

## CHAPTER 841

## S.B. No. 1238

An Act relating to the regulation of certain insurance agents, health maintenance organizations, prepaid legal agents, and insurance adjusters; relating to licensing, examinations, and fees; amending the Insurance Code, as amended, by making amendments to the following articles: 3.75, 9.36, 9.43, 9.56, 21.07, 21.14, and 23.29 and by adding Article 21.01-1; making amendments to the Texas Health Maintenance Organization Act, as amended; to Chapter 29, Acts of the 54th Legislature, Regular Session, 1955, as amended; to Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended; to Chapter 757, Acts of the 60th Legislature, Regular Session, 1967, as amended; and to Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Articles 20A.15, 21.07-2, 21.07-1, 21.07-3, and 21.07-4, *Vernon's Texas Insurance Code*).

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Subsection (b), Section 7, Article 3.75, *Insurance Code*, is amended to read as follows:

“(b) The Commissioner of Insurance shall collect in advance from variable agent applicants a *nonrefundable* license fee in an amount not to exceed \$50 ~~and~~. *Unless the State Board of*

*Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall collect in advance from variable agent applicants an examination fee in an amount not to exceed \$20. The State Board of Insurance shall determine the amount of the fees. A new examination fee shall be paid for each and every examination. The examination fee shall not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the Commissioner's approval. All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this section and Article 21.07-1, Insurance Code, as amended."*

**SECTION 2.** Subsection (d), Section 7, Article 3.75, Insurance Code, is amended to read as follows:

*"(d) Licenses which have not expired or which have not been suspended or revoked may be renewed by filing with the State Board of Insurance a renewal application and paying the renewal fee set by the board [upon request in writing of the agent and payment of a renewal fee] in an amount not to exceed \$50 [-] on or before the expiration date of the license. If a license has been expired for not longer than 90 days, the license may be renewed by paying to the board the required renewal fee and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by paying to the board all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner shall send written notice of the impending license expiration to the licensee at his last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance."*

**SECTION 3.** Subsection (e), Section 7, Article 3.75, Insurance Code, is amended to read as follows:

*"(e) Any agent licensed under this article may represent and act as an agent for more than one insurance carrier any time while his or its license is in force, if he or it so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him or it to act as agent for an additional insurance carrier or carriers. Such notice must set forth [for] the insurance carrier or carriers which the agent is then licensed to represent and shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment that said insurance carrier desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent or company shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice. All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this article and Article 21.07-1, Insurance Code, as amended."*

**SECTION 4.** Section 7, Article 3.75, Insurance Code, is amended by adding Subsection (f) to read as follows:

*"(f) DUPLICATE LICENSE; FEE. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee."*

**SECTION 5.** Section A, Article 9.36, Insurance Code, as amended, is amended to read as follows:

*"A. Before an initial license is issued to any person, firm, association or corporation to act as an agent within the State of Texas for any title insurance company, there shall first be filed by the title insurance company with the Board an application for agent's license, on forms to be provided by the Board, accompanied by a nonrefundable license fee in an amount not to exceed Fifty Dollars (\$50) as determined by the Board, which fee including license renewal fees shall be deposited in the state treasury to the credit of the State Board of Insurance operating fund to be used by the State Board of Insurance to enforce the provisions of this article and all laws of this state governing and regulating title agents for such insurance companies. [~~On initial application if an applicant fails to qualify for, or is refused a license, the license fee shall be refunded.~~] The application shall be signed and duly sworn to by the title insurance company and the proposed agent. Such application shall contain the following:*

“(1) That the proposed agent, if an individual, is a bona fide resident of Texas; or if a firm or association, that it is composed wholly of Texas residents; or if a corporation, that it is a Texas corporation or a foreign corporation which has been authorized to do business in Texas; and

“(2) That the proposed agent (and if a corporation, its managerial personnel) has reasonable experience or instruction in the field of title insurance; and

“(3) That the proposed agent is known to the title insurance company to have a good business reputation and is worthy of the public trust and said title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

“(4) That the proposed agent qualified as a title insurance agent as defined in this Act.

“The Board shall grant such license if it determines from the application and its own investigation that the foregoing requirements have been met.

“*The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*”

SECTION 6. Article 9.43, Insurance Code, as amended, is amended to read as follows:

“Article 9.43. APPLICATION FOR ESCROW OFFICER’S LICENSE

“A. Before an initial license is issued to any person to act as escrow officer within the State of Texas for any title insurance agent, there shall be first filed by such title insurance agent with the Board an application for an escrow officer’s license on forms provided by the Board, accompanied by a *nonrefundable* license fee in an amount not to exceed Fifty Dollars (\$50) as determined by the Board, which fees including license renewal fees under Article 9.42 shall be deposited in the state treasury to the credit of the State Board of Insurance operating fund to be used by the State Board of Insurance to enforce the provisions of this article and all laws of this state governing and regulating escrow officers for such title insurance agents. [~~In the event an applicant fails to qualify for, or is refused a license, the license fee shall be refunded.~~] The application shall be signed and duly sworn to by such title insurance agent and by the proposed escrow officer.

“B. Such application shall contain the following:

“(1) that the proposed escrow officer is a natural person and a bona fide resident of the State of Texas;

“(2) that the proposed escrow officer has reasonable experience or instruction in the field of title insurance;

“(3) that the proposed escrow officer is known to the agent to have a good business reputation and is worthy of the public trust and the agent knows of no fact or condition which would disqualify him from receiving a license;

“(4) that the proposed escrow officer qualifies as an escrow officer as defined in this Act.

“C. The Board shall grant such license, if it determines from the application and its own investigation that the foregoing requirements have been met.

“*D. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*”

SECTION 7. Subsection (a), Section 6, Article 9.56, Insurance Code, as amended, is amended to read as follows:

“(a) Before an initial license is issued to any Texas licensed attorney to act as a title attorney within the State of Texas for an attorney’s title insurance company, there shall first be filed by the attorney’s title insurance company with the board an application for a title attorney’s license, on forms to be provided by the board, accompanied by a *nonrefundable* fee in an amount not to exceed \$50 as determined by the board. The application shall be signed and duly sworn to by the attorney’s title insurance company and the applicant title attorney. Such application shall contain the following:

“(1) that the applicant title attorney is a bona fide licensed Texas attorney, resident of Texas; and

“(2) that the applicant title attorney is actively engaged in the practice of law; and

“(3) that the applicant title attorney is known to the attorney’s title insurance company to have a good business reputation, to be a current member of the State Bar of Texas, in good standing, and is worthy of the public trust and said attorney’s title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

“(4) that the applicant title attorney is qualified as defined in this Article 9.56 of this Chapter 9.

