

BILL ANALYSIS

C.S.H.B. 2113
By: Goldman
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have recommended that the Texas Department of Licensing and Regulation (TDLR) cease regulating certain for-profit legal service contract companies because the industry requires little enforcement activity and poses a minimal risk of consumer harm. C.S.H.B. 2113 seeks to address this issue by repealing certain Occupations Code provisions relating to the regulation of such companies by TDLR and making related statutory changes.

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

C.S.H.B. 2113 repeals Occupations Code provisions relating to the powers and duties of the executive director of Texas Department of Licensing and Regulation to enforce statutory provisions regulating for-profit legal service contract companies and relating to prepaid legal service contract programs, legal service contract company records, registration requirements for legal service contract companies, financial security requirements for legal service contract companies, and disciplinary action under statutory provisions regulating such companies.

C.S.H.B. 2113 amends the Occupations Code to make conforming changes and to remove the requirements that a legal service contract be filed with the executive director before it is marketed, sold, offered for sale, administered, or issued in Texas and that any subsequent endorsement or attachment to the contract be so filed before the endorsement or attachment is delivered to legal service contract holders.

C.S.H.B. 2113 establishes that a violation of provisions relating to the regulation of for-profit legal service contract companies is a deceptive trade practice actionable under the Deceptive Trade Practices-Consumer Protection Act. The bill establishes that, on the bill's effective date, a registration issued under certain statutory provisions repealed by the bill expires and a pending proceeding under repealed statutory provisions regulating such companies relating to a registration or relating to another statutory provision repealed by the bill is dismissed.

C.S.H.B. 2113 repeals the following provisions of the Occupations Code:

- Sections 953.001(4), (5), and (6)

- Sections 953.004, 953.005, and 953.155
- Subchapters B, C, and E, Chapter 953

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2113 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 953.001, Occupations Code, is amended as follows:

SECTION 1. Section 953.001(1), Occupations Code, is amended to read as follows:

Sec. 953.001. DEFINITION[§]. In this chapter [:

~~[(1) "Administrator" means the person responsible for the administration of a legal service contract. The term includes a person responsible for any filing required by this chapter.~~

(1) "Administrator" means the person responsible for the administration of a legal service contract. [The term includes a person responsible for any filing required by this chapter.]

~~[(2) "Company" means a person who:
[(A) is contractually obligated to a legal service contract holder under the terms of a legal service contract;
[(B) enters into a contract with a contracting attorney to provide or obtain covered legal services for a legal service contract holder; and
[(C) operates as a for profit legal service contract company.~~

No equivalent provision.

~~[(3) "Contracting attorney" means an attorney who has entered into a contract with a company to provide or obtain covered legal services for a legal service contract holder.~~

No equivalent provision.

~~[(4) "Department" means the Texas Department of Licensing and Regulation.~~

No equivalent provision. (But see SECTION 5 below.)

~~[(5) "Executive director" means the executive director of the Texas Department of Licensing and Regulation or the executive director's designee.~~

No equivalent provision. (But see SECTION 5 below.)

~~[(6) "Financial security" means a surety bond, a certificate of deposit, or any other item approved by the executive director.~~

No equivalent provision. (But see SECTION 5 below.)

~~[(7)] "Legal service contract" means an agreement:~~

~~(A) that is entered into for a separately stated consideration; and~~

~~(B) under which the company obtains legal services for a legal service contract holder through a contracting attorney.~~

No equivalent provision.

~~[(8) "Legal service contract holder" means the person who purchases or otherwise holds a legal service contract or who is covered under a group legal service contract.~~

No equivalent provision.

~~[(9) "Person" means an individual or a partnership, company, corporation, association, or other private group.~~

No equivalent provision.

~~[(10) "Sales representative" means a person who sells or solicits legal service contracts to a person on behalf of a company.]~~

No equivalent provision.

SECTION 2. Sections 953.002 and 953.003, Occupations Code, are amended as follows:

No equivalent provision.

Sec. 953.002. ~~[EXEMPTIONS.—This chapter does not apply to:~~

~~[(1) a nonprofit legal services corporation under Chapter 961, Insurance Code;~~

~~[(2) an automobile club supplying services under Chapter 722, Transportation Code;~~

~~[(3) a prepaid legal services program under Chapter 951;~~

~~[(4) a lawyer referral service under Chapter 952;~~

~~[(5) a retainer contract between an attorney and a client, and similar contracts made with a group of clients involved in the same or closely related legal matters; or~~

~~[(6) a contingency fee contract between an attorney and a client.~~

~~[Sec. 953.003.] EXEMPTIONS FROM CERTAIN OTHER LAWS. The acts of marketing, selling, offering for sale, issuing, making, proposing to make, and administering a legal service contract [that is regulated by this chapter] are exempt from the Insurance Code and other laws of this state regulating the business of insurance.~~

No equivalent provision.

