



INSURANCE CODE

CHAPTER 4055. SPECIALTY AGENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4055.001. DEFINITION. In this chapter, "specialty license holder" means a person who holds a license issued under this chapter.

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

Sec. 4055.002. APPLICABILITY OF CHAPTER TO CERTAIN AGENTS. (a) A person who holds a general property and casualty license issued under Chapter 4051 or a general life, accident, and health license issued under Chapter 4054 or who holds a substantially equivalent license under this code, as determined by the commissioner, is not required to obtain a specialty license.

(b) A person described by Subsection (a) is subject to the other requirements of this chapter in the solicitation, sale, or delivery of an insurance product that is subject to this chapter.

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

Sec. 4055.003. RULES. The commissioner may adopt rules necessary to implement this chapter and to meet the minimum requirements of federal law, including regulations.

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

Sec. 4055.004. APPLICATION. To obtain a specialty license an applicant must:

(1) submit to the commissioner:

(A) a written application:

- (i) signed by the applicant;
- (ii) on a form and supplements to the form prescribed by the commissioner; and
- (iii) containing the information prescribed by the commissioner;

(B) a certification by an insurer authorized to engage in business in this state:

- (i) signed and sworn to by an officer of the insurer;
- (ii) stating that the insurer is satisfied that the applicant is trustworthy and competent to act as the insurer's agent for a limited purpose authorized by this chapter; and



(iii) stating that if the specialty license applied for is issued by the department the insurer will appoint the applicant to act as an agent for a kind of insurance that is subject to this chapter; and

(C) a non refundable license fee set by the department in an amount necessary to administer this chapter; and

(2) comply with the other requirements of this chapter.

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

Sec. 4055.005. LICENSE ISSUANCE. The commissioner may issue a specialty license to an applicant who complies with Section 4055.004 and the other requirements of this chapter.

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

Sec. 4055.006. EXAMINATION AND CONTINUING EDUCATION NOT REQUIRED. (a) An examination is not required for issuance of a specialty license.

(b) A person is not required to comply with continuing education requirements to hold a specialty license.

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

Sec. 4055.007. APPOINTMENT AS AGENT BY INSURER. An insurer that appoints an agent under this chapter shall:

(1) submit a certification of the appointment signed by an officer of the insurer; and

(2) affirm that the insurer is satisfied that the specialty license holder is trustworthy and competent to act as an agent on behalf of the insurer.

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

Sec. 4055.008. GENERAL POWERS AND DUTIES. (a) A specialty license holder may act as an agent for the kinds of insurance that are subject to this chapter for any insurer authorized to engage in the business of those kinds of insurance in this state.

(b) Except as otherwise provided by this chapter, a specialty license holder acting under this chapter shall comply with this title.

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



Sec. 4055.009. CERTAIN REPRESENTATIONS PROHIBITED. A specialty license holder may not advertise, represent, or otherwise hold out the license holder or an employee of the license holder as an agent licensed under another chapter unless the entity or individual holds the applicable license.

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

Sec. 4055.010. TREATMENT OF CERTAIN PREMIUMS. Notwithstanding any other provision of this title or any rule adopted by the commissioner, a specialty license holder is not required to treat as money received in a fiduciary capacity premiums collected from a consumer who purchases insurance coverage when completing a consumer transaction associated with the coverage if:

- (1) the insurer represented by the license holder has consented in writing, signed by an officer of the insurer, that premiums are not required to be segregated from money received by the license holder because of the consumer transaction associated with the insurance coverage; and
- (2) the charges for insurance coverage are itemized but not billed to the consumer separately from the charges for the associated consumer transaction.

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

Sec. 4055.011. AUTHORITY OF EMPLOYEE OF SPECIALTY LICENSE HOLDER. An employee of a specialty license holder may act as an agent with respect to the kinds of insurance the license holder is authorized to offer under this chapter only if the employee:

- (1) is trained under Section 4055.012 to act individually on behalf of the license holder;
- (2) acts on behalf of and under the supervision of the license holder; and
- (3) is not compensated based primarily on the amount of insurance sold by the employee under this chapter.

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

Sec. 4055.012. TRAINING REQUIRED TO ACT ON BEHALF OF SPECIALTY LICENSE HOLDER.

