

BILL ANALYSIS

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S.B. 876
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Insurance (TDI) processes requests for 23 individual insurance licenses and 22 business entity licenses. Over the last decade, TDI experienced an unprecedented 60 percent increase in insurance agent and adjuster license requests. The increased demand for agent and adjuster licenses in Texas, and the greater complexity of certain filings, has strained agency resources and its ability to deliver licensing services in a timely manner, while providing quality customer service.

S.B. 876 makes five changes to help TDI provide timely and accurate licensing services and quality customer service. The bill aligns individual license renewal dates for the same date every two years; changes the number of continuing education (CE) hours required from 30 to 24 to align with national standards; caps the fine for CE noncompliance at \$500 and requires agents to complete all deficient hours within a grace period or risk license revocation; allows the commissioner of insurance to adopt a sliding scale for temporary licenses so that larger companies may be granted more; and requires non-Texas residents to file an abbreviated application with fingerprinting to ensure that TDI is notified of any criminal activity that occurs.

As proposed, S.B. 876 amends current law relating to the licensing of insurance agents and adjusters, and provides a penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 4001.162, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 20 (Section 4102.109, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 4001.006(a) and (b), Insurance Code, as follows:

(a) Requires the Texas Department of Insurance (TDI) to collect from each agent of an insurer writing insurance in this state under this code:

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

(b) Requires TDI to 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 TDI operating account.

SECTION 2. Amends Section 4001.162, Insurance Code, as follows:

Sec. 4001.162. RESTRICTION ON APPOINTMENT OF TEMPORARY LICENSE HOLDERS. (a) Creates this subsection from existing text. Prohibits an agent, insurer, or health maintenance organization, except as provided by Subsection (b), from appointing more than 500 temporary license holders during a calendar year. Makes a nonsubstantive change.

(b) Requires the commissioner of insurance (commissioner) to 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. Requires that the standards include consideration of the ability of an agent, insurer, or health maintenance organization to monitor appointed temporary agents.

SECTION 3. Amends Section 4003.001, Insurance Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that, unless a staggered renewal system is adopted under Section 4003.002 (Staggered Renewal System), each license issued, rather than each agent license issued, or renewed by TDI under Chapter 981 (Surplus Lines Insurance) or Subtitle A (Administration of the Texas Department of Insurance), B (Discipline and Enforcement), or C (Programs Affecting Multiple Lines of Insurance) and not suspended or revoked by the commissioner expires on:

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

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

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

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

(c) Provides that, if a person holds more than one license, all licenses issued to the person expire on the earliest expiration date of the licenses held. Provides that, thereafter, all licenses expire in accordance with Subsection (a).

(d) Prohibits the commissioner, notwithstanding Section 4003.002(b) (requiring that license fees be prorated so that each license holder pays only that portion of the license fee allocable to the period during which the license is valid for the licensing period in which the license expiration is changed), from prorating the initial application fee for a license based on the expiration period of the license under Subsection (c).

SECTION 4. Amends Section 4003.006, Insurance Code, as follows:

Sec. 4003.006. CONTINUATION OF ORIGINAL LICENSE. Provides that the original license of a person who has applied for license renewal in compliance with Section 4003.004, rather than Section 4003.004, remains in effect from the date the renewal application is filed until the date the license is not renewed under Section 4004.055. Makes nonsubstantive changes.

SECTION 5. Amends Section 4003.008(b), Insurance Code, to require the person to pay to TDI a fee equal to the license application fee.

SECTION 6. Amends Section 4004.051(a), Insurance Code, to require each individual who holds a license issued by TDI, except as provided by Section 4004.052 (Extensions and Exemptions) or other law, to complete, as a condition of licensure, continuing education as provided by this chapter.

SECTION 7. Amends Section 4004.053(a), Insurance Code, as follows:

(a) Requires an individual who holds a general life, accident, and health license, a life agent license, a life and health insurance counselor license, an adjuster license, a managing general agent license, a general property and casualty license, or a personal lines property and casualty license to complete 24 hours of continuing education during the license period, rather than 15 hours of continuing education annually. Provides that if the individual holds more than one license for which continuing education is otherwise required, the individual is not required to complete more than 24 continuing education hours for all licenses during the license period, rather than more than 15 continuing education hours annually.