"The board shall grant such title attorney's license if it determines from the application and its own investigation that the foregoing requirements have been met.

*"The Commissioner of Insurance shall collect in advance from such licensees requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee."*

**SECTION 8.** Section 15, Texas Health Maintenance Organization Act, as amended (Article 20A.15, Vernon's Texas Insurance Code), is amended by amending Subsection (b) to read as follows:

"(b) The Commissioner of Insurance shall collect in advance from health maintenance organization agent applicants a *nonrefundable* license fee in an amount not to exceed \$50 as determined by the board. *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall also collect from such applicants [and] an examination fee in an amount not to exceed \$20 as determined by the board. A new examination fee shall be paid for each examination. The examination fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the commissioner's approval.*"

**SECTION 9.** Section 15, Texas Health Maintenance Organization Act, as amended (Article 20A.15, Vernon's Texas Insurance Code), is amended by amending Subsection (d) to read as follows:

"(d) Licenses which have not expired or been suspended or revoked may be renewed *by filing with the State Board of Insurance a renewal application and by paying a renewal fee [upon written request and payment by the agent of a renewal fee] in an amount not to exceed \$50 as determined by the board on or before the expiration of the license.*"

**SECTION 10.** Section 15, Texas Health Maintenance Organization Act, as amended (Article 20A.15, Vernon's Texas Insurance Code), is amended by amending Subsection (e) to read as follows:

"(e) Any agent licensed under this section may represent and act as an agent for more than one health maintenance organization at any time while the agent's license is in force. Any such agent and the health maintenance organization involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing the agent to act as agent for an additional health maintenance organization or health maintenance organizations. Such notice must set forth the health maintenance organization or health maintenance organizations which the agent is then licensed to represent and shall be accompanied by a certificate from each health maintenance organization to be named in each additional appointment that said health maintenance organization desires to appoint the applicant as its agent. This notice shall contain such other information as the State Board of Insurance may require. The agent shall be required to pay a *nonrefundable* fee in an amount not to exceed \$16 as determined by the board for each additional appointment applied for, which fee shall accompany the notice."

**SECTION 11.** Section 15, Texas Health Maintenance Organization Act, as amended (Article 20A.15, Vernon's Texas Insurance Code), is amended by amending Subsection (j) to read as follows:

"(j) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this section, the commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this section, the commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.*"

**SECTION 12.** Section 15, Texas Health Maintenance Organization Act, as amended (Article 20A.15, Vernon's Texas Insurance Code), is amended by adding Subsection (m) to read as follows:

*"(m) DUPLICATE LICENSE; FEE. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee."*

SECTION 13, Subsection (b), Section 2, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“(b) The Board shall issue a license to a corporation if the Board finds:

“(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as an agent covered by this Article;

“(2) That every officer, director, and shareholder of the corporation is individually licensed under the provisions of this Article; and

“(3) That such corporation will have the ability to pay any sums up to \$25,000 which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error, or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business under this Article. The term ‘customer’ means any person, firm, or corporation to whom such corporation sells or attempts to sell a policy of insurance, or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

“(A) an errors and omissions policy insuring such corporation against errors and omissions in at least the sum of \$50,000 with no more than a \$2,500 deductible feature issued by an insurance company licensed to do business in the State of Texas or, if a policy cannot be obtained from a company licensed to do business in Texas, a policy issued by a company not licensed to do business in Texas on filing an affidavit with the State Board of Insurance stating the inability to obtain coverage and receiving the Board’s approval;

“(B) a bond executed by such corporation as principal and a surety company authorized to do business in this State, as surety, in the principal sum of \$25,000, payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

“(C) a deposit of cash or securities of the class authorized by Articles 2.08 and 2.10, Insurance Code, as amended, having a fair market value of \$25,000 with the State Treasurer. The State Treasurer is directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit may be withdrawn only upon filing with the Board evidence satisfactory to it that the corporation has withdrawn from business and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as provided. Securities so deposited may be exchanged from time to time for other qualified securities.

“A binding commitment to issue such a policy or bond, or the tender of such securities, shall be sufficient in connection with any application for license.

“Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of an agent under this Article without obtaining a license.

“If at any time, any corporation holding an agent’s license does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as an agent shall be cancelled or denied in accordance with the provisions of Sections 10 and 11 of this Article; provided, however, that should any person who is not a licensed agent under this Article acquire shares in such a corporation by devise or descent, he shall have a period of 90 days from date of acquisition within which to obtain a license or to dispose of the shares of a person licensed under this Article.

“Should such an unlicensed person acquire shares in a corporation and not dispose of them within a period of 90 days to a licensed agent, then they must be purchased by the corporation for their book value, that is, the value of said shares of stock as reflected by the regular books and records of said corporation, as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

“Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the board of directors and such shareholder or his personal representative, or at a price and upon such terms as may be provided in the articles of incorporation, the bylaws, or an existing contract entered into between the shareholders of the corporation.

“Each corporation licensed as an agent under this Article shall file, under oath, a list of the names and addresses of all of its officers, directors, and shareholders with its [yearly] application for renewal license.

“Each corporation shall [immediately] notify the State Board of Insurance upon any change in its officers, directors, or shareholders not later than the 30th day after the date on which the change becomes effective.

"No other corporation may own any interest in a corporation licensed under this Article, and each owner of an interest in a corporation licensed under this Article shall be a natural person who holds a valid license issued under this Article."

**SECTION 14.** Article 21.07, Insurance Code, is amended by adding Section 3B to read as follows:

*"3B. Persons who reside in a town through which the state line may run and whose residence is located in the town in the adjoining state may be licensed as resident agents if their business office is being maintained in this state."*

**SECTION 15.** Subsections (a) and (b), Section 4, Article 21.07, Insurance Code, as amended, are amended to read as follows:

"(a) Each applicant for a license under the provisions of this Article 21.07, Texas Insurance Code, 1951, as amended, who desires to write health and accident insurance, other than as excepted in Section 3 of this Article 21.07, within this State shall submit to a personal written examination prescribed by the State Board of Insurance and administered in the English or Spanish language [by the State Board of Insurance] to determine his competency with respect to health and accident insurance and his familiarity with the pertinent provisions of the laws of the State of Texas relating to health and accident insurance, and shall pass the same to the satisfaction of the State Board of Insurance; except that no written examination shall be required of:

"(i) An applicant for the renewal of a license issued by the State Board of Insurance pursuant to Article 21.07, Texas Insurance Code, 1951, as amended, which is currently in force at the effective date of this Act;

"(ii) An applicant whose license expired less than one year prior to the date of application may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided such prior license granted such applicant the right to sell health and accident insurance; or

"(iii) An applicant that is a corporation.

