

## **BILL ANALYSIS**

Senate Research Center

H.B. 1560  
By: Goldman (Buckingham)  
Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Licensing and Regulation (TDLR) is the state's umbrella occupational licensing and regulatory agency. Although TDLR's overall operations and structure were under Sunset review, the legislature excluded programs transferred to TDLR on or after September 1, 2016, from review. Overall, the Sunset Advisory Commission found TDLR performs critical functions for the state and should be continued for 12 years. The commission also identified certain processes inconsistent with best practices for licensing agencies and found TDLR's decision making for key regulatory functions is largely driven by a reactive process reliant more on qualitative information than consistent, reliable data. TDLR is subject to abolishment under the Sunset Act on September 1, 2021, unless continued by the legislature.

H.B. 1560 amends current law relating to the continuation and functions of the Texas Department of Licensing and Regulation.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1.11 (Section 51.405, Occupations Code), SECTION 1.12 (Section 51.409, Occupations Code), SECTION 3.13 (Section 1603.2001, Occupations Code), SECTION 3.15 (Section 1603.2025, Occupations Code), SECTION 3.20 (Sections 1603.2103, 1603.2105, and 1603.2308, Occupations Code), SECTION 3.22 (Section 1603.255, Occupations Code), SECTION 3.24 (Section 1603.3002, Occupations Code), SECTION 3.28 (Section 1603.356, Occupations Code), SECTION 3.29 (Section 1603.3609, Occupations Code), and SECTION 4.11 of this bill.

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is modified in SECTION 1.19 (Section 1958.104, Occupations Code), SECTION 1.20 (Section 1958.106, Occupations Code), SECTION 3.05 (Section 1603.101, Occupations Code), and SECTION 3.26 (Section 1603.351, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is rescinded in SECTION 1.21 (Section 2308.157, Occupations Code), SECTION 1.23 (Sections 202.305, 203.304, 401.355, 455.0571, 605.261, 701.303, 1952.1051, and 1958.056, Occupations Code), SECTION 2.01 (Sections 1703.203, 1703.252, 1703.255, and 1703.305, Occupations Code), and SECTION 3.33 (Sections 1601.253, 1601.254, 1602.002, 1602.254, 1602.255, 1602.2572, 1602.306, 1602.353, 1602.354, 1602.408, 1603.206, 1603.207, and 1603.455) of this bill.

Rulemaking authority previously granted to the Texas Real Estate Commission is transferred to the Texas Commission of Licensing and Regulation in SECTION 4.13 of this bill.

Rulemaking authority previously granted to the Texas Real Estate Commission is transferred to the Texas Department of Licensing and Regulation in SECTION 4.13 of this bill.

Rulemaking authority previously granted to the Texas Real Estate Commission is rescinded in SECTION 4.10 (Sections 1303.051, 1303.202, 1303.355, and 1303.401, Occupations Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. GENERAL POWERS AND DUTIES

SECTION 1.01. Amends Section 51.002, Occupations Code, as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. Provides that, unless continued in existence as provided by Chapter 325, Government Code (Texas Sunset Act), the Texas Commission of Licensing and Regulation (TCLR) and the Texas Department of Licensing and Regulation (TDLR) are abolished September 1, 2033, rather than September 1, 2021. Deletes existing Subdivision (b) prohibiting the review of TCLR and TDLR by the Sunset Advisory Commission under Section 51.002 from including the review of any program that was transferred to TDLR on or after September 1, 2016.

SECTION 1.02. Amends Section 51.054, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program for members of TCLR provide the person with information regarding the law governing TDLR operations, the programs, functions, rules, and budget of TDLR, the scope and limitations on the rulemaking authority of TCLR, the results of the most recent formal audit of TDLR, the requirements of laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, and other laws applicable to members of a state policy-making body in performing their duties, and any applicable ethics policies adopted by TDLR or the Texas Ethics Commission. Deletes existing text requiring that the training program provide the person with information regarding legislation that created TDLR and TCLR, the programs operated by TDLR, the role and functions of TDLR, the rules of TDLR, with an emphasis on the rules that relate to disciplinary and investigatory authority, the current budget for TDLR, and other laws relating to public officials, including conflict of interest laws. Makes nonsubstantive changes.

