

BILL ANALYSIS

Senate Research Center
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H.B. 4316
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are calls to update and clarify certain provisions relating to the transfer of the residential service contract program from the Texas Real Estate Commission to the Texas Department of Licensing and Regulation (TDLR) service contract provider program.

H.B. 4316 would clarify that information that was confidential at the previous agency also is confidential at TDLR and to revise calculations for amounts required to be maintained in a service contract provider's funded reserve account and funded reserves. Accordingly, this bill would improve the efficiency, effectiveness, and functionality of the service contract provider program under TDLR.

H.B. 4316 amends current law relating to regulation of residential service contract providers, sellers, and administrators.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 1304, Occupations Code, by adding Section 1304.0051, as follows:

Sec. 1304.0051. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Provides that the following information submitted to or maintained by the Texas Department of Licensing and Regulation (TDLR) under Chapter 1304 (Service Contract Providers and Administrators) that pertains to an applicant for registration or a seller, provider, or administrator is confidential and not subject to disclosure under Chapter 552 (Public Information), 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 TDLR, proprietary or confidential for competitive purposes.

(b) Authorizes TDLR to withhold the information described by Subsection (a) without requesting a decision from the attorney general under Subchapter G (Attorney General Decisions), Chapter 552, Government Code.

SECTION 2. Amends Section 1304.151(b), Occupations Code, as follows:

(b) Prohibits the amount maintained in the reserve account, if the provider meets its obligations under Subsection (a)(2) (relating to requiring each service provider, in ensuring the faithful performance of a provider's obligations to its service contract

holders, to maintain a funded reserve account covering the provider's obligations under its service contracts that are issued and outstanding in this state and place in trust with the executive director a financial security deposit consisting of certain items), from being less than an amount computed by subtracting the amount of any claims paid from the product of 40 percent and the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in this state. Requires TDLR to prescribe a calculation form to be used by a provider to calculate the minimum amount required to be maintained in the provider's reserve account under this subsection.

Deletes existing text prohibiting the amount maintained in the reserve account, if the provider meets its obligations under Subsection (a)(2), from being less than an amount equal to 40 percent of the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in this state, minus any claims paid.

SECTION 3. Amends Section 1304.157(c), Occupations Code, as follows:

(c) Authorizes a provider of a residential service contract, notwithstanding Section 1304.151(a)(1) (relating to requiring each service provider, in ensuring the faithful performance of a provider's obligations to its service contract holders, to insure the provider's service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or by a surplus lines insurer eligible to place coverage in this state), to use a certain insurance policy to insure the provider's residential service contracts if the provider maintains a funded reserve equal to not less than an amount computed by subtracting the amount of any claims paid from the product of 25 percent and the gross consideration the provider received from consumers from the sale of all the provider's service contracts issued and outstanding in this state. Requires TDLR to prescribe a calculation form to be used by a provider to calculate the minimum amount required to be maintained in the provider's reserve account under this subsection.

Deletes existing text authorizing a provider of a residential service contract, notwithstanding Section 1304.151(a)(1), to use a certain insurance policy to insure the provider's residential service contracts if the provider maintains a funded reserve equal to not less than 25 percent of the gross consideration the provider received from consumers from the sale of all the provider's service contracts issued and outstanding in this state, minus any claims paid.

SECTION 4. Provides that a license issued by the Texas Real Estate Commission under former Chapter 1303 (Residential Service Companies), Occupations Code, before September 1, 2021, notwithstanding Section 4.13(b), Chapter 663 (H.B. 1560), Acts of the 87th Legislature, Regular Session, 2021, is continued in effect until January 1, 2024, as a provider or administrator registration issued by TDLR under Chapter 1304, Occupations Code.

SECTION 5. Provides that any information designated as confidential for competitive purposes under former Chapter 1303, Occupations Code, by an applicant, seller, provider, or administrator before the effective date of this Act is confidential and not subject to disclosure under Chapter 552, Government Code. Authorizes TDLR to withhold the information without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

SECTION 6. Effective date: September 1, 2023.