"(b)(i) The State Board of Insurance shall, within sixty (60) days from the effective date of this Act, establish reasonable rules and regulations with respect to the scope, type and conduct of such written examination and the times and places within this State where such examinations shall be held [~~applicants shall, however, be permitted to take such examinations at least once in each week at the office of the State Board of Insurance~~]. The rules and regulations of the State Board of Insurance shall designate text books, manuals and other materials to be studied by applicants in preparation for examination pursuant to this Section. Such text books, manuals and other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants upon request therefor and payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the text books, manuals and other materials designated or prepared by the State Board of Insurance pursuant to this Section and such questions shall be limited to and substantially similar to the questions relating to health and accident insurance contained in the written examination prescribed by the State Board of Insurance pursuant to Article 21.07-1 of this Insurance Code. *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the [The] State Board of Insurance shall charge each applicant a fee in an amount not to exceed \$20 as determined by the State Board of Insurance for the privilege of taking such written examination and which fee shall not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received board approval. A new examination fee shall be paid for each and every examination.*

"(ii) The State Board of Insurance may also establish reasonable rules and regulations whereby, in the discretion of the State Board of Insurance, any insurance carrier may be permitted to conduct written examinations for its agents who have received temporary licenses by appointment of such carrier, subject to such reasonable conditions, requirements and standards as the State Board of Insurance shall require and establish as a predicate for the granting of such authority and for the reasonable supervision, examination and inspection of each such carrier's procedures in giving examinations to its temporary licensees, but provided further that such authority so granted to any insurance carrier to give such examinations may be terminated by the State Board of Insurance on notice and hearing if it shall find that such authorized insurance carrier shall have violated the conditions, requirements and standards required of such carrier to qualify to conduct written examinations."

**SECTION 16.** Subsection (f), Section 4, Article 21.07, Insurance Code, as amended, is amended to read as follows:

*“(f) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner of insurance shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner of insurance shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this article, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person’s performance on the examination.”*

**SECTION 17.** Subsection (a), Section 4A, Article 21.07, Insurance Code, as amended, is amended to read as follows:

*“(a) Each applicant for a license under the provisions of this Article 21.07, Insurance Code, as amended, who desires to write life insurance in excess of Five Thousand Dollars (\$5,000.00) upon any one life, other than as excepted in Section 3 of this Article 21.07, within this state shall submit to a personal written examination prescribed by the State Board of Insurance and administered in the English or Spanish language [by the State Board of Insurance] to determine his competency with respect to life insurance and his familiarity with the pertinent provisions of the laws of the State of Texas relating to life insurance and shall pass the same to the satisfaction of the State Board of Insurance; except that no written examination shall be required of an applicant that is a corporation.”*

**SECTION 18.** Subsection (b), Section 4A, Article 21.07, Insurance Code, as amended, is amended to read as follows:

*“(b)(i) The State Board of Insurance shall, within sixty (60) days from the effective date of this Act, establish reasonable rules and regulations with respect to the scope, type and conduct of such written examination and the times and places within this State where such examinations shall be held [~~; applicants shall, however, be permitted to take such examinations at least once in each week at the office of the State Board of Insurance~~]. The rules and regulations of the State Board of Insurance shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examination pursuant to this Section. Such textbooks, manuals and other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants upon request therefor and payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the textbooks, manuals and other materials designated or prepared by the State Board of Insurance pursuant to this Section. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the [The] State Board of Insurance shall charge each applicant a fee in an amount not to exceed \$20.00 for the privilege of taking such written examination and which fee shall not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours’ notice of an emergency situation to the State Board of Insurance and received board approval. A new examination fee shall be paid for each and every examination.*

*“(ii) The State Board of Insurance may also establish reasonable rules and regulations whereby, in the discretion of the State Board of Insurance, any insurance carrier may be permitted to conduct written examinations for its agents, subject to such reasonable conditions, requirements and standards as the State Board of Insurance shall require and establish as a predicate for the granting of such authority and for the reasonable supervision, examination and inspection of each such carrier’s procedures in giving examinations to its agents, but provided further that such authority so granted to any insurance carrier to give such examinations may be terminated by the State Board of Insurance on notice and hearing if it shall find that such authorized insurance carrier shall have violated the conditions, requirements and standards required of such carrier to qualify to conduct written examinations.”*

**SECTION 19.** Section 5, Article 21.07, Insurance Code, as amended, is amended to read as follows:

**“Section 5. FAILURE OF APPLICANT TO QUALIFY FOR LICENSE.** If the State Board of Insurance is not satisfied that the applicant for a license is trustworthy and of good

character, or, if applicable, that the applicant, if required to do so, has not passed the written examination to the satisfaction of the State Board of Insurance, the State Board of Insurance shall forthwith notify the applicant and the insurance carrier in writing that the license will not be issued to the applicant [~~; and return to said agent the fee for application for license and the fee for appointment.~~”

**SECTION 20.** Section 6, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“Section 6. AGENT MAY BE LICENSED TO REPRESENT ADDITIONAL INSURERS. Any agent licensed under this Article may represent and act as an agent for more than one insurance carrier at any time while his or its license is in force, if he or it so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him or it to act as agent for an additional insurance carrier or carriers. Such notice must set forth the insurance carrier or carriers which the agent is then licensed to represent, and shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment, that said insurance *company* [~~carrier~~] desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent shall be required to pay a *nonrefundable* fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice.”

**SECTION 21.** Subsection (b), Section 7, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“(b) Licenses which have not expired or which have not been suspended or revoked may be renewed by *filing with the State Board of Insurance a renewal application and paying the renewal fee set by the board, on or before the expiration of the license* [~~upon request in writing of the agent.~~”

**SECTION 22.** Subsection (e), Section 7, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“(e) [~~An unexpired license may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration date of the license.~~] If a license has been expired for not longer than 90 days, the license may be renewed by *filing with* [~~paying to~~] the State Board of Insurance the required *renewal application and paying the renewal fee set by the board* and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by *filing with* [~~paying to~~] the State Board of Insurance *the renewal application and paying* all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at his or its last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.”

