

BILL ANALYSIS

C.S.H.B. 2279
By: Goldman
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that residential service contracts provide coverage to homeowners for the repair or replacement costs of major systems and other components of a home but that the residential service contract industry has evolved significantly since the Texas Real Estate Commission began regulating companies providing such services. In response to this circumstance, C.S.H.B. 2279 seeks to update provisions of the Residential Service Company Act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2279 amends the Occupations Code to redefine "residential service contract" in the Residential Service Company Act as an agreement that is entered into for a separately stated consideration and for a specified term under which a person agrees to, in the event of the operational or structural failure of or damage caused by a defect in materials or workmanship or by normal wear to a structural component, an appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system of a residential property that is attached to the residential property, take the following actions: maintain, repair, or replace all or any part of the structural component, appliance, or electrical, plumbing, heating, cooling, or air-conditioning system; provide incidental payment of indemnity under limited circumstances, including food spoilage; or provide payment instead of repair when a part, structural component, appliance, or service provider or technician is unavailable.

C.S.H.B. 2279 makes a person employed by a real estate sales agent, real estate broker, mobile home dealer, or insurance agent in Texas eligible to sell, offer to sell, arrange or solicit the sale of, or receive an application for a residential service contract, provided the contract is issued by a licensed residential service company. The bill replaces as an item that each application for a residential service company license must contain or be accompanied by a single financial statement that is prepared by an independent certified public accountant within six months preceding the date the application is submitted and that shows the applicant's assets, liabilities, and sources of financial support with the most recent financial statements for the applicant that are either prepared by an independent certified public accountant or certified as accurate by at least two of the residential service company's principal officers, if the residential service company uses a reimbursement insurance policy to insure its outstanding residential service

contracts written in Texas in accordance with the bill's provisions, and that show the applicant's assets, liabilities, and sources of financial support. The bill clarifies that the administrator in the context of a residential service company license application is the executive director of the Texas Real Estate Commission (TREC).

C.S.H.B. 2279 makes information prepared or compiled by the TREC relating to an examination of the affairs of a residential service company, including the examination file, and any financial information submitted to the TREC in connection with an application, confidential and exempt from disclosure under state public information law. The bill authorizes the TREC to withhold such information without the necessity of requesting a decision from the attorney general under the applicable provisions of that law.

C.S.H.B. 2279 exempts a residential service company from the requirement to maintain a funded reserve against its liability to provide repair and replacement services under its outstanding residential service contracts written in Texas if it insures all of its risk under such contracts under a reimbursement insurance policy issued by an admitted insurer or a surplus lines insurer or a surplus lines bonding company if the insurer or bonding company is rated A+ or better by a rating service recognized by the TREC and submits to the TREC for its approval evidence, in the form of a certified audit and other pertinent information the TREC may require, of the insurer's or bonding company's ability to meet its contractual obligations. The bill clarifies that the extent to which a residential service company's funded reserve is not required to include a contract fee on the residential service contract is the extent to which the company uses a reimbursement insurance policy as described by the bill. The bill requires a residential service company with a reimbursement insurance policy issued by a captive insurance company as defined by applicable Insurance Code provisions to maintain a funded reserve of at least 25 percent of the reserve amount otherwise required of a company without a reimbursement insurance policy.

C.S.H.B. 2279 establishes that an insurer that issues a reimbursement insurance policy to a residential service company is considered to have received the premiums for the policy on the dates contract holders pay for residential service contracts issued by the residential service company. The bill prohibits an insurer from canceling a reimbursement insurance policy until the insurer mails or delivers a notice of cancellation to the TREC executive director. The cancellation of the policy expressly does not affect the issuer's liability for a residential service contract issued by the insured residential service company before the effective date of the cancellation.

C.S.H.B. 2279 exempts a residential service company that uses a reimbursement insurance policy to insure its outstanding residential service contracts written in Texas from the requirement that a company maintain with the TREC a bond or other security accepted by the TREC as a guarantee that the company will meet its obligations to its contract holders and from the requirement that an applicant for a new residential service company license provide security in a certain amount based on the amount of claims paid in Texas in the preceding calendar year.

