

By: Goldman

H.B. No. 4316

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 a license applicant
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; or

(2) the identity or number of service contract
holders.

(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 equal to 40 percent of the difference
between the gross consideration the provider received from

1 consumers from the sale of all service contracts issued and
2 outstanding in this state, and [~~minus~~] any claims paid during the
3 preceding twelve-month period. The executive director may review
4 and examine the reserve account. Except as provided by Subsections
5 (b-1) and (b-4), the amount of the security deposit may not be less
6 than \$250,000. The provider must submit to the executive director
7 on request a copy of the provider's financial statements that must
8 be prepared in accordance with generally accepted accounting
9 principles, be without qualification as to the going concern status
10 of the provider, and be audited by an independent certified public
11 accountant. The commission by rule may require the provider to
12 submit additional financial reports.

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

15 (c) Notwithstanding Section 1304.151(a)(1), a provider of a
16 residential service contract may use a reimbursement insurance
17 policy issued by a captive insurance company as defined by Section
18 964.001, Insurance Code, to insure the provider's residential
19 service contracts if the provider maintains a funded reserve equal
20 to not less than 25 percent of the difference between the gross
21 consideration the provider received from consumers from the sale of
22 all the provider's service contracts issued and outstanding in this
23 state, and [~~minus~~] any claims paid during the preceding
24 twelve-month period. A reimbursement insurance policy issued to a
25 residential service contract provider in accordance with this
26 subsection:

27 (1) is not subject to Section 1304.152; and

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

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

10 SECTION 5. Any information designated as confidential for
11 competitive purposes under former Chapter 1303, Occupations Code,
12 by an applicant, seller, provider, or administrator before the
13 effective date of this Act is confidential and not subject to
14 disclosure under Chapter 552, Government Code. The Texas
15 Department of Licensing and Regulation may withhold the information
16 without requesting a decision from the attorney general under
17 Subchapter G, Chapter 552, Government Code.

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