**SECTION 23.** Subsection (b), Section 10, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“(b) Before any license shall be denied (except for failure to pass a required written examination), [~~or suspended or revoked, or the renewal thereof refused hereunder,~~] the Board shall give notice [~~of its intention so to do, by registered mail,~~] to the applicant for [~~; or holder of,~~] such license and the insurance carrier [~~whom he or it represents or~~] who desires that he or it be licensed. *Before any license shall be suspended or revoked or the renewal thereof refused hereunder, the Board shall give notice to the holder of such license and to any insurance carrier with whom the agent holds an appointment and whose business is directly involved in the subject matter of any allegations of wrongdoing leveled against such agent. The Board* [~~; and~~] shall set a date not less than twenty days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurance carrier may appear to be heard and produce evidence. In the conduct of such hearing, the Board or any regular salaried employee specially designated by it for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon its own initiative or upon the request of the applicant or licensee. Upon termination of such hearings, findings shall be reduced to writing and, upon approval by the Board, shall be filed in its office and notice of the findings sent by registered mail to the applicant or licensee and any [~~the~~] insurance carrier *that has notified the Board that it desires that such applicant be licensed or that it has appointed such agent* [~~concerned.~~”



**SECTION 24.** Subsection (a), Section 14, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“(a) It shall be the duty of the State Board of Insurance to collect from every agent of any insurance carrier writing insurance in the State of Texas under the provisions of this Article, a *nonrefundable* licensing fee and a *nonrefundable* [am] initial appointment fee, as provided in Subsection (b) of this section, for each and every appointment by any insurance carrier, which fees together with examination fees and renewal license fees shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund and shall be used by the State Board of Insurance to enforce the provisions of this Article and all laws of this State governing and regulating agents for such insurance carriers.

**SECTION 25.** Subsection (b), Section 19, Article 21.07, Insurance Code, as amended, is amended to read as follows:

“(b) The State Board of Insurance may, upon request of such insurer on application forms furnished by the State Board of Insurance and upon payment of a *nonrefundable* license fee in an amount not to exceed \$50 as determined by the State Board of Insurance, issue such license to such person which will be valid only for such limited representation of such insurer as provided herein. The application shall be accompanied by a certificate, on forms to be prescribed and furnished by the State Board of Insurance and signed by an officer or properly authorized representative of the insurance company the applicant proposes to represent, stating that the insurance company has investigated the character and background of the applicant and is satisfied that the applicant is trustworthy and qualified to hold himself out in good faith as an insurance agent, and that the insurance company desires that the applicant act as an insurance agent to represent the insurance company. The insurer shall also certify to the State Board of Insurance that it has provided the applicant with at least forty (40) hours of training, has tested the applicant and found the applicant qualified to represent the insurer, and that the insurer is willing to be bound by the acts of such applicant within the scope of such limited representation.”

**SECTION 26.** Article 21.07, Insurance Code, as amended, is amended by adding Section 20 to read as follows:

“*Section 20. DUPLICATE LICENSE; FEE. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*”

**SECTION 27.** Subsection (a), Section 4, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(a) Each applicant for a license to act as a life insurance agent within this State shall file with the Insurance Commissioner his or its written application on forms furnished by the Commissioner. The application shall be signed and duly sworn by the applicant. The prescribed form shall require the applicant to state his full name; residence; age; occupation and place of business for five years preceding date of the application; whether applicant has ever held a license to solicit life, or any other insurance in any State; whether he has been refused, or has had suspended or revoked a license to solicit life, or any other insurance in any State; what insurance experience, if any, he has had; what instruction in life insurance and in the insurance laws of this State he has had or expects to have; whether any insurer or general agent claims applicant is indebted under any agency contract, and if so, the name of the claimant, the nature of the claim and the applicant's defense thereto; whether applicant has had an agency contract cancelled and, if so, when, by what company or general agent and the reasons therefor; whether applicant will devote all or part of his efforts to acting as a life insurance agent, and, if part only, how much time he will devote to such work, and in what other business or businesses he is engaged or employed; whether, if the applicant is [a] married, *the applicant's spouse* [woman, her husband] has ever applied for or held a license to solicit life, or any other insurance in any State and whether such license has been refused, suspended, or revoked; and such other information pertinent to the licensing of such agent as the Insurance Commissioner in his discretion may prescribe. It is not intended that the Insurance Commissioner shall be authorized to deny a license to an applicant on the sole ground that he will act only part time as a life insurance agent.”

**SECTION 28.** Subsection (c), Section 4, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(c) The application, when filed, shall be accompanied by a *nonrefundable* filing fee in an amount not to exceed \$50 as determined by the State Board of Insurance and, in the case of applicants required to take an examination administered by the Commissioner of Insurance as

hereafter prescribed, unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, by an examination fee in an amount not to exceed \$20 as determined by the State Board of Insurance. ~~The [In the event an applicant fails to qualify for, or is refused a license, the filing fee shall be returned; the]~~ examination fee shall not be returned for any reason other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the Commissioner of Insurance and received the commissioner's approval. A new examination fee shall be paid for each and every examination."

**SECTION 29.** Subsection (d), Section 4, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

"(d) The Insurance Commissioner shall issue a license to a corporation if he finds:

"(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act or the Texas Professional Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as agent under this Act;

"(2) That every officer, director, and shareholder of the corporation is individually licensed as an agent under the provisions of this Act; and

"(3) That such corporation will have the ability to pay any sums up to \$25,000.00 which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error, or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business as under this Act. The term 'customer' as used herein shall mean any person, firm, or corporation to whom such corporation sells or attempts to sell a policy of insurance or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

"(A) An errors and omissions policy insuring such corporation against errors and omissions in at least the sum of \$50,000.00 with no more than a \$2,500.00 deductible feature issued by an insurance company licensed to do business in the State of Texas or, if a policy cannot be obtained from a company licensed to do business in Texas, a policy issued by a company not licensed to do business in Texas on filing an affidavit with the State Board of Insurance stating the inability to obtain coverage and receiving the Board's approval; or

"(B) A bond executed by such corporation as principal and a surety company authorized to do business in this State, as surety, in the principal sum of \$25,000.00, payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

"(C) A deposit of cash or securities of the class authorized by Articles 2.08 and 2.10 of the Insurance Code, having a fair market value of \$25,000.00 with the State Treasurer. The State Treasurer is hereby authorized and directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit may be withdrawn only upon filing with the Insurance Commissioner evidence satisfactory to it that the corporation has withdrawn from business and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as hereinbefore provided. Securities so deposited may be exchanged from time to time for other qualified securities.

"A binding commitment to issue such a policy or bond, or the tender of such securities, shall be sufficient in connection with any application for license.

"Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of an agent under this Act without obtaining a license.

"If at any time, any corporation holding a license under this Act does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as an agent shall be cancelled or denied in accordance with the provisions of Sections 12 and 13 of this Act; provided, however, that should any person who is not an agent licensed under this Act acquire shares in such a corporation by devise or descent, they shall have a period of 90 days from date of acquisition within which to obtain a license as an agent or to dispose of the shares to an agent licensed under this Act.

"Should such an unlicensed person acquire shares in such a corporation and not dispose of them within said period of 90 days to a licensed agent, then they must be purchased by the corporation for their book value, that is, the value of said shares of stock as reflected by the regular books and records of said corporation as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

“Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the board of directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the articles of incorporation, the bylaws, or an existing contract entered into between the shareholders of the corporation.

