

By: Goldman

H.B. No. 4316

A BILL TO BE ENTITLED

AN ACT

relating to regulation of residential service contract providers,  
sellers, and administrators.

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

SECTION 1. Subchapter A, Chapter 1304, Occupations Code, is  
amended by adding Section 1304.0051 to read as follows:

Sec. 1304.0051. CONFIDENTIALITY OF CERTAIN INFORMATION.

(a) The following information submitted to or maintained by the  
department under this chapter that pertains to an applicant for  
registration or a seller, provider, or administrator is  
confidential and not subject to disclosure under Chapter 552,  
Government Code:

(1) the financial condition of the applicant, seller,  
provider, or administrator;

(2) the identity or number of service contract  
holders; or

(3) documents that are claimed, in a manner determined  
by the department, proprietary or confidential for competitive  
purposes.

(b) The department may withhold the information described  
by Subsection (a) without requesting a decision from the attorney  
general under Subchapter G, Chapter 552, Government Code.

SECTION 2. Section 1304.151(b), Occupations Code, is  
amended to read as follows:

1 (b) If the provider ensures its obligations under  
2 Subsection (a)(2), the amount maintained in the reserve account may  
3 not be less than an amount computed by subtracting the amount of any  
4 claims paid from the product of ~~[equal to]~~ 40 percent and ~~[of]~~ the  
5 gross consideration the provider received from consumers from the  
6 sale of all service contracts issued and outstanding in this state  
7 ~~[, minus any claims paid]~~. The department shall prescribe a  
8 calculation form to be used by a provider to calculate the minimum  
9 amount required to be maintained in the provider's reserve account  
10 under this subsection. The executive director may review and  
11 examine the reserve account. Except as provided by Subsections  
12 (b-1) and (b-4), the amount of the security deposit may not be less  
13 than \$250,000. The provider must submit to the executive director  
14 on request a copy of the provider's financial statements that must  
15 be prepared in accordance with generally accepted accounting  
16 principles, be without qualification as to the going concern status  
17 of the provider, and be audited by an independent certified public  
18 accountant. The commission by rule may require the provider to  
19 submit additional financial reports.

20 SECTION 3. Section [1304.157\(c\)](#), Occupations Code, is  
21 amended to read as follows:

22 (c) Notwithstanding Section [1304.151\(a\)\(1\)](#), a provider of a  
23 residential service contract may use a reimbursement insurance  
24 policy issued by a captive insurance company as defined by Section  
25 [964.001](#), Insurance Code, to insure the provider's residential  
26 service contracts if the provider maintains a funded reserve equal  
27 to not less than an amount computed by subtracting the amount of any

1 claims paid from the product of 25 percent and ~~[of]~~ the gross  
2 consideration the provider received from consumers from the sale of  
3 all the provider's service contracts issued and outstanding in this  
4 state ~~[, minus any claims paid]~~. The department shall prescribe a  
5 calculation form to be used by a provider to calculate the minimum  
6 amount required to be maintained in the provider's reserve account  
7 under this subsection. A reimbursement insurance policy issued to  
8 a residential service contract provider in accordance with this  
9 subsection:

- 10 (1) is not subject to Section 1304.152; and  
11 (2) is considered to satisfy the requirements of  
12 Sections 1304.1025 and 1304.151(a)(1) for purposes of this chapter.

13 SECTION 4. Notwithstanding Section 4.13(b), Chapter 663  
14 (H.B. 1560), Acts of the 87th Legislature, Regular Session, 2021, a  
15 license issued by the Texas Real Estate Commission under former  
16 Chapter 1303, Occupations Code, before September 1, 2021, is  
17 continued in effect until January 1, 2024, as a provider or  
18 administrator registration issued by the Texas Department of  
19 Licensing and Regulation under Chapter 1304, Occupations Code.

20 SECTION 5. Any information designated as confidential for  
21 competitive purposes under former Chapter 1303, Occupations Code,  
22 by an applicant, seller, provider, or administrator before the  
23 effective date of this Act is confidential and not subject to  
24 disclosure under Chapter 552, Government Code. The Texas  
25 Department of Licensing and Regulation may withhold the information  
26 without requesting a decision from the attorney general under  
27 Subchapter G, Chapter 552, Government Code.

1 SECTION 6. This Act takes effect September 1, 2023.