

By: Frullo

H.B. No. 2893

A BILL TO BE ENTITLED

AN ACT

relating to the licensing of insurance agents and adjusters;
providing a penalty.

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

SECTION 1. Sections 4001.006(a) and (b), Insurance Code,
are amended to read as follows:

(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.

SECTION 2. Section 4001.162, Insurance Code, is amended to
read as follows:

Sec. 4001.162. RESTRICTION ON APPOINTMENT OF TEMPORARY
LICENSE HOLDERS. (a) Except as provided by Subsection (b), an [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

1 calendar year. The standards must include consideration of the
2 ability of an agent, insurer, or health maintenance organization to
3 monitor appointed temporary agents.

4 SECTION 3. Section 4003.001, Insurance Code, is amended by
5 amending Subsection (a) and adding Subsections (c) and (d) to read
6 as follows:

7 (a) Unless a staggered renewal system is adopted under
8 Section 4003.002, each ~~[agent]~~ license issued or renewed by the
9 department under Chapter 981 or Subtitle A, B, or C and not
10 suspended or revoked by the commissioner expires on:

11 (1) the second anniversary of the date the license is
12 issued to or renewed by a person that is not an individual; or

13 (2) except as provided in Subsection (c):

14 (A) for a license issued or renewed in an
15 even-numbered year, the individual license holder's birthday each
16 even-numbered year; or

17 (B) for a license issued or renewed in an
18 odd-numbered year, the individual license holder's birthday each
19 odd-numbered year.

20 (c) If a person holds more than one license, all licenses
21 issued to the person expire on the earliest expiration date of the
22 licenses held. Thereafter, all licenses expire in accordance with
23 Subsection (a).

24 (d) Notwithstanding Section 4003.002(b), the commissioner
25 may not prorate the initial application fee for a license based on
26 the expiration period of the license under Subsection (c).

27 SECTION 4. Section 4003.006, Insurance Code, is amended to

1 read as follows:

2 Sec. 4003.006. CONTINUATION OF ORIGINAL LICENSE. The
3 original license of a person who has applied for license renewal in
4 compliance with Section 4003.004 [~~4003.004~~] remains in effect from
5 the date the renewal application is filed until the date:

6 (1) the department issues the renewal license; [~~or~~]

7 (2) the license is not renewed under Section 4004.055;

8 or

9 (3) the commissioner issues an order revoking the
10 license.

11 SECTION 5. Section 4003.008(b), Insurance Code, is amended
12 to read as follows:

13 (b) The person must pay to the department a fee equal to the
14 license application fee.

15 SECTION 6. Section 4004.051(a), Insurance Code, is amended
16 to read as follows:

17 (a) Except as provided by Section 4004.052 or other law,
18 each individual who holds a license issued by the department shall
19 complete, as a condition of licensure, continuing education as
20 provided by this chapter.

21 SECTION 7. Section 4004.053(a), Insurance Code, is amended
22 to read as follows:

23 (a) An individual who holds a general life, accident, and
24 health license, a life agent license, a life and health insurance
25 counselor license, an adjuster license, a managing general agent
26 license, a general property and casualty license, or a personal
27 lines property and casualty license must complete 24 [~~15~~] hours of

1 continuing education during the license period [~~annually~~]. If the
 2 individual holds more than one license for which continuing
 3 education is otherwise required, the individual is not required to
 4 complete more than 24 [~~15~~] continuing education hours for all
 5 licenses during the license period [~~annually~~]. An individual who
 6 is required under rules adopted under Chapter 4008 to hold a
 7 certificate to sell a designated product or product line may use
 8 continuing education programs administered under Section [4004.151](#)
 9 to satisfy the annual continuing education requirements under this
 10 subsection.

11 SECTION 8. Subchapter B, Chapter 4004, Insurance Code, is
 12 amended by adding Section 4004.055 to read as follows:

13 Sec. 4004.055. CONSEQUENCES OF FAILURE TO COMPLETE
 14 CONTINUING EDUCATION REQUIREMENT. (a) The department may not
 15 renew a license issued under this title if the license holder fails
 16 to:

17 (1) complete an applicable continuing education
 18 requirement not later than the 90th day after the last day of the
 19 licensing period; or

20 (2) pay an applicable fine related to the failure to
 21 timely complete continuing education.

