

- SUBJECT:** Updating regulation of for-profit legal service contract providers
- COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment
- VOTE:** 6 ayes — Smith, Geren, Guillen, Kuempel, Miles, S. Thompson
- 0 nays
- 3 absent — Gutierrez, Goldman, D. Miller
- WITNESSES:** For — None
- Against — None
- On — (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation)
- BACKGROUND:** A prepaid legal services contract enables a consumer to obtain from a company a set amount of certain legal services for a specific time and price. Such contracts cover different types of legal services, such as defense for moving violations and automobile accidents, divorce, estate planning, consumer protection, and document review.
- Companies provide a variety of services, from a telephone consultation for a one-time fee to more complicated services. Under a common type of plan, a company charges a monthly fee and offers the customer a variety of legal services. The attorneys used are paid a set monthly amount, based on the attorney's number of clients or a rate based on services rendered.
- Occupations Code Ch. 953 gives the Texas Department of Licensing and Regulation (TDLR) responsibility for implementing the licensing and regulation of for-profit legal service contract providers. Ch. 953 was last updated in 2005.
- DIGEST:** HB 3090 would make several technical changes to Occupations Code, Title 5, dealing with regulation of for-profit legal services contract companies, including:

- defining administrator to mean a person other than the company or an employee of the company who was responsible for the third-party administration of a legal service contract, and making certain sections regulating companies and sales representatives apply to administrators;
- specifying and redistributing the powers and duties of the TDLR, the TDLR executive director, and the Texas Commission of Licensing and Regulation (TCLR);
- changing fee requirements for registered sales representatives;
- setting the exact amount of financial security that companies must file with the executive director, instead of setting minimum amounts;
- defining acceptable forms of financial security as surety bonds, certificates of deposit, cash deposits, or letters of credit;
- changing procedures for distribution of financial security funds when a company fails to meet its financial obligations;
- specifying when the executive director may issue a cease and desist order;
- removing authority of the executive director to order an increase in financial security by repealing sec. 953.101(d); and
- providing for administrative penalties and sanctions for failure of a company to meet and maintain financial security requirements.

The bill also would provide for review of a company's finances prior to the company's initial registration with the department. A company would submit an audited financial statement prepared by a member of the American Academy of Actuaries and a certified statement describing any reserves maintained by the company. If the company did not have a statement based on at least 12 months of operations, the company would provide financial statements that had been reviewed by a certified public accountant.

The bill would allow a legal service contract holder to cancel the legal service contract if the contract holder provided the company with written notice of intent to cancel within seven days of receiving the contract. The

company would refund the full purchase price of the contract within 46 days of cancellation if the contract holder did not seek legal services before the contract was cancelled.

By repealing sec. 953.205, the bill would remove the ability of a person affected by a ruling, order, decision, or other action of the executive director or department to appeal by filing a petition in a district court in Travis County.

Under the bill, the Texas Commission of Licensing and Regulations would adopt rules implementing the changes made by this bill by January 1, 2016.

Provisions of the bill dealing with cancellation of legal service contracts by a contract holder would apply only to contracts sold on or after January 1, 2016. Contracts sold before that date could not be extended or renewed unless they complied with the cancellation provisions of this bill.

This bill would take effect September 1, 2015.