SECTION 8. Amends Subchapter B, Chapter 4004, Insurance Code, by adding Section 4004.055, as follows:

Sec. 4004.055. CONSEQUENCES OF FAILURE TO COMPLETE CONTINUING EDUCATION REQUIREMENT. (a) Prohibits TDI from renewing a license issued under this title if the license holder fails to:

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

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

(b) Prohibits TDI from issuing a new license under this title to an individual who was previously licensed under this title if the individual fails to:

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

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

(c) Provides that completion of continuing education after expiration of a license is not a defense in a disciplinary action under Section 4005.101 (Grounds for License Denial or Disciplinary Action), Section 4005.109 (Fines), or another provision of this code against an individual who failed to complete continuing education as required by this chapter.

SECTION 9. Amends Section 4004.101(a), Insurance Code, to require TDI to certify continuing education programs for agents and adjusters.

SECTION 10. Amends Subchapter C, Chapter 4004, Insurance Code, by adding Section 4004.105, as follows:

Sec. 4004.105. ADJUSTER CONTINUING EDUCATION PROGRAM CONTENTS. Requires that a continuing education program for adjusters licensed under Chapter 4101 (Insurance Adjusters) include education relating to:

(1) Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices);

(2) Chapter 547 (False Advertising by Unauthorized Insurers);

(3) Subchapter A (Unfair Claim Settlement Practices), Chapter 542 (Processing and Settlement of Claims);

(4) Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code; and

(5) any other similar laws specified by TDI.

SECTION 11. Amends Section 4005.105(d), Insurance Code, to provide that Subsections (b) and (c) do not apply, rather than Subsection (c) does not apply, to an applicant whose license application was denied or revoked for failure by the applicant to complete continuing education or pay an applicable fine under Section 4004.055(a). Makes nonsubstantive changes.

SECTION 12. Amends Section 4005.109, Insurance Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Provides that a violation for which a fine may be assessed under this section includes a failure to obtain the total number of continuing education hours before the expiration date of a license, rather than renewal date of a license.

(b-1) Prohibits the aggregate amount of fines assessed under Subsection (b)(1) from exceeding \$500 for a licensing period.

SECTION 13. Amends Subchapter B, Chapter 4056, Insurance Code, by adding Section 4056.059, as follows:

Sec. 4056.059. TRANSITION TO RESIDENT AGENT LICENSE. (a) Provides that this section applies only to an individual who is a nonresident agent licensed under Section 4056.052 (Issuance of License to Nonresident Agent Licensed in Other State) and who has moved from the other state that licensed the individual to this state.

(b) Authorizes a nonresident agent to apply to TDI for a comparable license for residents of this state. Requires that an application include:

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

(2) 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; and

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

(c) Requires TDI, if a nonresident agent submits a satisfactory application in accordance with Subsection (b), to issue a comparable resident agent license to the agent and revoke the agent's nonresident agent license.

SECTION 14. Amends Sections 4101.057(a), (b), and (d), Insurance Code, as follows:

(a) Requires TDI to set and collect a nonrefundable license application fee in an amount not to exceed \$50 before issuing or renewing a license under this chapter.

(b) Requires an applicant for a renewal license to remit the fee required by Subsection (a) before the expiration of the license being renewed, rather than biennially after the issuance of the original license. Requires an applicant for a renewal license, if the applicant's license has been expired for not more than 90 days, to remit, in addition to the fee assessed under Subsection (a), a fee equal to one-half of the original application fee, rather than license fee.

(d) Requires TDI to set and collect a duplicate license application fee before issuing a duplicate license requested by an adjuster.

SECTION 15. Amends Section 4101.059(a), Insurance Code, as follows:

(a) Requires a licensed adjuster to participate in a continuing education program under Chapter 4004 (Continuing Education), rather than a continuing education program relating to consumer protection, to renew a license under this chapter. Deletes existing text requiring that the program include education relating to consumer protection laws, including Chapter 541; Chapter 547; Subchapter A, Chapter 542; Subchapter E, Chapter 17, Business & Commerce Code; and any other similar laws specified by TDI.

SECTION 16. Amends Section 4101.061, Insurance Code, as follows:

Sec. 4101.061. EXPIRATION; RENEWAL. Provides that expiration and renewal of a license issued under this chapter are governed by Sections 4003.001 (License Expiration) and 4004.055, rules adopted by the commissioner, and, rather than or, any applicable provision of this code or another insurance law of this state.

SECTION 17. Amends Section 4102.062, Insurance Code, as follows:

Sec. 4102.062. EXPIRATION. Provides that a license issued under this chapter expires as provided by Chapter 4003 (License Expiration and Renewal), rather than expires on the second anniversary of the date of issuance, unless suspended or revoked by the commissioner.