(a) A specialty license holder may not allow an individual to act on the license holder's behalf with respect to a kind of insurance that the license holder is authorized to offer unless the individual has completed an approved training program.

(b) The materials for the training program must be provided to the specialty license holder by an insurer that writes the kind of insurance authorized under the specialty license.



(c) An insurer that provides training program materials under Subsection (b) must submit the training program to the commissioner for approval before the training program is used.

(d) The training program must meet the following minimum standards:

(1) each trainee must receive basic instruction about the kinds of insurance the specialty license holder is authorized to offer for purchase by prospective consumers;

(2) each trainee must be instructed to inform a prospective consumer that, except as may be specifically provided by another law of this state or the United States, the purchase of the kind of insurance offered is not required to complete the associated consumer transaction; and

(3) each trainee must be instructed with respect to the disclosures required to be made to consumers.

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

Sec. 4055.013. ASSIGNMENT AND TRANSFER OF COMPENSATION BY CERTAIN AGENTS. A person who is licensed as a general life, accident, and health agent or as a general property and casualty agent or who holds a substantially equivalent license under this code, as determined by the commissioner, and who enters into a contract with an insurer to act as the insurer's agent in soliciting or writing policies or certificates of insurance that are subject to this chapter may assign and transfer to the agent's employer any commission, fee, or other compensation to be paid to the agent under the agent's contract with the insurer only if the sale of the insurance product occurs within the scope of the agent's employment.

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

Sec. 4055.014. DISCLOSURES REQUIRED BEFORE ISSUANCE OF INSURANCE. Except as provided by Section 4055.105, insurance coverage may not be issued under this chapter unless:

(1) at each location at which sales of the coverage occur, brochures or other written materials are prominently displayed and readily available to a prospective consumer that:

(A) summarize, clearly and correctly, the material terms of the coverage offered to consumers, including the identity of the insurer;

(B) disclose that the coverage offered by the specialty license holder may duplicate coverage already provided by a consumer's personal auto insurance policy, homeowner's insurance policy, personal liability insurance policy, or another source of coverage;



(C) state that, except as specifically provided by another law of this state or the United States, the purchase by the consumer of the kind of insurance offered is not required to complete the associated consumer transaction;

(D) describe the process for filing a claim for benefits; and

(E) contain any additional information required by the commissioner by rule regarding the price, benefits, exclusions, conditions, or other limitations of the coverage; and

(2) evidence of coverage is provided to each consumer who purchases the coverage.

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

Sec. 4055.015. VIOLATION BY SPECIALTY LICENSE HOLDER; PENALTIES. If a specialty license holder violates this title, the commissioner may:

(1) impose any disciplinary action authorized by Subchapter C, Chapter 4005; or

(2) after notice and opportunity for hearing, impose other penalties, including suspending the transaction of insurance at specific locations where a violation of this title has occurred, as the commissioner considers necessary or appropriate to implement the purposes of this title.

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

SUBCHAPTER B. RENTAL CAR COMPANY LICENSE

Sec. 4055.051. DEFINITIONS. In this subchapter:

(1) "Rental agreement" means a written agreement that states the terms and conditions governing the use of a vehicle or vehicle equipment provided by a rental car company.

(2) "Rental car company" means a person engaged in the business of providing leased or rented vehicles or vehicle equipment to the public.

(3) "Renter" means a person who obtains the use of a vehicle or vehicle equipment from a rental car company under the terms of a rental agreement.

(4) "Vehicle" means:

(A) a private passenger motor vehicle, including passenger vans and minivans that are primarily intended for the transport of persons;

(B) a motor home;



(C) a motorcycle;

(D) a trailer with a gross vehicle weight rating of 10,000 pounds or less; or

(E) a truck with a gross vehicle weight rating of 26,000 pounds or less and the operation of which does not require a commercial driver's license.

(5) "Vehicle equipment" means a cartop carrier, tow bar, or tow dolly specifically designed for use with a vehicle.

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

Sec. 4055.052. ISSUANCE OF LICENSE. Notwithstanding any other provision of this chapter or this code, the commissioner shall issue a specialty license to a rental car company, or to the franchisee of a rental car company, that complies with this subchapter. The specialty license may be issued only for the limited purposes specified by this subchapter.

