 4008, a
4 certificate to sell a designated product or product line.

5 (d) This subchapter does not permit an employee or agent of
6 a corporation or partnership to perform an act of an agent under
7 this title without obtaining:

8 (1) a license; and

9 (2) if required by rules adopted under Chapter 4008, a
10 certificate to sell a designated product or product line.

11 SECTION 2. Section 4004.053(a), Insurance Code, is amended
12 to read as follows:

13 (a) An individual who holds a general life, accident, and
14 health license, a life agent license, a life and health insurance
15 counselor license, a general property and casualty license, or a
16 personal lines property and casualty license must complete 15 hours
17 of continuing education annually. If the individual holds more
18 than one license for which continuing education is otherwise
19 required, the individual is not required to complete more than 15
20 continuing education hours annually under this section.

21 SECTION 3. Chapter 4004, Insurance Code, is amended by
22 adding Subchapter D to read as follows:

23 SUBCHAPTER D. SUPPLEMENTARY AGENT EDUCATION

24 PROGRAMS FOR COMPLEX PRODUCTS

25 Sec. 4004.151. SUPPLEMENTARY AGENT EDUCATION PROGRAMS. The
26 department shall administer continuing education and
27 precertification training programs required by rules adopted under

Chapter 4008.

Sec. 4004.152. PROGRAM ADMINISTRATION. (a) The department shall administer a program described by Section 4004.151 in a manner consistent with the administration of continuing education programs under Subchapter C.

(b) The department may enter into agreements with independent contractors for programs described by Section 4004.151 in the manner prescribed by Section 4004.104 for continuing education programs.

SECTION 4. Section 4005.102, Insurance Code, is amended to read as follows:

Sec. 4005.102. REMEDIES FOR VIOLATION OF INSURANCE LAWS OR COMMISSIONER RULES. In addition to any other remedy available under Chapter 82, for a violation of this code, another insurance law of this state, or a rule of the commissioner, the department may:

- (1) deny an application for:
 - (A) an original license; or
 - (B) a certificate issued under Chapter 4008;
- (2) suspend, revoke, or deny renewal of:
 - (A) a license; or
 - (B) a certificate issued under Chapter 4008;
- (3) place on probation a person whose license has been suspended;
- (4) assess an administrative penalty; ~~[or]~~
- (5) reprimand a license holder; or
- (6) require a license holder to qualify, or re-qualify

1 if the agent has already qualified, for a certificate to sell a
2 product or product line designated by rule under Chapter 4008.

3 SECTION 5. Subtitle A, Title 13, Insurance Code, is amended
4 by adding Chapter 4008 to read as follows:

5 CHAPTER 4008. SUPPLEMENTARY AGENT CERTIFICATION AND EDUCATION
6 PROGRAMS FOR COMPLEX INSURANCE PRODUCTS

7 Sec. 4008.001. PURPOSE. Certain insurance products are so
8 complex that the general agent licensing and continuing education
9 requirements are insufficient to ensure the level of agent
10 expertise necessary to safeguard consumer interests. Agents should
11 be equipped with the necessary skills and knowledge to assist
12 insureds appropriately in their purchases. Requiring additional
13 agent training or demonstration of knowledge before an agent may
14 sell particularly complex products mitigates the negative impact
15 caused by agents selling complex products without the training and
16 knowledge necessary to sell those products in a manner that is fair
17 and beneficial to insureds.

18 Sec. 4008.002. ADDITIONAL TRAINING AND EXAMINATION
19 REQUIREMENTS AUTHORIZED. (a) The commissioner may adopt rules
20 requiring an agent who holds a license issued under this code to be
21 certified, through specific education, training, examination, and
22 experience requirements as provided by this chapter, before an
23 agent may sell a product or product line designated by the
24 commissioner.

25 (b) Education, training, examination, and experience
26 requirements established by rule under this chapter are in addition
27 to any other agent education, training, examination, and experience

1 requirements otherwise established under this code.

2 Sec. 4008.003. RULES. (a) In adopting rules under this
3 chapter, the commissioner shall:

4 (1) designate the products or product lines that may
5 not be sold without certification under this chapter; and

6 (2) specify the reasons why it is necessary that the
7 sale of a designated product or product line requires additional
8 education, experience, or examination.

9 (b) By rule, the commissioner may specify:

10 (1) any additional precertification education or
11 experience that must be completed before a designated product or
12 product line may be sold by an agent;

13 (2) whether an agent must complete a precertification
14 examination concerning the designated product or product line the
15 agent intends to sell;

16 (3) whether an agent certified under this chapter must
17 complete additional continuing education to maintain the
18 certificate; and

19 (4) whether, and if so, how frequently, an agent
20 certified under this chapter must periodically retake the
21 examination to maintain the certificate.

22 Sec. 4008.004. APPLICATION OF CERTIFICATION REQUIREMENTS
23 TO CERTAIN AGENTS. (a) The commissioner by rule shall establish
24 whether the certification requirements established under this
25 chapter for sale by an agent of a designated product or product line
26 apply:

27 (1) only to an agent who, as of the effective date of

1 the certification requirement, does not hold the underlying agent
2 license required to sell that product or product line; or

3 (2) to each licensed agent who engages in the sale of
4 that product or product line.

5 (b) If the commissioner adopts rules requiring each agent
6 described by Subsection (a)(2) to be certified under this chapter,
7 the rules must specify the date by which the agent must comply with
8 the certification requirements.

9 Sec. 4008.005. ISSUANCE OF CERTIFICATE. The department
10 shall issue a certificate under this chapter to an agent if the
11 department determines that the agent:

12 (1) has submitted a properly completed certification
13 application to the department in a form acceptable to the
14 department;

15 (2) has completed, within the 12-month period
16 preceding the date of the certification application, all
17 requirements for the certification required by rules adopted under
18 this chapter; and

19 (3) has not committed an act for which a license or
20 certification may be denied under Subchapter C, Chapter 4005.

21 Sec. 4008.006. CERTIFICATE EXPIRATION. Unless the
22 commissioner by rule specifies a different period, each certificate
23 issued under this chapter expires on the expiration date of the
24 agent's appropriate underlying license.

25 Sec. 4008.007. CERTIFICATE RENEWAL. (a) An agent may renew
26 an unexpired certificate before the expiration of the certificate
27 by:

1 (1) completing all renewal requirements established
2 by rule under this chapter; and

3 (2) filing a properly completed renewal application
4 with the department in a form acceptable to the department.

5 (b) A person may not renew a certificate that has been
6 suspended or revoked.

7 Sec. 4008.008. ADMINISTRATION BY TESTING SERVICE
8 AUTHORIZED. The commissioner may accept an examination
9 administered by a testing service, as provided under Subchapter B,
10 Chapter 4002, to satisfy an examination requirement required by
11 rule under this chapter.

12 SECTION 6. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.