“Each corporation licensed as an agent under this Act shall file, under oath, a list of the names and addresses of all of its officers, directors, and shareholders with its ~~yearly~~ application for renewal license.

“Each corporation licensed as an agent under this Act shall ~~immediately~~ notify the State Board of Insurance upon any change in its officers, directors, or shareholders *not later than the 30th day after the date on which the change became effective.*

“No other corporation may own any interest in a corporation licensed under this Act, and each owner of an interest in a corporation licensed under this Act shall be a natural person who holds a valid license issued under this Act.

“No association, partnership, or any legal entity of any nature, other than an individual person or corporation, may be licensed as a life insurance agent.”

**SECTION 30.** Subsection (b), Section 5, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(b) The Commissioner shall establish rules and regulations with respect to the scope, type and conduct of such written examinations and the times and places within this State where they shall be held [~~; provided, that applicants shall be permitted to take such examinations at least once in each week at the office of the Commissioner, and at least once in each month in the county court house of the residence of the applicant.~~]. The rules and regulations of the Commissioner shall designate text books, manuals and other materials to be studied by applicants in preparation for examinations pursuant to this Section. Such text books, manuals or other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the Commissioner and distributed to applicants upon request therefor and payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the text books, manuals and other materials designated or prepared by the Commissioner pursuant to this Section.”

**SECTION 31.** Subsection (d), Section 5, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(d) An applicant other than a corporation for a license to act as a combination life insurance agent for a combination company, or as an industrial life agent for an industrial company, may, in lieu of taking and passing to the satisfaction of the Commissioner a personal written examination as provided in Sub-section (a) of this Section 5, submit to a personal written examination given by the combination or industrial insurer for which he is to be licensed, subject to the following definitions and conditions:

“(1) A combination life insurance agent is hereby defined as an agent writing both weekly premium life insurance on a debit basis and ordinary contracts of life insurance. An industrial life agent is an agent writing only weekly life insurance on a debit basis. A combination company is hereby defined as an insurer actually writing weekly premium life insurance on a debit basis and ordinary contracts of life insurance. An industrial company is an insurer writing only weekly premium life insurance on a debit basis.

“(2) Any combination or industrial insurer desiring to qualify to administer the examination to its agents shall file with the Commissioner a complete outline and explanation of the course of study and instruction to be given such applicants and the nature and manner of conducting the examinations of applicants and, after official approval thereof by the Commissioner, may administer such examinations.

“(3) The combination or industrial insurer shall certify as to each applicant that he has completed the approved course of study and instruction and has successfully passed the examination in writing without aid.

“(4) It shall be the duty of the Commissioner to investigate the manner and method of instruction and examination of each combination and industrial insurer as often as deemed necessary by the Commissioner and the Commissioner may, in his discretion, withdraw from any insurer the privilege of examining agents in lieu of the examination *prescribed in [administered by the Commissioner pursuant to]* Sub-section (a) of this Section 5.

“(5) The license to act as a life insurance agent issued to an applicant pursuant to the provisions of this Sub-section (d) shall be stamped **COMBINATION OR INDUSTRIAL LICENSE** on its face and shall automatically expire and be of no further force and effect when

the holder ceases to act as a combination or industrial agent for a combination or industrial company.”

**SECTION 32.** Subsection (e), Section 5, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(e) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner of insurance shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner of insurance shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this Act, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.*”

**SECTION 33.** Section 6, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“Section 6. **ISSUANCE OR DENIAL OF LICENSE.** [(a)] If the [Life Insurance] Commissioner is satisfied that the applicant is trustworthy and competent and after the applicant, if required to do so, has passed the written examination to the satisfaction of the Commissioner, a license shall be issued forthwith. If the [applicant has not passed the written examination, or if] license is denied for any of the reasons set forth in Section 12 of this Act, the [Life Insurance] Commissioner shall notify the applicant and the insurer in writing that the license will not be issued to the applicant.”

**SECTION 34.** Section 7, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended by adding Subsection (c) to read as follows:

“(c) *Persons who reside in a town through which the state line may run and whose residence is located in the town in the adjoining state may be licensed as resident agents if their business office is being maintained in this state.*”

**SECTION 35.** Subsection (a), Section 8, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(a) Any life insurance agent licensed in this state may represent and act as a life insurance agent for more than one legal reserve life insurance company at any time while his or its license is in force, if he or it so desires. Any such life insurance agent and the company involved must give notice to the Commissioner of Insurance of any additional appointment or appointments authorizing him or it to act as a life insurance agent for an additional legal reserve life insurance company or companies. Such notice must set forth the insurer or insurers which the agent is then licensed to represent, and shall be accompanied by a certificate from each insurer to be named in each additional appointment, that said insurer desires to appoint the applicant as its agent. This notice shall also contain such other information as the Commissioner may require. The agent shall be required to pay a *nonrefundable* fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice. Any insurer may file a request with the Insurance Commissioner for notification in the event any agent licensed to represent such insurer has given the Commissioner of Insurance notice of an additional appointment to represent another insurer; and in such event the Commissioner shall notify the insurer filing such request.”

**SECTION 36.** Subsection (b), Section 9, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(b) Licenses which have not expired or which have not been suspended or revoked, may be renewed by filing with the board a renewal application and paying the renewal fee set by the board on or before the expiration of the license [upon request in writing of the agent].”

**SECTION 37.** Subsection (f), Section 9, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

“(f) ~~[An unexpired license may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration date of the license.]~~ If a license has been expired for not longer than 90 days, the license may be renewed by *filing with [paying to]* the State Board of Insurance the required renewal *application and fee*, and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by *filing with [paying to]* the State Board of Insurance *the renewal application and* all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at his or its last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.”

**SECTION 38.** Subsection (b), Section 12, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon’s Texas Insurance Code), is amended to read as follows:

“(b) Before any license shall be denied (except for failure to pass a required written examination), ~~[or suspended or revoked, or the renewal thereof refused hereunder,]~~ the Board ~~[Insurance Commissioner]~~ shall give notice ~~[of his intention so to do, by registered mail,]~~ to the applicant for ~~;~~ ~~or holder of]~~ such license and the insurer ~~[whom he or it represents or]~~ who desires that he or it be licensed. *Before any license shall be suspended or revoked or the renewal thereof refused hereunder, the Board shall give notice to the holder of such license and to any insurance carrier with whom the agent holds an appointment and whose business is directly involved in the subject matter of any allegations of wrongdoing leveled against such agent. The Board [and] shall set a date not less than twenty days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurer may appear to be heard and produce evidence. In the conduct of such hearing, the Commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the Commissioner, shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and any insurance carrier that has notified the Board that it desires that such applicant be licensed or that it has appointed such agent [the insurer concerned].*”

**SECTION 39.** Subsection (c), Section 16, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon’s Texas Insurance Code), is amended to read as follows:

“(c) Each applicant for a license under this section who desires to act as an accident and health insurance agent within this state shall submit to a personal written examination prescribed by the State Board of Insurance and administered in the English or Spanish language ~~[by the State Board of Insurance]~~ to determine the applicant’s competency with respect to accident and health insurance and familiarity with the pertinent provisions of the health and accident insurance laws of this state. Except as provided by Subsection (d) of this section, each applicant must pass the examination to the satisfaction of the State Board of Insurance.”

