By:  Goldman (Senate Sponsor - Zaffirini) H.B. No. 4316

(In the Senate - Received from the House May 8, 2023; May 9, 2023, read first time and referred to Committee on Business & Commerce; May 17, 2023, reported favorably by the following vote: Yeas 9, Nays 0; May 17, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell                       X

Campbell             X

Creighton            X

Johnson              X

Kolkhorst                      X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

A BILL TO BE ENTITLED

AN ACT

relating to regulation of residential service contract providers, sellers, and administrators.

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

SECTION 1.  Subchapter A, Chapter 1304, Occupations Code, is amended by adding Section 1304.0051 to read as follows:

Sec. 1304.0051.  CONFIDENTIALITY OF CERTAIN INFORMATION. (a) The following information submitted to or maintained by the department under this chapter that pertains to an applicant for registration or a seller, provider, or administrator is confidential and not subject to disclosure under Chapter 552, 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 the department, proprietary or confidential for competitive purposes.

(b)  The department may withhold the information described by Subsection (a) without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

SECTION 2.  Section 1304.151(b), Occupations Code, is amended to read as follows:

(b)  If the provider ensures its obligations under Subsection (a)(2), the amount maintained in the reserve account may not be less than an amount computed by subtracting the amount of any claims paid from the product of [~~equal to~~] 40 percent and [~~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~~]. The department shall 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. The executive director may review and examine the reserve account. Except as provided by Subsections (b-1) and (b-4), the amount of the security deposit may not be less than $250,000. The provider must submit to the executive director on request a copy of the provider's financial statements that must be prepared in accordance with generally accepted accounting principles, be without qualification as to the going concern status of the provider, and be audited by an independent certified public accountant. The commission by rule may require the provider to submit additional financial reports.

SECTION 3.  Section 1304.157(c), Occupations Code, is amended to read as follows:

(c)  Notwithstanding Section 1304.151(a)(1), a provider of a residential service contract may use a reimbursement insurance policy issued by a captive insurance company as defined by Section 964.001, Insurance Code, 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 [~~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~~]. The department shall 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. A reimbursement insurance policy issued to a residential service contract provider in accordance with this subsection:

(1)  is not subject to Section 1304.152; and

(2)  is considered to satisfy the requirements of Sections 1304.1025 and 1304.151(a)(1) for purposes of this chapter.

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

SECTION 5.  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. The Texas Department of Licensing and Regulation may withhold the information without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

SECTION 6.  This Act takes effect September 1, 2023.

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