SECTION 2. Section 953.156, Occupations Code, is amended to read as follows:
Sec. 953.156. FORM OF LEGAL SERVICE CONTRACT AND REQUIRED

DISCLOSURES. ~~[(a) A legal service contract must be filed with the executive director before it is marketed, sold, offered for sale, administered, or issued in this state. Any subsequent endorsement or attachment to the contract must also be filed with the executive director before the endorsement or attachment is delivered to legal service contract holders.~~

~~[(b)]~~ A legal service contract marketed, sold, offered for sale, administered, or issued in this state must:

- (1) be written, printed, or typed in clear, understandable language that is easy to read;
- (2) include the name and full address of the company;
- (3) include the purchase price of the contract and the terms under which the contract is sold;
- (4) include the terms and restrictions governing cancellation of the contract by the company or the legal service contract holder;
- (5) identify:
 - (A) any administrator, if the administrator is not the company;
 - (B) the sales representative; and
 - (C) the name of the legal service contract holder;
- (6) include the amount of any deductible or copayment;
- (7) specify the legal services and other benefits to be provided under the contract, and any limitation, exception, or exclusion;
- (8) specify the legal services, if any, for which the company will provide reimbursement and the amount of that reimbursement;
- (9) specify any restriction governing the transferability of the contract or the assignment of benefits;
- (10) include the duties of the legal service contract holder;
- (11) ~~[include the contact information for the department, including the department's toll-free number and electronic mail address, as well as a statement that the department regulates the company and the company's sales representatives;~~
- ~~[(12)]~~ explain the method to be used in resolving the legal service contract holder's complaints and grievances;
- (12) ~~[(13)]~~ explain how legal services may be obtained under the legal service contract;
- (13) ~~[(14)]~~ include a provision stating that

no change in the contract is valid until the change has been approved by an executive officer of the company and unless the approval is endorsed or attached to the contract;

(14) [~~(15)~~] include any eligibility and effective date requirements, including a definition of eligible dependents and the effective date of their coverage;

(15) [~~(16)~~] include the conditions under which coverage will terminate;

(16) [~~(17)~~] explain any subrogation arrangements;

(17) [~~(18)~~] contain a payment provision that provides for a grace period of at least 31 days; and

(18) [~~(19)~~] include conditions under which contract rates may be modified[; ~~and~~

~~[(20) include any other items required by the executive director as determined by rule].~~

No equivalent provision.

SECTION 3. Section 953.162, Occupations Code, is amended to read as follows:

Sec. 953.162. APPOINTMENT AND RESPONSIBILITIES OF

ADMINISTRATOR. [~~(a)~~] A company may appoint an administrator or designate a person to be responsible for:

(1) all or any part of the administration or sale of legal service contracts; and

(2) compliance with this chapter.

~~[(b) The executive director may adopt rules regarding the registration of an administrator with the department.]~~

No equivalent provision.

SECTION 4. Chapter 953, Occupations Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ENFORCEMENT

Sec. 953.251. DECEPTIVE TRADE PRACTICE. A violation of this chapter is a deceptive trade practice actionable under Subchapter E, Chapter 17, Business & Commerce Code.

SECTION 3. On the effective date of this Act, the following provisions of the Occupations Code are repealed:

No equivalent provision. (*But see SECTION 1 above.*)

(1) Section 953.004, Occupations Code;

(2) Section 953.005, Occupations Code;

SECTION 5. The following provisions of the Occupations Code are repealed:

(1) Sections 953.001(4), (5), and (6);

(2) Sections 953.004, 953.005, and 953.155; and

- (3) Subchapter B, Chapter 953, Occupations Code;
- (4) Subchapter C, Chapter 953, Occupations Code;
- (5) Subchapter D, Chapter 953, Occupations Code; and
- (6) Subchapter E, Chapter 953, Occupations Code.

No equivalent provision.

SECTION 4. This Act takes effect September 1, 2018.

- (3) Subchapters B, C, and E, Chapter 953.

SECTION 6. (a) On the effective date of this Act, a registration issued under former Subchapter B, Chapter 953, Occupations Code, expires.

(b) On the effective date of this Act, a pending proceeding under Chapter 953, Occupations Code, including a complaint investigation, disciplinary action, or administrative penalty proceeding, relating to a registration issued under former Subchapter B, Chapter 953, Occupations Code, or relating to another former provision of Chapter 953, Occupations Code, that is repealed by this Act, is dismissed.

SECTION 7. This Act takes effect September 1, 2017.