**SECTION 40.** Subsection (e), Section 16, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon’s Texas Insurance Code), is amended to read as follows:

“(e) Within 60 days after the effective date of this section, the State Board of Insurance shall establish reasonable rules relating to the scope, type, and conduct of the written examination to be required of an applicant hereunder and the times and the places in this state where examinations will be held. ~~[Applicants also may take the examinations at least once in each week at the office of the State Board of Insurance.]~~”

**SECTION 41.** Subsection (g), Section 16, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon’s Texas Insurance Code), is amended to read as follows:

“(g) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the [The] State Board of Insurance shall charge each applicant a fee not to exceed \$25 for the privilege of taking the written examination, and the fee may not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours’ notice of an emergency situation to the State Board of Insurance and received approval of such failure to appear. A new examination fee shall be paid for each subsequent examination.*”

**SECTION 42.** Subsection (h), Section 16, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended to read as follows:

"(h) After the State Board of Insurance determines that an applicant has successfully passed the written examination or is exempt therefrom as provided in Subsection (d) above, and the board has determined the applicant to be of good character and reputation, has been appointed to act as an agent by one or more legal reserve life insurance companies, and has paid a *nonrefundable* license fee not to exceed \$50 as determined by the board [of \$25], the board shall issue a license to such applicant authorizing the applicant to act as an accident and health insurance agent for the appointing insurance carrier."

**SECTION 43.** Chapter 213, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-1, Vernon's Texas Insurance Code), is amended by adding Section 17 to read as follows:

*"Section 17. DUPLICATE LICENSE; FEE. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee."*

**SECTION 44.** Section 5, Chapter 29, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 21.07-2, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 5. The licensing and regulation of a Life Insurance Counselor, as that term is defined herein, shall be in the same manner and subject to the same requirements as applicable to the licensing of agents of legal reserve life insurance companies as provided in Article 21.07-1 of the Texas Insurance Code, 1951, or as provided by any existing or subsequent applicable law governing the licensing of such agents, and all the provisions thereof are hereby made applicable to applicants and licensees under this Act, except that a Life Insurance Counselor shall not advertise in any manner and shall not circulate materials indicating professional superiority or the performance of professional service in a superior manner; provided, however, that an appointment to act for an insurer shall not be a condition to the licensing of a Life Insurance Counselor.

"In addition to the above requirements, the applicant for licensure as a Life Insurance Counselor shall submit to the Commissioner evidence of high moral and ethical character, documentation that he has been licensed as a life insurance agent in excess of three years. After the Insurance Commissioner has satisfied himself as to these requirements, he shall then cause the applicant for a Life Insurance Counselor's license to sit for an examination which shall include the following:

"Such examination shall consist of five subjects and subject areas:

- "(a) Fundamentals of life and health insurance;
- "(b) Group life insurance, pensions and health insurance;
- "(c) Law, trust and taxation;
- "(d) Finance and economics; and
- "(e) Business insurance and estate planning.

"No license shall be granted until such individual shall have successfully passed each of the five parts above enumerated. Such examinations may be given and scheduled by the Commissioner at his discretion. Individuals currently holding Life Insurance Counselor licenses issued by the Texas State Board of Insurance, who do not have the equivalent of the requirements above listed, shall have one year from the date of enactment hereof to so qualify.

*"Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this Section, the Commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the Commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the Commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this Section, the Commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination."*

**SECTION 45.** Section 6, Chapter 757, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 21.07-3, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 6. Each applicant for a license shall submit to, and must pass to the satisfaction of the commissioner, a written examination compiled [and administered] by the commissioner

testing applicant's competence with respect to insurance and familiarity with the insurance laws of this state."

**SECTION 46.** Section 8, Chapter 757, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 21.07-3, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 8. (a) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, all [All] examinations provided hereunder shall be conducted by the commissioner at such times and places as prescribed by the commissioner, but not less than four times annually. Applicants shall be given ten days' notice of the time and place of such examinations. All examinations shall be in writing.*

"(b) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this section, the commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day.*

"(c) *If requested in writing by a person who fails the licensing examination administered under this section, the commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.*"

**SECTION 47.** Section 10, Chapter 757, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 21.07-3, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 10. *Any applicant for a managing general agent's license shall pay a nonrefundable fee at the time application is made in an amount not to exceed \$30 as determined by the State Board of Insurance.*

"*Any applicant [application] for the renewal of a managing general agent's license shall pay a nonrefundable fee at the time application is made in an amount not to exceed \$50 as determined by the State Board of Insurance.*

"*The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*"

**SECTION 48.** Subsection (c), Section 11, Chapter 757, Acts of the 60th Legislature, Regular Session, 1967 (Article 21.07-3, Vernon's Texas Insurance Code), is amended to read as follows:

"(c) *Each appointment to act as a managing general agent must be reported to the commissioner on forms required by him. For each additional appointment for which the agent applies, the agent shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance.*"

**SECTION 49.** Section 10, Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 21.07-4, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 10. (a) *Each applicant for a license as an adjuster shall, prior to the issuance of such license, personally take and pass, to the satisfaction of the commissioner, an examination [given by the commissioner] as a test of his qualifications and competency; but the requirement of an examination shall not apply to any of the following:*

"(1) *an applicant who for the 90-day period next preceding the effective date of this Act has been principally engaged in the investigation, adjustment, or supervision of losses and who is so engaged on the effective date of this Act;*

"(2) *an applicant for the renewal of a license issued hereunder; or*

"(3) *an applicant who is licensed as an insurance adjuster, as defined by this statute, in another state with which state a reciprocal agreement has been entered into by the commissioner;*

"(4) *any person who has completed a course or training program in adjusting of losses as prescribed and approved by the commissioner and is certified to the commissioner upon completion of the course that such person has completed said course or training program, and has passed an examination testing his knowledge and qualification, as prescribed by the commissioner.*

"(b) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this section, the commissioner shall send notice to each examinee of the results of the examination. If*

an examination is graded or reviewed by a [national] testing service, the commissioner shall send, *or require the testing service to send*, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, *or require the testing service to send*, notice to the examinee of the reason for the delay before the 90th day.