22 (b) The department may not issue a new license under this
 23 title to an individual who was previously licensed under this title
 24 if the individual fails to:

25 (1) provide evidence of completion of an applicable
 26 continuing education requirement for the expired, nonrenewed,
 27 canceled, or revoked license; or

1 (2) pay an applicable fine related to the failure to
2 timely complete continuing education.

3 (c) Completion of continuing education after expiration of
4 a license is not a defense in a disciplinary action under Section
5 4005.101, Section 4005.109, or another provision of this code
6 against an individual who failed to complete continuing education
7 as required by this chapter.

8 SECTION 9. Section 4004.101(a), Insurance Code, is amended
9 to read as follows:

10 (a) The department shall certify continuing education
11 programs for agents and adjusters. The certification criteria must
12 be designed to ensure that continuing education programs enhance
13 the knowledge, understanding, and professional competence of the
14 license holder.

15 SECTION 10. Subchapter C, Chapter 4004, Insurance Code, is
16 amended by adding Section 4004.105 to read as follows:

17 Sec. 4004.105. ADJUSTER CONTINUING EDUCATION PROGRAM
18 CONTENTS. A continuing education program for adjusters licensed
19 under Chapter 4101 must include education relating to:

- 20 (1) Chapter 541;
21 (2) Chapter 547;
22 (3) Subchapter A, Chapter 542;
23 (4) Subchapter E, Chapter 17, Business & Commerce
24 Code; and
25 (5) any other similar laws specified by the
26 department.

27 SECTION 11. Section 4005.105(d), Insurance Code, is amended

1 to read as follows:

2 (d) Subsections (b) and ~~[Subsection]~~ (c) do ~~[does]~~ not apply
3 to an applicant whose license application was denied or revoked for
4 failure by the applicant to:

5 (1) pass a required written examination; ~~[or]~~

6 (2) complete continuing education or pay an applicable
7 fine under Section 4004.055(a); or

8 (3) submit a properly completed license application.

9 SECTION 12. Section [4005.109](#), Insurance Code, is amended by
10 amending Subsection (b) and adding Subsection (b-1) to read as
11 follows:

12 (b) A violation for which a fine may be assessed under this
13 section includes a failure to:

14 (1) obtain the total number of continuing education
15 hours before the expiration ~~[renewal]~~ date of a license;

16 (2) timely report a change of address to the
17 department; or

18 (3) notify the department of an administrative action
19 against the agent by a financial or insurance regulator of another
20 state or of the federal government.

21 (b-1) The aggregate amount of fines assessed under
22 Subsection (b)(1) may not exceed \$500 for a licensing period.

23 SECTION 13. Subchapter B, Chapter 4056, Insurance Code, is
24 amended by adding Section 4056.059 to read as follows:

25 Sec. 4056.059. TRANSITION TO RESIDENT AGENT LICENSE. (a)
26 This section applies only to an individual who is a nonresident
27 agent licensed under Section [4056.052](#) and who has moved from the

1 other state that licensed the individual to this state.

2 (b) A nonresident agent may apply to the department for a
3 comparable license for residents of this state. An application
4 must include:

5 (1) a notification of the agent's change of address and
6 contact information;

7 (2) a clearance letter from the state authority of the
8 state that issued the agent's prior resident license demonstrating
9 the agent's good standing with that authority; and

10 (3) fingerprint forms in the format prescribed by the
11 department, which may be electronic.

12 (c) If a nonresident agent submits a satisfactory
13 application in accordance with Subsection (b), the department shall
14 issue a comparable resident agent license to the agent and revoke
15 the agent's nonresident agent license.

16 SECTION 14. Sections 4101.057(a), (b), and (d), Insurance
17 Code, are amended to read as follows:

18 (a) Before issuing or renewing a license under this chapter,
19 the department shall set and collect a nonrefundable license
20 application fee in an amount not to exceed \$50.