C.S.H.B. 2279 replaces as a component of the annual report each residential service company is required to file with the TREC covering the preceding calendar year a single financial statement of the company certified by an independent public accountant with financial statements of the company certified as accurate by an independent public accountant or at least two of the residential service company's principal officers, if the residential service company uses a reimbursement insurance policy to insure its outstanding residential service contracts written in Texas. The bill limits the applicability of the requirement to include in the report certain information regarding residential service contracts to a residential service company that maintains a funded reserve. The bill replaces the provision establishing certain information provided by a company as part of the annual report as confidential and for the exclusive use of the TREC with a provision establishing any information provided by a company in connection with the report or any midyear report required by the TREC as confidential and exempt from disclosure under state public information law. The bill authorizes the TREC to withhold the

information without the necessity of requesting a decision from the attorney general under applicable provisions of that law.

C.S.H.B. 2279 removes provisions relating to the entitlement of each residential services contract holder in Texas to evidence of coverage under the contract and instead sets out provisions relating to the delivery of a copy of a contract to a contract holder and the filing of the contract with the TREC. The bill requires certain specified contents of evidence of coverage to be disclosed by a residential services contract marketed, sold, offered for sale, issued, made, proposed to be made, or administered in Texas and requires such a contract to be written, printed, or typed in clear, understandable language that is easy to read. The bill sets out certain other disclosures required in such a contract.

C.S.H.B. 2279 removes the prohibition against a residential service company using in conjunction with a residential service contract a schedule of charges for services covered under the contract or an amendment to that schedule until a copy of the schedule or amendment is filed with and approved by the TREC and instead requires a residential services company to file a schedule of charges for services covered under a residential services contract and any amendment to a previously filed schedule with the TREC before implementation of the schedule of charges or amendment, but without prior approval and for informational purposes only. The bill prohibits a residential service company from causing or permitting the use of any deceptive residential service contract.

C.S.H.B. 2279 includes a residential service company's issuance of a residential service contract that does not comply with the applicable provisions, as amended by the bill, or use of a schedule of charges that has not been filed with the TREC in accordance with the bill's provisions as grounds on which the TREC may discipline a company in accordance with TREC disciplinary powers.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2279 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1303.002, Occupations Code, is amended by adding Subdivisions (2-a) and (3-a) and amending Subdivision (5) to read as follows:

(2-a) "Executive director" means the executive director of the Texas Real Estate Commission.

(3-a) "Reimbursement insurance policy" means a policy of insurance issued to a residential service company to:

(A) provide reimbursement to the residential service company under the terms of the insured residential service contracts issued or sold by the residential service company;
or

(B) pay on behalf of the residential service company, in the event of the residential service company's nonperformance, all covered contractual obligations incurred by the residential service company under the terms of the insured residential service contracts issued or sold by the residential service company.

(5) "Residential service contract" means an agreement that is entered into for a separately stated consideration and for a specified term under which [~~in exchange for a fee,~~] a person agrees to, in the event of the operational or structural failure of or damage caused by a defect in materials or workmanship or by normal wear to [~~undertakes for a specified period to maintain, repair, or replace all or any part of~~] a structural component, an appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system of a residential property that is attached to the residential property:

(A) [~~The term does not include a service or maintenance agreement sold, offered for sale, or issued by a manufacturer or merchant under which the manufacturer or merchant undertakes to~~] maintain, repair, or replace all or any part of the [~~a product or part of a product, including a~~] structural component, [~~an~~] appliance, or [~~an~~] electrical, plumbing, heating, cooling, or air-conditioning system;

(B) provide incidental payment of indemnity under limited circumstances, including food spoilage; or

(C) provide payment instead of repair when a part, structural component, appliance, or service provider or technician is unavailable [~~of a residential property, that is:~~

[~~(A) manufactured or sold by the manufacturer or merchant; or~~

[~~(B) installed by the merchant in a building or residence].~~

No equivalent provision.

SECTION 1. Section 1303.004, Occupations Code, is amended to read as follows:

Sec. 1303.004. NONAPPLICABILITY TO CERTAIN PERSONS. (a) This chapter does not apply to a person who:

- (1) manufactures or sells a product or part of a product; and
- (2) sells, offers to sell, or issues a service or maintenance agreement that provides for the

maintenance, repair, replacement, or performance of the product or part of the product.

