

By: Goldman

H.B. No. 2403

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of residential service companies and
3 residential service contracts.

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

5 SECTION 1. Section 1303.101(b), Occupations Code, is
6 amended to read as follows:

7 (b) Except for the license requirement in Subsection (a), a
8 person who administers, issues, makes, provides, sells, markets, or
9 offers to sell a residential service contract or is contractually
10 obligated to perform services under a residential service contract
11 is exempt from any other licensing requirements of this state with
12 respect to the administration, issuance, making, provision, sale,
13 marketing, or offering for sale or the performance of [A person may
14 ~~not sell, offer to sell, arrange or solicit the sale of, or receive~~
15 ~~an application for~~] a residential service contract [~~unless:~~

16 [~~(1) the person is:~~
17 [~~(A) employed by a residential service company~~
18 ~~licensed under this chapter, or~~
19 [~~(B) licensed as a real estate salesperson, real~~
20 ~~estate broker, mobile home dealer, or insurance agent in this~~
21 ~~state, and~~

22 [~~(2) the contract is issued by a residential service~~
23 ~~company licensed under this chapter]~~.

24 SECTION 2. Section 1303.152(a), Occupations Code, is

1 amended to read as follows:

2 (a) The amount of the reserve required by Section 1303.151
3 is based on the amount of liability remaining under outstanding
4 residential service contracts written in this state by the
5 residential service company, as determined by multiplying the total
6 number of days [~~months~~] remaining on all of those contracts by the
7 pro rata daily [~~monthly~~] contract charge.

8 SECTION 3. Sections 1303.202(a) and (b), Occupations Code,
9 are amended to read as follows:

10 (a) The commission may adopt rules requiring each
11 residential service company to file with the commission an annual
12 [~~a~~] report that meets the requirements in Subsection (b).

13 (b) The report must:

14 (1) be on a form prescribed by the commission;
15 (2) be verified by at least two of the residential
16 service company's principal officers; and

17 (3) include:

18 (A) financial statements of the residential
19 service company, including its balance sheet and receipts and
20 disbursements for the preceding year, certified as accurate by:

21 (i) an independent public accountant; or
22 (ii) at least two of the residential
23 service company's principal officers [~~, if the residential service~~
24 ~~company uses a reimbursement insurance policy to insure its~~
25 ~~outstanding residential service contracts written in this state in~~
26 ~~accordance with Section 1303.151(b)];~~

27 (B) any material change to the information

1 submitted under Section 1303.103, except an amendment to a
2 residential service contract filed with the commission under
3 Section 1303.251;

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

9 (D) a schedule of contract charges filed for
10 informational purposes only which shall not be subject to approval
11 by the commission; and

12 (E) any other information that:

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

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

17 SECTION 4. Section 1303.302(a), Occupations Code, is
18 amended to read as follows:

19 (a) A seller of a residential property or the buyer's or
20 seller's agent may not condition the sale of the property on the
21 buyer's purchase of a residential service contract. A seller of a
22 residential property or the buyer's or seller's agent who purchases
23 a residential service contract for the benefit of the buyer has the
24 right to choose the residential service contract provider.

25 SECTION 5. Section 1303.352, Occupations Code, is amended
26 to read as follows:

27 Sec. 1303.352. GROUNDS FOR DISCIPLINARY ACTION. (a) The

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

4 (1) operates in conflict with its basic organizational
5 document or in a manner that is contrary to that described in and
6 reasonably inferred from information submitted under Section
7 1303.103, unless an amendment to the information has been filed
8 with and approved by the commission;

9 (2) issues a residential service contract that does
10 not comply with Sections 1303.251 and 1303.252;

11 (3) ~~[uses a schedule of charges that does not comply~~
12 ~~with Section 1303.253,~~

13 ~~[(4)]~~ is not financially responsible and may be
14 reasonably expected to be unable to meet the company's obligations
15 to contract holders;

16 (4) ~~[(5)]~~ did not comply with Subchapter D;

17 (5) ~~[(6)]~~ advertised or marketed the company's
18 services in a false, misrepresentative, misleading, deceptive, or
19 unfair manner; or

20 (6) ~~[(7)]~~ otherwise did not substantially comply with
21 this chapter or a rule adopted under this chapter.

22 (b) Subsection (a)(5) ~~[(a)(6)]~~ applies to any advertising
23 or marketing conducted on behalf of a residential service company
24 by another person.

25 SECTION 6. Sections 1303.101(c), 1303.253, and
26 1303.302(b), Occupations Code, are repealed.

27 SECTION 7. The changes in law made by this Act apply only to

1 a residential service contract entered into or renewed on or after
2 the effective date of this Act. A residential service contract
3 entered into or renewed before that date is governed by the law as
4 it existed immediately before the effective date of this Act, and
5 that law is continued in effect for that purpose.

6 SECTION 8. This Act takes effect September 1, 2019.