

## **BILL ANALYSIS**

C.S.H.B. 3729  
By: Coleman  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas requires a license for establishing or operating an assisted living facility. Licensed facilities must pass a state inspection showing that the facility meets certain established standards relating to the facility and the care provided at the facility. Within the current licensing framework, the state may grant a provisional license for newly constructed facilities if the applicant meets certain criteria, one of which is that the applicant has constructed another facility in Texas that complies with the Department of Aging and Disability Services' life safety code standards.

Interested parties believe that provisional licensing procedures make it more efficient for the state to schedule surveys and encourage new construction by owners who already understand what is involved in constructing a facility. The parties contend, however, that the laws relating to the criteria for a provisional license are being interpreted too narrowly, requiring, among other conditions, that the applicant be exactly the same owner as the owner of the facility previously constructed in Texas, which can be a problem for many business owners who organize their businesses differently depending on the type of structure being built. The parties assert that the law was originally intended to be more flexible. C.S.H.B. 3729 seeks to address these issues by amending statutory requirements for the issuance of such a provisional license.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3729 amends the Health and Safety Code to specify that the provisional license the Department of Aging and Disability Services (DADS) is required to issue to a newly constructed assisted living facility that meets certain conditions on submission of a written request by the applicant is a six-month provisional license and is to be issued without conducting a life safety code inspection before issuance of the provisional license. The bill removes from among the conditions that must be met for DADS to issue such a provisional license the condition that, before beginning construction, the license applicant submits working drawings and specifications to DADS for review and instead includes the condition that an applicant must submit building plans to DADS for an early compliance review in accordance with applicable statutory provisions. The bill includes among those conditions the condition that a certificate of occupancy, where required, has been obtained and specifies that DADS must determine that a person who owns the license applicant and controls the operations of the license applicant, as an alternative to the license applicant, constructed another facility in Texas that complies with the department's life safety code standards and that the facility is in compliance with resident care standards based on an on-site health inspection.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3729 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 247.021(g), Health and Safety Code, is amended to read as follows:

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(g) The department shall, upon submission of a written request by the applicant, automatically issue a six-month provisional license without conducting a life safety code inspection before issuance of the license to a newly constructed facility if:

(g) The department shall, upon submission of a written request by the applicant, automatically issue a six-month provisional license without conducting a life safety code inspection before issuance of the **provisional** license to a newly constructed facility if:

(1) the facility is in compliance with resident care standards;

(6) the facility is in compliance with resident care standards **based on an on-site health inspection.**

(2) all local approvals have been obtained;

(2) all local approvals, **including a certificate of occupancy where required,** have been obtained;

(3) a **reasonably** complete license application is submitted within 30 days of receipt of all local approvals;

(3) a complete license application **form** is submitted within 30 days of receipt of all local approvals;

(4) the license fee has been paid;

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(5) before beginning construction, the license applicant submits working drawings and specifications to the department for review; and

(5) [~~before beginning construction, the license applicant submits working drawings and specifications to the department for review; and~~

(6) the department determines that the license applicant or a controlling person of the license applicant constructed another facility in this state that complies with the department's life safety code standards.

[~~(6)~~] the department determines that the license applicant **or a person who owns the license applicant and controls the operations of the license applicant** constructed another facility in this state that complies with the department's life safety code standards; and

SECTION 2. This Act takes effect

SECTION 2. Same as introduced version.

September 1, 2013.

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