(b) A person described by Subsection (a) or an employee or agent of a person described by Subsection (a) is not required to be licensed or regulated under this chapter.

(c) This chapter does not apply to a person who engages in the business of structural pest control in compliance with Chapter 1951.

(d) This chapter does not apply to a person who sells a service contract as defined by Section 1304.003, Occupations Code, but only to the extent the service contract does not provide benefits with respect to a structural component, or an electrical or plumbing system of a residential property. However, a residential service contract providing benefits only with respect to an appliance or a heating, cooling, or air-conditioning system of a residential property may be offered pursuant to this Chapter without having to also comply with Chapter 1304, Occupations Code.

No equivalent provision.

SECTION 2. Section 1303.053, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Information prepared or compiled by the commission relating to an examination conducted under this section, including the examination file, is confidential and exempt from disclosure under Chapter 552, Government Code. The commission may withhold the information without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

No equivalent provision.

SECTION 3. Section 1303.101(b), Occupations Code, is amended to read as follows:

(b) A person may not sell, offer to sell, arrange or solicit the sale of, or receive an application for a residential service contract unless:

(1) the person is:

(A) employed by a residential service company licensed under this chapter; or

(B) licensed as or employed by a real estate sales agent [~~salesperson~~], real estate broker, mobile home dealer, or insurance agent in this state; and

(2) the contract is issued by a residential

SECTION 2. Section 1303.103, Occupations Code, is amended to add subsection (d) as follows:

service company licensed under this chapter.

SECTION 4. Section 1303.103, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Each application for a license must contain or be accompanied by:

(1) a copy of the articles of incorporation, articles of association, partnership agreement, trust agreement, or any other basic organizational document of the applicant;

(2) a copy of any amendment to the applicant's basic organizational document;

(3) a copy of any bylaws, rules, or other similar document that regulates the conduct of the applicant's internal affairs;

(4) the name, address, and official position of each person who will be responsible for the conduct of the applicant's affairs, including:

(A) each member of the board of directors, board of trustees, executive committee, or other governing body or committee of the applicant;

(B) the applicant's principal officer, if the applicant is a corporation; and

(C) each partner or member of the applicant, if the applicant is a partnership or association;

(5) a copy of the residential service contract made or to be made between the applicant and another person;

(6) a general description of the residential service contract or the contract's coverage or plan;

(7) the most recent [a] financial statements for the applicant [statement that]:

(A) that are [is]:

(i) prepared by an independent certified public accountant; or

(ii) certified as accurate by at least two of the residential service company's principal officers, if the residential service company uses a reimbursement insurance policy to insure its outstanding residential service contracts written in this state in accordance with Section 1303.151(b) [within six months preceding the date the application is submitted]; and

(B) that show [shows] the applicant's assets, liabilities, and sources of financial support;

(8) a description of the applicant's proposed method of marketing a residential service

contract;
(9) a statement regarding the applicant's sources of working capital and any other funding sources;
(10) if the applicant is not domiciled in this state, a power of attorney appointing the executive director [administrator] and the executive director's [administrator's] successors in office, or the executive director's [administrator's] authorized deputy, as the applicant's agent for service of process in this state in a legal action arising in this state against the applicant or the applicant's agents; and
(11) any other information the commission requires to make a determination required by this chapter.

(d) Any financial information submitted to the commission in connection with an application shall be considered confidential and for the exclusive use of the commission.

(d) Any financial information submitted to the commission in connection with an application is confidential and exempt from disclosure under Chapter 552, Government Code. The commission may withhold the financial information without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

No equivalent provision.

SECTION 5. Section 1303.151, Occupations Code, is amended to read as follows:

Sec. 1303.151. RESERVE OR REIMBURSEMENT INSURANCE POLICY REQUIRED. (a) Except as provided by Subsection (b), a [A] residential service company shall maintain a funded reserve against its liability to provide repair and replacement services under its outstanding residential service contracts written in this state.

(b) Except as provided by Section 1303.152(d), a residential service company is not required to maintain a funded reserve if it insures all of its risk under its outstanding residential service contracts written in this state under a reimbursement insurance policy issued by:

(1) an admitted insurer; or

(2) a surplus lines insurer or a surplus lines bonding company if the insurer or bonding company:

(A) is rated A+ or better by a rating service recognized by the commission; and

(B) submits to the commission for its approval evidence, in the form of a certified audit and other pertinent information the

commission may require, of the insurer's or bonding company's ability to meet its contractual obligations.