“(c) If requested in writing by a person who fails the licensing examination administered under this section, the commissioner shall send, *or require the testing service to send*, to the person an analysis of the person’s performance on the examination.”

**SECTION 50.** Subsection (a), Section 12, Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 21.07-4, Vernon’s Texas Insurance Code), is amended to read as follows:

“(a) The answers of the applicant to any such examination shall be *made in writing* [~~written~~] by the applicant [~~under supervision of the commissioner~~]. Any such written examination may be supplemented by oral examination.”

**SECTION 51.** Subsection (a), Section 14, Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 21.07-4, Vernon’s Texas Insurance Code), is amended to read as follows:

“(a) The commissioner shall collect in advance the following *nonrefundable* fees for an adjuster’s license and examination:

“(1) Insurance adjuster’s license, each year, in an amount not to exceed \$50 as determined by the board.

“(2) For each examination, *if given* by the board, a fee, in an amount not to exceed \$50 as determined by the board.”

**SECTION 52.** Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 21.07-4, Vernon’s Texas Insurance Code), is amended by adding Section 23 to read as follows:

“*Section 23. DUPLICATE LICENSE; FEE. The Commissioner of Insurance shall collect in advance from adjusters requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*”

**SECTION 53.** Subsection (c), Section 3, Article 21.14, Insurance Code, as amended, is amended to read as follows:

“(c) The Board shall issue a license to a corporation if the Board finds:

“(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act or the Texas Professional Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as a local recording agent; and

“(2) That every officer, director and shareholder of the corporation is individually licensed as a local recording agent under the provisions of this Insurance Code, except as may be otherwise permitted by this Section or Section 3a of this article, *and that no shareholder of the corporation is a corporate entity*; and

“(3) That such corporation will have the ability to pay any sums up to Twenty-Five Thousand Dollars (\$25,000.00) which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business as a local recording agent. The term ‘customer’ as used herein shall mean any person, firm or corporation to whom such corporation sells or attempts to sell a policy of insurance, or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

“(a) An errors and omissions policy issued by an insurance company licensed to do business in the State of Texas insuring such corporation against errors and omissions in at least the sum of One Hundred Thousand Dollars (\$100,000.00), with no more than a Five Thousand Dollars (\$5,000.00) deductible feature; or

“(b) A bond executed by such corporation as principal and a surety company authorized to do business in this state, as surety, in the principal sum of Twenty-Five Thousand Dollars (\$25,000.00), payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

“(c) A deposit of cash or securities of the class authorized by Articles 2.08 and 2.10 of this Code, having a fair market value of Twenty-Five Thousand Dollars (\$25,000.00) with the State Treasurer. The State Treasurer is hereby authorized and directed to accept and receive such



deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit may be withdrawn only upon filing with the Board evidence satisfactory to it that the corporation has withdrawn from business, and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as hereinbefore provided. Securities so deposited may be exchanged from time to time for other qualified securities.

"A binding commitment to issue such a policy or bond, or the tender of such securities, shall be sufficient in connection with any application for license.

"Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of a local recording agent without obtaining a local recording agent's license. The Board shall not require a corporation to take the examination provided in Section 6 of this Article 21.14.

"If at any time, any corporation holding a local recording agent's license does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as a local recording agent shall be cancelled or denied in accordance with the provisions of Sections 16, 17 and 18 of this Article 21.14; provided, however, that should any person who is not a licensed local recording agent acquire shares in such a corporation by devise or descent, they shall have a period of ninety (90) days from date of acquisition within which to obtain a license as a local recording agent or to dispose of the shares to a licensed local recording agent except as may be permitted by Section 3a of this article.

"Should such an unlicensed person, except as may be permitted by Section 3a of this article, acquire shares in such a corporation and not dispose of them within said period of ninety (90) days to a licensed local recording agent, then they must be purchased by the corporation for their book value, that is, the value of said shares of stock as reflected by the regular books and records of said corporation, as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

"Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the Board of Directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the Articles of Incorporation, the Bylaws, or an existing contract entered into between the shareholders of the corporation.

"Each corporation licensed as a local recording agent shall file, under oath, a list of the names and addresses of all of its officers, directors and shareholders with its [~~yearly~~] application for renewal license.

"Each corporation licensed as a local recording agent shall [~~immediately~~] notify the State Board of Insurance upon any change in its officers, directors or shareholders *not later than the 30th day after the date on which the change became effective.*

"The term 'firm' as it applies to local recording agents in Sections 2, 12 and 16 of this Article 21.14 shall be construed to include corporations."

**SECTION 54.** Section 7, Article 21.14, Insurance Code, is amended to read as follows:

"Section 7. *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, all [All] examinations provided by this article shall be conducted by the State Board of Insurance, and shall be held not less frequently than one each sixty (60) days every year at times and places prescribed by the State Board of Insurance, of which applicants shall be notified by the State Board of Insurance in writing ten (10) days prior to the date of such examinations, and shall be conducted in writing in either the English or Spanish language [; except that the applicant upon notice to the State Board of Insurance shall be entitled to be examined in the county seat of the county of his residence].* Provided, further, that printed copies of a manual of questions and answers thereto pertaining to the examination published under the direction of the State Board of Insurance shall be made available to all companies, general agents, and managers for the use of their prospective agents, to all agents for the use of their prospective solicitors in preparing for such examination. The questions to be asked on such examination shall be based upon the questions and answers contained in the manual."

**SECTION 55.** Section 7a, Article 21.14, Insurance Code, as amended, is amended to read as follows:

"Section 7a. (a) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results*

of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner of insurance shall send, *or require the testing service to send*, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, *or require the testing service to send*, notice to the examinee of the reason for the delay before the 90th day.

“(b) If requested in writing by a person who fails the licensing examination administered under this article, the commissioner of insurance shall send, *or require the testing service to send*, to the person an analysis of the person’s performance on the examination.”

**SECTION 56.** Section 9, Article 21.14, Insurance Code, as amended, is amended to read as follows:

“Section 9. FEES PAYABLE BEFORE EXAMINATION. *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, applicants [Applicants] required to be examined shall, at time and place of examination, pay prior to being examined the following fees: For a local recording agent’s license a fee in an amount not to exceed \$50 as determined by the State Board of Insurance and for a solicitor’s license a fee in an amount not to exceed \$20 as determined by the State Board of Insurance. The fees paid under this section shall not be returned for any reason other than failure to appear and take the examination after the applicant has given at least 24 hours’ notice of an emergency situation to the State Board of Insurance and received board approval. A new fee shall be paid before each and every examination.*”

**SECTION 57.** Section 11, Article 21.14, Insurance Code, as amended, is amended to read as follows:

“Section 11. ISSUANCE OF LICENSE. (a) Whenever the provisions of this article have been complied with, the Board shall issue to any applicant the license applied for where such applicant shall have satisfactorily passed the examination *prescribed [given]* by the State Board of Insurance [Commissioners], and who shall possess the other qualifications required by this article.