SECTION 18. Amends Section 4102.064, Insurance Code, as follows:

Sec. 4102.064. RENEWAL OF UNEXPIRED LICENSE. (a) Requires that a completed renewal application be accompanied by a renewal application fee in the amount determined by the commissioner under Section 4102.066(b) (requiring the amount of the fee for the renewal of a license or a certificate issued under this chapter to be determined by rule by the commissioner).

(b) Requires a license holder to submit the completed renewal application, evidence of compliance with the continuing education requirements, and the renewal application fee to the commissioner not later than the 30th day before the second anniversary date of the license.

(c) Provides that on the filing of a completed renewal application, a renewal application fee, and, if applicable, evidence of compliance with the continuing education requirements, the original license continues in force until the license is not renewed under Section 4004.055. Makes nonsubstantive changes.

SECTION 19. Amends Section 4102.065, Insurance Code, as follows:

Sec. 4102.065. RENEWAL OF EXPIRED LICENSE. (a) Authorizes a person whose license has been expired for 90 days or less to renew the license by submitting to TDI evidence of compliance with the continuing education requirements and eligibility for renewal under Section 4004.055, and paying to TDI the required renewal application fee and an additional fee that is equal to one-half of the renewal application fee for the license.

(b) Provides that, except as provided by Section 4004.055, a person whose license has been expired for more than 90 days but less than one year may not renew the license but is entitled to a new license without taking the applicable examination if the person submits to TDI the license application fee, and an additional fee equal to one-half of the license application fee. Makes a nonsubstantive change.

(c) Prohibits a person whose license has been expired for one year or more from renewing the license. Authorizes the person to obtain a new license by:

- (1) submitting to reexamination, if examination is required for original issuance of the license;
- (2) complying with the requirements and procedures for obtaining an original license; and
- (3) if applicable, submitting evidence of completion of any outstanding continuing education requirement related to the expired license.

Makes nonsubstantive changes.

(d) Authorizes TDI to renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in continual practice in the other state up to and including the date of the application. Requires the person to pay to TDI a fee that is equal to the license application fee.

SECTION 20. Amends Section 4102.109(a), Insurance Code, as follows:

(a) Requires each license holder to annually complete at least 24 hours of continuing education during the license period, rather than 15 hours of continuing education courses. Requires the commissioner by rule to prescribe the requirements for continuing education courses under this section.

SECTION 21. (a) Provides that Sections 4001.006, 4003.001, 4003.008, 4101.057, 4101.061, 4102.062, 4102.064, and 4102.065, Insurance Code, as amended by this Act, apply only to a license issued or renewed on or after January 1, 2016. Provides that a license issued or renewed before January 1, 2016, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

- (1) each license issued to a person that is not an individual expires on the expiration date of the license with the longest remaining term held by that person on January 1, 2016;
- (2) each license issued to an individual expires, or may be extended to expire, on the individual's birthday in the year after the expiration date of the license with the longest remaining term held by that person on January 1, 2016; and
- (3) after a license expires as described by Subdivision (1) or (2) of this subsection, the license renews and expires as provided by Section 4003.001, Insurance Code, as amended by this Act.

(c) Prohibits TDI, to the extent that the term of an existing license is extended under this section, from charging an additional fee or requiring a renewal application before the renewal date established under this section.

(d) Provides that, except as provided by Subsection (e) of this section, the change in law made by the amendments listed in Subsection (a) of this section and the provisions of this section do not change the continuing education requirements for a license issued or renewed on or after January 1, 2016. Provides that, except as otherwise provided by provisions of this Act other than this section and the amendments listed in Subsection (a) of this section, the continuing education requirements for a license issued or renewed before January 1, 2016, are governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(e) Prohibits a licensee from being required to complete additional continuing education hours for a license during any period the license was extended under this section beyond its original expiration date.

SECTION 22. Provides that Sections 4004.053 and 4102.109, Insurance Code, apply only to continuing education requirements for a license issued or renewed on or after the effective date of this Act. Makes application of this Act to those sections prospective.

SECTION 23. Provides that Section 4004.055, Insurance Code, as added by this Act, and Sections 4004.051, 4005.105, and 4005.109, Insurance Code, as amended by this Act, apply only to completion of continuing education requirements for a license issued or renewed on or after November 1, 2015. Makes application of this Act to those sections prospective.

SECTION 24. Provides that Section 4056.059, Insurance Code, as added by this Act, applies only to a nonresident agent who relocates to this state on or after the effective date of this Act. Makes application of this Act to that section prospective.

SECTION 25. Effective date: September 1, 2015.