21 (b) An applicant for a renewal license must remit the fee
22 required by Subsection (a) before the expiration of the ~~[biennially~~
23 ~~after the issuance of the original]~~ license being renewed. If the
24 applicant's license has been expired for not more than 90 days, an
25 applicant for a renewal license must remit, in addition to the fee
26 assessed under Subsection (a), a fee equal to one-half of the
27 original application ~~[license]~~ fee.

(d) Before issuing a duplicate license requested by an adjuster, the department shall set and collect a duplicate license application fee.

SECTION 15. Section 4101.059(a), Insurance Code, is amended to read as follows:

(a) To renew a license under this chapter, a licensed adjuster must participate in a continuing education program under Chapter 4004 ~~[relating to consumer protection]~~. ~~[The program must include education relating to consumer protection laws, including:~~

~~[(1) Chapter 541;~~

~~[(2) Chapter 547;~~

~~[(3) Subchapter A, Chapter 542;~~

~~[(4) Subchapter E, Chapter 17, Business & Commerce Code; and~~

~~[(5) any other similar laws specified by the department.]~~

SECTION 16. Section 4101.061, Insurance Code, is amended to read as follows:

Sec. 4101.061. EXPIRATION; RENEWAL. Expiration and renewal of a license issued under this chapter are governed by Sections 4003.001 and 4004.055, rules adopted by the commissioner, and ~~[or]~~ any applicable provision of this code or another insurance law of this state.

SECTION 17. Section 4102.062, Insurance Code, is amended to read as follows:

Sec. 4102.062. EXPIRATION. A license issued under this chapter expires as provided by Chapter 4003 ~~[on the second~~

1 ~~anniversary of the date of issuance]~~ unless suspended or revoked by
2 the commissioner.

3 SECTION 18. Section 4102.064, Insurance Code, is amended to
4 read as follows:

5 Sec. 4102.064. RENEWAL OF UNEXPIRED LICENSE. (a) A license
6 holder may renew a license that has not expired and has not been
7 suspended or revoked by filing with the department a properly
8 completed renewal application, in the form prescribed by the
9 commissioner, that demonstrates continued compliance with the
10 license requirements imposed under this chapter or adopted by rule
11 by the commissioner. The completed renewal application must be
12 accompanied by:

13 (1) a renewal application fee in the amount determined
14 by the commissioner under Section 4102.066(b); and

15 (2) evidence of compliance with the continuing
16 education requirements imposed under Section 4102.109.

17 (b) A license holder must submit the completed renewal
18 application, evidence of compliance with the continuing education
19 requirements, and the renewal application fee to the commissioner
20 not later than the 30th day before the second anniversary date of
21 the license.

22 (c) On the filing of a completed renewal application, a
23 renewal application fee, and, if applicable, evidence of compliance
24 with the continuing education requirements, the original license
25 continues in force until:

26 (1) the department issues the renewal license; ~~[or]~~

27 (2) the license is not renewed under Section 4004.055;

1 or

2 (3) the commissioner issues an order revoking the
3 license.

4 SECTION 19. Section 4102.065, Insurance Code, is amended to
5 read as follows:

6 Sec. 4102.065. RENEWAL OF EXPIRED LICENSE. (a) A person
7 whose license has been expired for 90 days or less may renew the
8 license by:

9 (1) submitting to the department:

10 (A) a completed renewal application in the form
11 prescribed by the commissioner; and

12 (B) evidence of compliance with the continuing
13 education requirements and eligibility for renewal under Section
14 4004.055; and

15 (2) paying to the department the required renewal
16 application fee and an additional fee that is equal to one-half of
17 the renewal application fee for the license.

18 (b) Except as provided by Section 4004.055, a [~~A~~] person
19 whose license has been expired for more than 90 days but less than
20 one year may not renew the license but is entitled to a new license
21 without taking the applicable examination if the person submits to
22 the department:

23 (1) a new application;

24 (2) evidence of compliance with the continuing
25 education requirements;

26 (3) the license application fee; and

27 (4) an additional fee equal to one-half of the license

1 application fee.