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

Sec. 4055.053. AUTHORITY OF RENTAL CAR COMPANY OR FRANCHISEE. (a) A rental car company or franchisee licensed under this chapter may act as an agent for an authorized insurer only:

(1) in connection with the rental of vehicles or vehicle equipment; and

(2) with respect to:

(A) excess liability insurance that provides coverage in excess of the standard liability limits provided by the rental car company in the rental agreement to the rental car company or franchisee and to renters and other authorized drivers of rental vehicles for liability arising from the negligent operation or use of the rental vehicle or vehicle equipment;

(B) accident and health insurance that provides coverage to renters and other rental vehicle occupants for accidental death or dismemberment and for medical expenses resulting from an accident involving the vehicle or vehicle equipment that occurs during the rental period;

(C) personal effects insurance that provides coverage to renters and other rental vehicle occupants for the loss of or damage to personal effects or household belongings that occurs during the rental period; or

(D) any other coverage the commissioner approves as meaningful and appropriate in connection with the rental of vehicles or vehicle equipment.



(b) A rental car company or franchisee licensed under this chapter may not issue insurance under this subchapter in connection with a rental agreement if the rental period under the agreement exceeds 30 consecutive days.

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

SUBCHAPTER C. CREDIT INSURANCE LICENSE

Sec. 4055.101. GENERAL DEFINITIONS. In this subchapter:

(1) "Credit insurance" includes:

- (A) credit life insurance;
- (B) credit accident and health insurance;
- (C) credit property insurance;
- (D) credit involuntary unemployment insurance; and

(E) insurance that covers the difference between the actual cash value of a motor vehicle used as security for a loan or lease and the outstanding balance of that loan or lease if loss or damage renders the vehicle an actual or constructive total loss while the debt for which the vehicle serves as security exceeds the actual cash value of the vehicle.

(2) "Credit insurance agent" means a person licensed under this chapter to sell credit insurance as specifically provided by this subchapter.

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

Sec. 4055.102. DEFINITION OF CREDIT PROPERTY INSURANCE. (a) In this subchapter, "credit property insurance" means insurance that covers personal property:

- (1) used as security for a personal or consumer loan; or
- (2) under an installment sales agreement or through a consumer credit transaction that is purchased in connection with or in relation to the personal or consumer loan, installment sale, or consumer credit transaction.

(b) "Credit property insurance" does not include insurance that:

- (1) provides theft, collision, liability, property damage, or comprehensive insurance coverage on an automobile, motorized aircraft, motorcycle, truck, truck-tractor, traction engine, or any other self-



propelled vehicle or craft that is designed primarily for operation in the air, or on highways, roadways, waterways, or the sea, and the operating equipment of the self-propelled vehicle or craft; or

(2) is necessary because of liability imposed by law for damages arising out of the ownership, operation, maintenance, or use of a vehicle or craft described by Subdivision (1), other than single interest coverage on any vehicle or craft described by Subdivision (1) that insures the interest of the creditor in the same manner as security for a loan.

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

Sec. 4055.103. ISSUANCE OF LICENSE. Notwithstanding any other provision of this chapter or this code, the commissioner may issue a specialty license to a retail distributor of goods, an automobile dealer, a bank, a state or federal savings and loan, a state or federal credit union, a finance company, a production credit association, a manufactured home retailer, or a mobile home retailer that complies with this subchapter. The specialty license may be issued only for the limited purposes specified by this subchapter.

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

Sec. 4055.104. AUTHORITY OF CREDIT INSURANCE AGENT. A credit insurance agent appointed by an insurer authorized to engage in the business of insurance under this code may act as the agent for the insurer in the sale of any kind of credit insurance in the business of which the insurer is authorized to engage, including individual or group credit insurance.

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

Sec. 4055.105. EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS. A specialty license holder and the license holder's representative are not required to make the disclosures required by Section 4055.014 as that section relates to the sale or delivery of a credit insurance product that is subject to this subchapter if the license holder or representative complies with all disclosure requirements prescribed by another provision of this code or another law of this state or the United States with regard to the sale or delivery of that product.

