

BILL ANALYSIS

H.B. 4830
By: Phelan
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that service contracts, including contracts for leased vehicles, are inadequately regulated, resulting in confusion for consumers and inconsistent protections, and that consumers are often unaware of the terms, conditions, and coverage under their service contracts, leading to potential misunderstandings or exploitation by service contract providers. H.B. 4830 seeks to address the lack of uniformity and transparency in the regulation of service contracts by revising certain definitions, exemptions, and requirements for service contract providers and administrators under the Service Contract Regulatory Act and setting out requirements for residential service contract providers.

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

H.B. 4830 amends the Occupations Code to revise provisions relating to the regulation of service contracts and service contract providers and administrators under the Service Contract Regulatory Act.

H.B. 4830 changes the definition of "consumer" for purposes of the act from an individual who, for a purpose other than resale, buys tangible personal property that is distributed in commerce and normally used for personal, family, or household purposes and not for business or research purposes to an individual to whom a service contract is sold, offered, or marketed. The bill revises the definition of "service contract" by removing from the provider agreements considered as such an agreement to provide indemnification for the repair, replacement, or maintenance of a product and including instead an agreement to provide reimbursement or payment for that repair, replacement, or maintenance. The bill also includes in that definition a provider agreement to provide for the following in conjunction with a leased motor vehicle:

- the repair, replacement, or maintenance of property due to excess wear and use, damage for items such as tires, paint cracks or chips, interior stains, rips or scratches, exterior dents or scratches, windshield cracks or chips, and missing interior or exterior parts, or excess mileage that would result in a lease-end charge; and
- payment, in an amount not to exceed the purchase price of the vehicle, for the repair, replacement, or maintenance of property due to excess wear and use, damage for those items, or excess mileage that would result in a charge at the end of the lease term or any

other charge for damage that is considered as excess wear and use by a lessor under a motor vehicle lease.

H.B. 4830 revises the definition of "residential service contract" by removing from the provider agreements considered as such an agreement to provide incidental payment of indemnity under limited circumstances and including instead an agreement to provide incidental payment or reimbursement under those circumstances for the applicable covered items. The bill retains in the definition an agreement to provide reimbursement or payment instead of service, repair, or replacement of an applicable item but removes the condition that the reimbursement or payment occur when a part, structural component, appliance, or service provider or technician is unavailable. The bill excludes from the definition a service contract offered as follows:

- in connection with the retail purchase of an appliance and the terms of which do not include a structural component, appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system; or
- by a registered provider that covers appliances attached to or located on residential property and the terms of which do not include a structural component, appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system.

The bill makes the minimum required security deposit of \$25,000 to ensure the faithful performance of a provider's obligations to its service contract holders inapplicable to a residential service contract provider offering such an excluded service contract.

H.B. 4830 changes the definition of "maintenance agreement" for purposes of exempting such an agreement from the act from an agreement that provides only for scheduled maintenance for a limited period to an agreement that provides only for scheduled maintenance for a specified period. The bill establishes that the term does not include coverage for repairs or other incidental expenses necessitated by an operational or structural failure due to the breakdown of a part, regardless of whether the replacement of the part otherwise constitutes scheduled maintenance. The bill defines "scheduled maintenance" as service performed at or with reference to a time or wear interval for a device, appliance, electrical, plumbing, heating, cooling, or air-conditioning system, or motor vehicle that may include the replacement of fluids, filters, brake pads, wiper blades, belts, tires, and other similar parts designed to wear out with normal use and recommended to be replaced or replenished at designated intervals.

H.B. 4830 revises the definition of "warranty" for purposes of exempting a warranty from the act as follows:

- includes an undertaking made solely by the seller of a structural component or the seller of a system that meets certain criteria; and
- with respect to the criteria that a product, structural component, system, or service meets for purposes of the definition, replaces the criterion that it guarantees indemnity for a defective part, mechanical or electrical breakdown, or labor cost or guarantees another remedial measure, including repair or replacement, with a criterion that it guarantees a remedial measure in the event of a defect in or performance failure of the covered item or the repetition of service and further specifies that the remedial measure may include reimbursement for costs related to the defect or failure, the repair or replacement of the item, or the repetition of service.