No equivalent provision.

SECTION 6. Section 1303.152, Occupations Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) For purposes of this chapter, to the extent a residential service company uses a reimbursement insurance policy described by Section 1303.151(b) to insure an outstanding residential service contract written in this state, the company's reserve is not required to include a contract fee on the [a] residential service contract [to the extent that provision is made for reinsurance of the outstanding risk on the contract by:

~~[(1) a residential service company licensed in this state;~~

~~[(2) an admitted insurer; or~~

~~[(3) a surplus line insurer or a surplus line bonding company if the insurer or bonding company:~~

~~[(A) is rated A+ or better by a rating service recognized by the commission; and~~

~~[(B) submits to the commission for its approval evidence, in the form of a certified audit and other pertinent information the commission may require, of the insurer's or bonding company's ability to meet its contractual obligations].~~

(d) If a residential service company's reimbursement insurance policy is issued by a captive insurance company as defined by Section 964.001, Insurance Code, the residential service company shall maintain a funded reserve of at least 25 percent of the reserve amount described by Subsection (a).

No equivalent provision.

SECTION 7. Subchapter D, Chapter 1303, Occupations Code, is amended by adding Section 1303.1525 to read as follows:

Sec. 1303.1525. REIMBURSEMENT INSURANCE POLICY. (a) An insurer that issues a reimbursement insurance policy to a residential service company is considered to have received the premiums for the policy on the dates contract holders pay for residential service contracts issued by the residential service company.

(b) An insurer may not cancel a reimbursement insurance policy until the insurer mails or delivers a notice of cancellation to the executive director. The

cancellation of the policy does not affect the issuer's liability for a residential service contract issued by the insured residential service company before the effective date of the cancellation.

SECTION 3. Section 1303.153, Occupations Code, is amended to read as follows:

Sec. 1303.153. SECURITY REQUIRED.

(a) As a guarantee that a residential service company will meet its obligations to its contract holders, the company shall maintain with the commission a bond or other security accepted by the commission.

(b) A bond posted as security must:

(1) be issued by a carrier admitted in this state;

(2) be continuous;

(3) be cancellable by the surety only after not less than 90 days' notice to the commission; and

(4) recognize that the obligation continues for the terms of the residential service contracts written by the residential service company while the bond is in force.

(c) Any security provided under this section in a form other than a bond must be convertible to cash by the commission for the benefit of contract holders in this state, without resort to the courts, if the commission determines that the residential service company is in default of its financial obligations to the contract holders. Any amount remaining after all contract holders' claims are paid must be returned to the residential service company not later than the 120th day after the date the last outstanding residential service contract expires.

(d) This section shall not be applicable to a residential service company that reinsures one hundred percent of its outstanding risk under residential service contracts issued and outstanding in this state in accordance with subsection (c) of Section 1303.152.

No equivalent provision.

SECTION 8. Section 1303.153, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), as ~~As~~ a guarantee that a residential service company will meet its obligations to its contract holders, the company shall maintain with the commission a bond or other security accepted by the commission.

(d) This section does not apply to a residential service company that uses a reimbursement insurance policy to insure its outstanding residential service contracts written in this state in accordance with Section 1303.151(b).

SECTION 9. Section 1303.154, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), an ~~An~~ applicant for a new license must provide security in the amount of \$25,000. The amount of the security may not be

reduced before the residential service company files a second report under Section 1303.202.

(d) This section does not apply to a residential service company that uses a reimbursement insurance policy to insure its outstanding residential service contracts written in this state in accordance with Section 1303.151(b).

No equivalent provision.