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

SUBCHAPTER D. TRAVEL INSURANCE LICENSE

Sec. 4055.151. DEFINITIONS. In this subchapter:

(1) "Planned trip" means any journey or travel arranged through the services of a travel agency.



(2) "Travel agency" means an entity engaged in the business of selling or arranging transportation or accommodations for the public.

(3) "Traveler" means an individual who seeks the assistance of a travel agency in connection with the planning and purchase of a trip.

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

Sec. 4055.152. ISSUANCE OF LICENSE. Notwithstanding any other provision of this chapter or this code, the commissioner may issue a specialty license to a travel agency, the franchisee of a travel agency, or a public carrier that complies with this subchapter. The specialty license may be issued only for the limited purposes specified by this subchapter.

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

Sec. 4055.153. AUTHORITY OF TRAVEL AGENCY OR FRANCHISEE. A travel agency or franchisee licensed under this chapter may act as an agent for an authorized insurer only:

(1) in connection with the sale or arrangement of transportation or accommodations for travelers; and

(2) with respect to:

(A) accident and health insurance that provides coverage to a traveler for accidental death or dismemberment and for medical expenses resulting from an accident involving the traveler that occurs during the planned trip;

(B) insurance that provides coverage to a traveler for expenses incurred as a result of trip cancellation or interruption of a planned trip;

(C) personal effects insurance that provides coverage to a traveler for loss of or damage to personal effects during the planned trip;

(D) life insurance not exceeding \$150,000 on any one life covering risks of travel during a planned trip; or

(E) any other coverage the commissioner approves as meaningful and appropriate in connection with the transportation or accommodations arranged through a travel agency.

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

SUBCHAPTER E. SELF-SERVICE STORAGE FACILITY LICENSE



Sec. 4055.201. DEFINITIONS. In this subchapter:

- (1) "Rental agreement" means a written agreement that states the terms governing the use of storage space provided by a self-service storage facility.
- (2) "Renter" means a person who obtains the use of storage space from a self-service storage facility under a rental agreement.
- (3) "Self-service storage facility" means a person engaged in the business of providing leased or rented storage space to the public.
- (4) "Storage space" means a room, unit, locker, or open space offered for rental to the public for temporary storage of personal belongings or light commercial goods.

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

Sec. 4055.202. ISSUANCE OF LICENSE. Notwithstanding any other provision of this chapter or this code, the commissioner may issue a specialty license to a self-service storage facility or to the franchisee of a self-service storage facility that complies with this subchapter. The specialty license may be issued only for the limited purposes specified by this subchapter.

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

Sec. 4055.203. AUTHORITY OF SELF-SERVICE STORAGE FACILITY OR FRANCHISEE. A self-service storage facility or franchisee licensed under this chapter may act as an agent for any authorized insurer only:

- (1) in connection with the rental of storage space; and
- (2) with respect to:
 - (A) hazard insurance coverage provided to a renter for loss of or damage to tangible personal property in storage or in transit during the rental period; or
 - (B) any other coverage the commissioner approves as meaningful and appropriate in connection with the rental of storage space.

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

SUBCHAPTER F. TELECOMMUNICATIONS EQUIPMENT VENDOR LICENSE

Sec. 4055.251. DEFINITIONS. In this subchapter:



(1) "Customer" means a person who purchases telecommunications equipment in a retail sales transaction.

(2) "Telecommunications equipment" includes handsets, pagers, automatic answering devices, batteries, and other devices used to originate or receive wireless communications exclusive of cordless, wireline communications.

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

Sec. 4055.252. ISSUANCE OF LICENSE. Notwithstanding any other provision of this chapter or this code, the commissioner may issue a specialty license to a retail vendor of telecommunications equipment who complies with this subchapter. The specialty license may be issued only for the limited purposes specified by this subchapter.

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

Sec. 4055.253. AUTHORITY OF RETAIL VENDOR OF TELECOMMUNICATIONS EQUIPMENT. A retail vendor of telecommunications equipment licensed under this chapter may act as an agent for an authorized insurer only:

(1) in connection with the sale and use of telecommunications equipment; and

(2) with respect to:

(A) insurance coverage provided to customers for the loss or malfunction of or damage to telecommunications equipment; or

(B) any other coverage the commissioner approves as meaningful and appropriate in connection with the use of telecommunications equipment.

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