

1-1 By: Goldman (Senate Sponsor - Zaffirini) H.B. No. 4316
 1-2 (In the Senate - Received from the House May 8, 2023;
 1-3 May 9, 2023, read first time and referred to Committee on Business
 1-4 & Commerce; May 17, 2023, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 17, 2023, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7 | | | | |
| 1-8 | X | | | |
| 1-9 | X | | | |
| 1-10 | | | X | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | | | X | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to regulation of residential service contract providers,
 1-22 sellers, and administrators.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter A, Chapter 1304, Occupations Code, is
 1-25 amended by adding Section 1304.0051 to read as follows:

1-26 Sec. 1304.0051. CONFIDENTIALITY OF CERTAIN INFORMATION.

1-27 (a) The following information submitted to or maintained by the
 1-28 department under this chapter that pertains to an applicant for
 1-29 registration or a seller, provider, or administrator is
 1-30 confidential and not subject to disclosure under Chapter 552,
 1-31 Government Code:

1-32 (1) the financial condition of the applicant, seller,
 1-33 provider, or administrator;

1-34 (2) the identity or number of service contract
 1-35 holders; or

1-36 (3) documents that are claimed, in a manner determined
 1-37 by the department, proprietary or confidential for competitive
 1-38 purposes.

1-39 (b) The department may withhold the information described
 1-40 by Subsection (a) without requesting a decision from the attorney
 1-41 general under Subchapter G, Chapter 552, Government Code.

1-42 SECTION 2. Section 1304.151(b), Occupations Code, is
 1-43 amended to read as follows:

1-44 (b) If the provider ensures its obligations under
 1-45 Subsection (a)(2), the amount maintained in the reserve account may
 1-46 not be less than an amount computed by subtracting the amount of any
 1-47 claims paid from the product of ~~equal to~~ 40 percent and ~~of~~ the
 1-48 gross consideration the provider received from consumers from the
 1-49 sale of all service contracts issued and outstanding in this state
 1-50 ~~[, minus any claims paid].~~ The department shall prescribe a
 1-51 calculation form to be used by a provider to calculate the minimum
 1-52 amount required to be maintained in the provider's reserve account
 1-53 under this subsection. The executive director may review and
 1-54 examine the reserve account. Except as provided by Subsections
 1-55 (b-1) and (b-4), the amount of the security deposit may not be less
 1-56 than \$250,000. The provider must submit to the executive director
 1-57 on request a copy of the provider's financial statements that must
 1-58 be prepared in accordance with generally accepted accounting
 1-59 principles, be without qualification as to the going concern status
 1-60 of the provider, and be audited by an independent certified public
 1-61 accountant. The commission by rule may require the provider to

2-1 submit additional financial reports.

2-2 SECTION 3. Section 1304.157(c), Occupations Code, is
2-3 amended to read as follows:

2-4 (c) Notwithstanding Section 1304.151(a)(1), a provider of a
2-5 residential service contract may use a reimbursement insurance
2-6 policy issued by a captive insurance company as defined by Section
2-7 964.001, Insurance Code, to insure the provider's residential
2-8 service contracts if the provider maintains a funded reserve equal
2-9 to not less than an amount computed by subtracting the amount of any
2-10 claims paid from the product of 25 percent and [of] the gross
2-11 consideration the provider received from consumers from the sale of
2-12 all the provider's service contracts issued and outstanding in this
2-13 state [minus any claims paid]. The department shall prescribe a
2-14 calculation form to be used by a provider to calculate the minimum
2-15 amount required to be maintained in the provider's reserve account
2-16 under this subsection. A reimbursement insurance policy issued to
2-17 a residential service contract provider in accordance with this
2-18 subsection:

2-19 (1) is not subject to Section 1304.152; and

2-20 (2) is considered to satisfy the requirements of
2-21 Sections 1304.1025 and 1304.151(a)(1) for purposes of this chapter.

2-22 SECTION 4. Notwithstanding Section 4.13(b), Chapter 663
2-23 (H.B. 1560), Acts of the 87th Legislature, Regular Session, 2021, a
2-24 license issued by the Texas Real Estate Commission under former
2-25 Chapter 1303, Occupations Code, before September 1, 2021, is
2-26 continued in effect until January 1, 2024, as a provider or
2-27 administrator registration issued by the Texas Department of
2-28 Licensing and Regulation under Chapter 1304, Occupations Code.

2-29 SECTION 5. Any information designated as confidential for
2-30 competitive purposes under former Chapter 1303, Occupations Code,
2-31 by an applicant, seller, provider, or administrator before the
2-32 effective date of this Act is confidential and not subject to
2-33 disclosure under Chapter 552, Government Code. The Texas
2-34 Department of Licensing and Regulation may withhold the information
2-35 without requesting a decision from the attorney general under
2-36 Subchapter G, Chapter 552, Government Code.

2-37 SECTION 6. This Act takes effect September 1, 2023.

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