2 (c) A person whose license has been expired for one year or
3 more may not renew the license. The person may obtain a new license
4 by:

5 (1) submitting to reexamination, if examination is
6 required for original issuance of the license;

7 (2) [~~and by~~] complying with the requirements and
8 procedures for obtaining an original license; and

9 (3) if applicable, submitting evidence of completion
10 of any outstanding continuing education requirement related to the
11 expired license.

12 (d) The department may renew without reexamination an
13 expired license of a person who was licensed in this state, moved to
14 another state, and is currently licensed and has been in continual
15 practice in the other state up to and including the date of the
16 application. The person must pay to the department a fee that is
17 equal to the license application fee.

18 SECTION 20. Section 4102.109(a), Insurance Code, is amended
19 to read as follows:

20 (a) Each license holder must annually complete at least 24
21 [15] hours of continuing education during the license period
22 [courses]. The commissioner by rule shall prescribe the
23 requirements for continuing education courses under this section.

24 SECTION 21. (a) Sections 4001.006, 4003.001, 4003.008,
25 4101.057, 4101.061, 4102.062, 4102.064, and 4102.065, Insurance
26 Code, as amended by this Act, apply only to a license issued or
27 renewed on or after January 1, 2016. A license issued or renewed

1 before January 1, 2016, is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 (b) On January 1, 2016, each license held on that date under
5 Chapter 981, Insurance Code, and Subtitles A, B, and C, Title 13,
6 Insurance Code, expires as follows:

7 (1) each license issued to a person that is not an
8 individual expires on the expiration date of the license with the
9 longest remaining term held by that person on January 1, 2016;

10 (2) each license issued to an individual expires, or
11 may be extended to expire, on the individual's birthday in the year
12 after the expiration date of the license with the longest remaining
13 term held by that person on January 1, 2016; and

14 (3) after a license expires as described by
15 Subdivision (1) or (2) of this subsection, the license renews and
16 expires as provided by Section 4003.001, Insurance Code, as amended
17 by this Act.

18 (c) To the extent that the term of an existing license is
19 extended under this section, the department may not charge an
20 additional fee or require a renewal application before the renewal
21 date established under this section.

22 (d) Except as provided by Subsection (e) of this section,
23 the change in law made by the amendments listed in Subsection (a) of
24 this section and the provisions of this section do not change the
25 continuing education requirements for a license issued or renewed
26 on or after January 1, 2016. Except as otherwise provided by
27 provisions of this Act other than this section and the amendments

1 listed in Subsection (a) of this section, the continuing education
2 requirements for a license issued or renewed before January 1,
3 2016, are governed by the law as it existed immediately before the
4 effective date of this Act, and that law is continued in effect for
5 that purpose.

6 (e) A licensee may not be required to complete additional
7 continuing education hours for a license during any period the
8 license was extended under this section beyond its original
9 expiration date.

10 SECTION 22. Sections 4004.053 and 4102.109, Insurance Code,
11 as amended by this Act, apply only to continuing education
12 requirements for a license issued or renewed on or after the
13 effective date of this Act. Continuing education requirements for
14 a license issued or renewed before the effective date of this Act
15 are governed by the law as it existed immediately before the
16 effective date of this Act, and that law is continued in effect for
17 that purpose.

18 SECTION 23. Section 4004.055, Insurance Code, as added by
19 this Act, and Sections 4004.051, 4005.105, and 4005.109, Insurance
20 Code, as amended by this Act, apply only to completion of continuing
21 education requirements for a license issued or renewed on or after
22 November 1, 2015. Completion of continuing education requirements
23 for a license issued or renewed before November 1, 2015, is governed
24 by the law as it existed immediately before the effective date of
25 this Act, and that law is continued in effect for that purpose.

26 SECTION 24. Section 4056.059, Insurance Code, as added by
27 this Act, applies only to a nonresident agent who relocates to this

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1 state on or after the effective date of this Act. An agent who
2 relocates to this state before the effective date of this Act is
3 governed by the law as it existed immediately before that date, and
4 that law is continued in effect for that purpose.

5 SECTION 25. This Act takes effect September 1, 2015.