

BILL ANALYSIS

C.S.H.B. 4316
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. C.S.H.B. 4316 seeks to clarify that information that was confidential at the previous agency is also 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.

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. 4316 amends the Occupations Code to make the following information submitted to or maintained by the Texas Department of Licensing and Regulation (TDLR) under the Service Contract Regulatory Act confidential and not subject to disclosure under state public information law:

- the financial condition of an applicant for a service contract provider or administrator license or a seller, provider, or administrator of a service contract;
- the identity or number of service contract holders; or
- documents that are claimed, in a manner determined by TDLR, proprietary or confidential for competitive purposes.

TDLR may withhold the information without requesting a decision from the attorney general.

C.S.H.B. 4316 establishes that any information designated as confidential for competitive purposes under the former Residential Service Company Act by an applicant for a service contract provider or administrator license, or a seller, provider, or administrator of a service contract before this bill's effective date is confidential and not subject to disclosure under state public information law and TDLR may withhold the information without requesting a decision from the attorney general.

C.S.H.B. 4316 changes the amount in a funded reserve account a provider must maintain to ensure the provider's obligations to its service contract holders from an amount equal to not less than 40 percent of the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in Texas minus any claims paid, to an amount

computed by subtracting the amount of any claims paid from the product of 40 percent and such gross consideration.

C.S.H.B. 4316 changes the amount a residential service contract provider maintains in a funded reserve for the provider to use as a reimbursement insurance policy issued by a captive insurance company to insure the provider's residential service contracts from an amount 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 Texas minus any claims paid, to an amount equal to not less than an amount computed by subtracting the amount of any claims paid from the product of 25 percent and such gross consideration.

C.S.H.B. 4316 requires TDLR to prescribe calculation forms, as applicable, to be used by a provider to calculate the minimum amounts required to be maintained in the provider's reserve account.

C.S.H.B. 4316 establishes that a license issued by the Texas Real Estate Commission under the former Residential Service Company Act before September 1, 2021, is continued in effect until January 1, 2024, as a provider or administrator registration issued by TDLR under the Service Contract Regulatory Act.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4316 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision absent from the introduced making confidential and not subject to disclosure under state public information law documents submitted to or maintained by TDLR that are claimed, in a manner determined by TDLR, proprietary or confidential for competitive purposes.

Whereas the introduced changed the amount maintained in a funded reserve account a provider must maintain to ensure the provider's obligations to its service contract holders from an amount equal to not less than 40 percent of the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in Texas, minus any claims paid, to an amount equal to not less than 40 percent of the difference between such gross consideration received by the provider and any claims paid during the preceding twelve-month period, the substitute changes the amount to an amount computed by subtracting the amount of any claims paid from the product of 40 percent and such gross consideration.

Whereas the introduced changed the amount a residential service contract provider maintains in a funded reserve for the provider to use a reimbursement insurance policy issued by a captive insurance company to insure the provider's residential service contracts from an amount 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 Texas, minus any claims paid, to an amount equal to not less than 25 percent of the difference between such gross consideration received by the provider and any claims paid during the preceding twelve-month period, the substitute changes the amount to not less than an amount computed by subtracting the amount of any claims paid from the product of 25 percent and such gross consideration.

The substitute includes provisions absent from the introduced requiring TDLR to prescribe a calculation form to be used by a provider to calculate the minimum amounts required to be maintained in the provider's funded reserve account and funded reserve, as applicable.