SECTION 10. Sections 1303.202(b) and (c), Occupations Code, are amended to read as follows:

(b) The report must:

(1) be on a form prescribed by the commission;

(2) be verified by at least two of the residential service company's principal officers; and

(3) include:

(A) ~~[a]~~ financial statements ~~[statement]~~ of the residential service company, including its balance sheet and receipts and disbursements for the preceding year, certified as accurate by:

(i) an independent public accountant; or

(ii) at least two of the residential service company's principal officers, if the residential service company uses a reimbursement insurance policy to insure its outstanding residential service contracts written in this state in accordance with Section 1303.151(b);

(B) any material change to the information submitted under Section 1303.103;

(C) if the residential service company maintains a reserve required by Section 1303.151(a), the number of residential service contracts entered into during the year, the number of contract holders as of the end of the year, and the number of contracts terminating during the year; and

(D) any other information that:

(i) relates to the performance and solvency of the residential service company; and

(ii) is necessary for the commission to perform its duties under this chapter.

(c) Any information ~~[Information]~~ provided by a residential service company in connection with the report required by this section or any midyear report required by the commission ~~[under—Subsection (b)(3)(D)]~~ is confidential and exempt from disclosure under Chapter 552, Government Code. The commission may withhold the

information without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code [:
[1) confidential; and
(2) for the exclusive use of the commission].

No equivalent provision.

SECTION 11. Section 1303.251, Occupations Code, is amended to read as follows:

Sec. 1303.251. CONTRACT DELIVERY AND FILING [EVIDENCE OF COVERAGE]. (a) Each contract holder residing in this state is entitled to receive a copy of the [evidence of coverage under a] residential service contract not later than the 15th day after the date the contract holder pays for the residential service contract or the effective date of the residential service contract, whichever is later. The residential service company may provide [that issued] the copy by mail, e-mail, or other means of delivery acceptable to the commission [contract shall issue evidence of coverage under the contract].

(b) A residential service company shall file with the commission for approval [may not issue or deliver evidence of coverage under] a residential service contract, or an amendment to a previously filed residential service contract that changes the residential service contract's coverage or substantially amends a disclosure required by Section 1303.252 [evidence, to a person in this state until a copy of the evidence or amendment is filed with and approved by the commission].

(c) The commission may require a residential service company to submit relevant information the commission considers necessary to determine whether to approve or disapprove a filing made under Subsection (b) [the company's evidence of coverage].

(d) The commission shall approve a filing made under Subsection (b) [residential service company's evidence of coverage] if the requirements of this section and Section 1303.252 are met.

(d-1) For a filing made under Subsection (b) after a residential service company is licensed, the commission shall have 30 days to consider the filing from the date of the filing or the date that the commission

receives any associated filing fee, whichever is later. On the 31st day after that date, the filing is considered approved unless the commission issues a written order disapproving the filing or notifies the residential service company that the filing violates this section or Section 1303.252.

(d-2) If the commission notifies the residential service company that the filing violates this section or Section 1303.252, the residential service company may submit a response to that notification. On receipt of a response from the residential service company, the commission shall have 30 days to reconsider the filing. On the 31st day after the commission receives the residential service company's response, the filing is considered approved unless the commission issues a written order disapproving the filing.

(d-3) The commission may not require a residential service company to waive a 30-day consideration period provided by this section or make the approval of a filing contingent on waiving a 30-day consideration period provided by this section.

(e) If the commission disapproves a filing made under Subsection (b) [~~residential service company's evidence of coverage~~], the commission shall notify the company of the disapproval and in the notice shall specify in detail the reason for the disapproval.

(f) A residential service company whose filing under Subsection (b) [~~evidence of coverage~~] is disapproved by the commission is entitled to a hearing conducted by the State Office of Administrative Hearings [~~may request a hearing on the commission's decision. If a hearing is requested, the commission shall set a hearing on the decision as soon as reasonably possible. Not later than the 60th day after the date of the hearing, the commission by written order shall approve or disapprove the evidence. If the evidence is disapproved, the commission shall state in the order the grounds for the disapproval~~].

(g) A hearing under Subsection (f) is governed by the contested case procedures under Chapter 2001, Government Code.

No equivalent provision.

SECTION 12. Section 1303.252, Occupations Code, is amended to read as

follows:

Sec. 1303.252. FORM OF CONTRACT AND REQUIRED DISCLOSURES [CONTENTS OF EVIDENCE OF COVERAGE].