“(b) *The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*”

**SECTION 58.** Subsection (a), Section 12, Article 21.14, Insurance Code, as amended, is amended to read as follows:

“(a) After a person or firm shall be granted a license as a local recording agent in this state, he shall be authorized to act as such local recording agent in this state, only after and during the time such person or firm has been authorized so to do, by an insurance company or carrier having a permit to do business in this state; and when so authorized each company or carrier or its general or state or special agent making the appointment shall immediately notify the Commissioner of Insurance, on such form as the Commissioner may require, of the appointment. The agent shall be required to pay a *nonrefundable* fee of \$8.00 for each appointment applied for, which fee shall accompany the notice, and such person or firm shall be presumed to be the agent for such company in this state until such company or its general or state or special agent shall have delivered written notice to the Commissioner of Insurance that such appointment has been withdrawn.”

**SECTION 59.** Subsection (b), Article 23.23, Insurance Code, as amended, is amended to read as follows:

“(b) The Commissioner of Insurance shall collect in advance from agents of corporations complying with this chapter a *nonrefundable* license fee in an amount not to exceed \$50 as determined by the State Board of Insurance. *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall also collect in advance from such agents [and] an examination fee in an amount not to exceed \$20 as determined by the State Board of Insurance. A new examination fee shall be paid for each and every examination. The examination fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the commissioner’s approval.*”

**SECTION 60.** Subsection (d), Article 23.23, Insurance Code, as amended, is amended to read as follows:

“(d) Licenses which have not expired or which have not been suspended or revoked may be renewed by *filing with the Board on or before the expiration date of the license a renewal*

*application and fee [upon request in writing of the agent and payment of a renewal fee] in an amount not to exceed \$50 as determined by the State Board of Insurance.”*

**SECTION 61.** Subsection (e), Article 23.23, Insurance Code, as amended, is amended to read as follows:

“(e) Any agent licensed under this article may represent and act as an agent for more than one corporation complying with this chapter at any time while his or its license is in force, if he or it so desires. Any such agent and the corporation complying with this chapter involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him or it to act as agent for an additional corporation complying with this chapter. Such notice must set forth the corporation or corporations complying with this chapter which the agent is then licensed to represent and shall be accompanied by a certificate from each corporation complying with this chapter to be named in each additional appointment that said corporation desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent shall be required to pay a *nonrefundable* fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice.”

**SECTION 62.** Subsection (g), Article 23.23, Insurance Code, as amended, is amended to read as follows:

“(g) ~~[An unexpired license may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration date of the license.]~~ If a license has been expired for not longer than 90 days, the license may be renewed by *filing with [paying to]* the State Board of Insurance the required renewal *application and fee*, and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by *filing with [paying to]* the State Board of Insurance *the renewal application and all unpaid renewal fees and a fee that is equal to the original license fee*. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at his last known address. This section may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.”

**SECTION 63.** Paragraph (i), Article 23.23, Insurance Code, as amended, is amended to read as follows:

“(i) *Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner of insurance shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner of insurance shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this article, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person’s performance on the examination.*”

**SECTION 64.** Article 23.23, Insurance Code, as amended, is amended by adding Subsection (l) to read as follows:

“(l) *The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.*”

**SECTION 65.** Chapter 21, Insurance Code, as amended, is amended by adding Article 21.01-1 to read as follows:

“*Article 21.01-1. AGENTS’ QUALIFYING EXAMINATION TO BE PRESCRIBED BY THE BOARD. The State Board of Insurance may, at its discretion, accept examinations administered by a testing service as satisfying the examination requirements of persons seeking license as agents, solicitors, counselors, or adjusters under this code. The State Board of Insurance may negotiate agreements with such testing services to include performance of examination development, test scheduling, examination site arrangements, and test administration, grading, reporting and analysis. The State Board of Insurance may require such testing services to*

*correspond directly with the applicants with regard to the administration of such examinations and that such testing services collect fees for administering such examinations directly from the applicants. The State Board of Insurance may stipulate that any agreements with such testing services provide for the administration of examinations in specific locales and at specified frequencies. The State Board of Insurance shall retain the authority to establish the scope and type of all examinations. Prior to negotiating and making any agreement with any testing service as authorized hereby, the State Board of Insurance shall hold a public hearing thereon in accordance with the provisions of Section 5 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and shall adopt such rules, regulations, and standards as may be deemed appropriate by the Board to implement the authority granted in this Article.*

*"The commissioner may appoint advisory boards consisting of any of the following persons: persons holding a license for which the respective examinations are intended, persons who are employed by insurance companies appointing such licensees, persons acting as general agents or managers, persons teaching insurance at an accredited college or university in Texas, persons who are citizens of the State of Texas but who are not of any of the preceding descriptions, or any combination of such persons. The function of such advisory boards will be to make recommendations to the State Board of Insurance or the testing service with respect to the scope, type, and conduct of such examinations and the times and places within the state where they shall be held. The members of such advisory boards shall serve without pay but shall be reimbursed for their reasonable expenses in attending meetings of their respective advisory boards.*

*"In the absence of an agreement with a testing service, the State Board of Insurance shall administer any required qualifying examination in accordance with the provisions of the respective statutes governing the issuance of the license sought by the applicant."*

**SECTION 66.** This Act takes effect September 1, 1985.

**SECTION 67.** Section 18, Article 21.07, Insurance Code, is amended to read as follows:

*"Section 18. Notwithstanding any provisions of either this Article or of the Insurance Code to the contrary, an employee, officer, director, or shareholder of either a state or national bank, or a state or federal savings and loan association or corporation, who is licensed as an agent under this Article and who enters into a contract with an insurer to act as the insurer's agent in soliciting or writing policies or certificates of credit life insurance, credit accident and health insurance, or both, covering debtors of the bank or savings and loan in which such agent is an employee, officer, director, or shareholder, may assign and transfer to such bank or savings and loan any commissions, fees, or other compensation to be paid to such agent under the agent's contract with the insurer."*

**SECTION 68.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0; May 20, 1985, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 21, 1985, House granted request of the Senate; May 27, 1985, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 15, 1985, by a non-record vote; May 21, 1985, House granted request of the Senate for appointment of Conference Committee; May 25, 1985, House adopted Conference Committee Report by a non-record vote.

Approved: June 15, 1985

Effective: September 1, 1985