H.B. 4830 changes the exemption from the act for a service contract sold or offered for sale to a person who is not a consumer to an exemption for a service contract sold or offered for sale to a person concerning property purchased for other than personal, family, or household purposes. The bill removes the exemptions for the following agreements from the act:

- a performance guarantee offered by the manufacturer or seller of an appliance or other system or component of a residential property;
- a guarantee or warranty that is designed to guarantee or warrant the repair or service of an appliance, system, or component of a residential property and is issued by a person who sells, services, repairs, or replaces the appliance, system, or component at the time or before the guarantee or warranty is issued; and

- a service or maintenance agreement or a warranty that meets the following criteria:
 - is sold, offered for sale, or issued by a manufacturer or merchant who manufactures or sells a product or part of a product, including a structural component, an appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system of a building or residence; and
 - provides for, warrants, or guarantees the maintenance, repair, replacement, or performance of the product or part of the product.

H.B. 4830 makes the requirement for a provider to make applicable records regarding the provider's transaction records available to the executive director of the Texas Department of Licensing and Regulation (TDLR) on the director's request as necessary for the purpose of compliance determination applicable also to an administrator. The bill includes a copy of any claim-related correspondence with the service contract holder and documentation of any reason for the denial of a claim among the written claims files a service contract provider is required to maintain.

H.B. 4830 includes any requirement of the Service Contract Regulatory Act and of statutory provisions relating to general TDLR licensing among the requirements from which a provider, seller, administrator, or other person who markets, sells, issues, or offers to sell service contracts is not exempt.

H.B. 4830 makes provisions authorizing a provider to employ or contract with a seller regarding service contracts applicable also to an administrator and makes a seller who violates the act liable for administrative or civil penalties under that act and under statutory provisions relating to general TDLR licensing.

H.B. 4830 requires a residential service contract provider or administrator, as applicable, to exercise reasonable care to ensure that any repairs provided to the service contract holder are performed by persons licensed to perform the type of work, if the work requires a license, and to ensure that, under normal circumstances, not later than 48 hours after the contract holder requests services, the provider or administrator does the following:

- initiates the performance of services; or
- furnishes the contract holder a documented explanation for failure to provide the requested service.

A residential service contract provider or administrator is presumed to have exercised reasonable care to ensure the repairs are performed by licensed persons as required by the bill with respect to air conditioning or electrical work if the provider or administrator does the following:

- notes on any work order or in the claim file the name and license number of the licensed air conditioning and refrigeration contractor or the licensed electrical contractor under whose supervision the work will be performed; or
- selects the service provider from a regularly updated roster of licensed service providers that is maintained by the provider or administrator and includes the license numbers of the service providers and makes the roster available to TDLR for inspection on request.

H.B. 4830 revises the prohibition against a provider, administrator, seller, or other representative of the provider making, permitting, or causing to be made any false, deceptive, or misleading statement in any written communication or deliberately omitting a material statement if the omission would be considered misleading as follows:

- includes in the prohibition committing those acts through any oral communication and further specifies that the prohibition applies with respect to any oral or written communication with a consumer concerning a proposed or executed service contract;
- specifies that the prohibited actions with respect to a false, deceptive, or misleading statement are prohibited if committed intentionally, knowingly, or recklessly; and
- specifies that the prohibited omission of a material statement applies if the omission would mislead a reasonable consumer.

H.B. 4830 repeals Section 1304.1521, Occupations Code, which provides for a financial security transition for a service contract provider that maintained a funded reserve account on August 31, 2011.

H.B. 4830 applies only to a service contract entered into on or after the bill's effective date. A service contract entered into before that date is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for those purposes.

EFFECTIVE DATE

September 1, 2025.