(a) A residential service contract marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state must be written, printed, or typed in clear, understandable language that is easy to read and must disclose the following [Evidence of coverage under a residential service contract must contain a clear and complete statement, if the evidence is a contract, or a reasonably complete facsimile, if the evidence is a certificate, of]:

- (1) the services or benefits to which the contract holder is entitled;
- (2) any limitation on the services, kinds of services, or benefits to be provided, including a deductible or co-payment provision;
- (3) where and in what manner information is available on how to obtain services;
- (4) the period during which the coverage is in effect;
- (5) the residential service company's agreement to perform services on the contract holder's telephone request to the company, without a requirement that a claim form or application be filed before the services are performed;
- (6) the company's agreement that, under normal circumstances, the company will initiate the performance of services within 48 hours after the contract holder requests the services; and
- (7) any service fee to be charged for a service call.

(b) A service fee under Subsection (a)(7) is not required to be preprinted on the residential service contract but must be disclosed in writing to the contract holder before the purchase of the residential service contract.

(c) A residential service contract insured under a reimbursement insurance policy in accordance with Section 1303.151(b) must contain a statement substantially similar to the following: "The residential service company's obligations under this residential service contract are insured under a reimbursement insurance policy." The residential service contract must also:

- (1) state the name and address of the insurer;

and

(2) state that the contract holder may apply for reimbursement directly to the insurer if a covered service is not provided to the contract holder by the residential service company before the 61st day after the date the contract holder provides proof of loss.

(d) A residential service contract [Evidence of coverage] may not contain a provision that encourages misrepresentation or that is unjust, unfair, inequitable, misleading, deceptive, or false.

No equivalent provision.

SECTION 13. Section 1303.253, Occupations Code, is amended to read as follows:

Sec. 1303.253. SCHEDULE OF CHARGES. ~~[(a)]~~ A residential service company shall file ~~[may not use in conjunction with a residential service contract]~~ a schedule of charges for services covered under a residential service ~~[the]~~ contract and any ~~[or an]~~ amendment to a previously filed ~~[that]~~ schedule with the commission before implementation of the schedule of charges or amendment. A filing made under this section is not subject to prior approval and is made for informational purposes only ~~[until a copy of the schedule or amendment is filed with and approved by the commission].~~

~~[(b) The commission shall approve a schedule of charges if the commission determines that the schedule is reasonably related to the amount, term, and conditions of the contract.~~

~~[(c) If the commission determines that the schedule of charges is not reasonably related to the contract as described by Subsection (b), the commission may reject the schedule. If the commission rejects the schedule, the commission shall notify the company of the rejection and shall specify in detail the reason for the rejection.~~

~~[(d) A residential service company whose schedule of charges is rejected by the commission may request a hearing on the commission's decision to be held as soon as reasonably possible. Not later than the 60th day after the date of the hearing, the commission by written order shall approve or reject the schedule. If the schedule is rejected, the commission shall state in the order the grounds for the rejection.]~~

No equivalent provision.

SECTION 14. Section 1303.301(a), Occupations Code, is amended to read as follows:

(a) A residential service company may not cause or permit the use of:

(1) a false or misleading advertisement or solicitation; or

(2) any deceptive residential service contract [~~evidence of coverage~~].

No equivalent provision.

SECTION 15. Section 1303.352(a), Occupations Code, is amended to read as follows:

(a) The commission may discipline a residential service company under Section 1303.351 if the continued operation of the company would be hazardous to its contract holders or if the company:

(1) operates in conflict with its basic organizational document or in a manner that is contrary to that described in and reasonably inferred from information submitted under Section 1303.103, unless an amendment to the information has been filed with and approved by the commission;

(2) issues a residential service contract [~~evidence of coverage~~] that does not comply with Sections 1303.251 and 1303.252;

(3) uses a schedule of charges that has not been filed with the commission in accordance [~~does not comply~~] with Section 1303.253;

(4) is not financially responsible and may be reasonably expected to be unable to meet the company's obligations to contract holders;

(5) did not comply with Subchapter D;

(6) advertised or marketed the company's services in a false, misrepresentative, misleading, deceptive, or unfair manner; or

(7) otherwise did not substantially comply with this chapter or a rule adopted under this chapter.

SECTION 4. The change in law made by this Act applies only to a contract entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 16. The changes in law made by this Act apply only to a residential service contract entered into or renewed on or after the effective date of this Act. A residential service contract entered into or renewed before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect

SECTION 17. Same as introduced version.

September 1, 2017.