(d) Requires the executive director of TDLR (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of TCLR. Requires each member of TCLR to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 1.03. Amends Section 51.209, Occupations Code, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Requires an advisory board to meet at the call of the executive director or the presiding officer of TCLR (presiding officer).

(a-2) Authorizes an advisory board to meet by telephone conference call, videoconference, or other similar telecommunication method, provided that each portion of the meeting that is required to be open to the public is required to be audible to the public and, in the case of a meeting held by videoconference, visible to the public. Requires that the meeting, if a problem occurs that causes a meeting to no longer be visible or audible to the public as required under this subsection, be recessed until the problem is resolved. Requires that the meeting, if the problem is not resolved in six hours or less, be adjourned. Requires the face of each participant in a meeting held by videoconference, while that participant is speaking, to be clearly visible, and the participant's voice to be audible, to each other participant and, during the open portion of the meeting, to the members of the public. Provides that a meeting held by telephone conference call, videoconference, or other similar telecommunication method is not subject to the requirements of Sections 551.127(a-3), (b), (c), (e), (f), (h), (i), and (j) (relating to certain requirements for meetings held by videoconference call), Government Code.

SECTION 1.04 Amends Subchapter D, Chapter 51, Occupations Code, by adding Sections 51.2095 and 51.211, as follows:

Sec. 51.2095. INTERDISCIPLINARY ADVISORY BOARDS. Authorizes the executive director or the presiding officer to appoint interdisciplinary advisory boards consisting of members from various businesses, industries, general trades, or occupations to provide expertise related to a program regulated by TDLR.

Sec. 51.211. RISK-BASED INSPECTIONS. (a) Requires TDLR to conduct risk-based inspections that prioritize inspections based on key risk factors identified by TDLR, including whether a license holder has previously violated a law establishing a regulatory program administered by TDLR or a rule or order of TDLR or the executive director, and the number of violations committed by a license holder.

(b) Authorizes TDLR to use alternative inspection methods, including the use of videoconference technology or other methods instead of conducting an in-person inspection, in circumstances TDLR considers appropriate.

SECTION 1.05. Amends Section 51.251, Occupations Code, by adding Subsection (c) to require the executive director to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of TDLR for the purpose of directing complaints to TDLR.

SECTION 1.06. Amends Section 51.252, Occupations Code, by amending Subsections (a) and (c) and adding Subsection (b-2), as follows:

(a) Requires TDLR to maintain a system to promptly and efficiently act on complaints filed with TDLR. Requires TDLR to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition. Deletes existing text requiring the executive director to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of TDLR for the purpose of directing complaints to TDLR, and requiring TDLR to provide to the person filing the complaint and to each person who is a subject of the complaint information about TDLR's policies and procedures relating to complaint investigation and resolution.

(b-2) Requires TDLR to make information available describing its procedures for complaint investigation and resolution.

(c) Requires TDLR to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation, rather than requires TDLR, at least quarterly and until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 1.07. Amends Subchapter E, Chapter 51, Occupations Code, by adding Sections 51.2521 and 51.255, as follows:

Sec. 51.2521. COMPLAINT INVESTIGATION. (a) Requires TDLR to assign priorities and investigate complaints based on risk to the public of the conduct alleged in the complaint.

(b) Requires TDLR, if TDLR determines at any time that an allegation made or formal complaint submitted by a person is inappropriate or without merit, to dismiss the complaint.

Sec. 51.255. STATISTICAL ANALYSIS OF COMPLAINTS. (a) Requires TDLR to make available on TDLR's Internet website a statistical analysis of the complaints received by TDLR.

(b) Requires that the analysis under this section include aggregate information on the number, source, type, and disposition of complaints received during the preceding state fiscal year and include, as applicable, the following information for each program regulated by TDLR:

- (1) the number of license holders;
- (2) the number of complaints received against license holders;
- (3) the number of complaints resolved and the manner in which they were resolved, including:
  - (A) the number of complaints dismissed and the reasons for dismissal;
  - (B) the number of contested cases referred to and heard by the State Office of Administrative Hearings;
  - (C) the number of cases appealed to a district court;
  - (D) the number of complaints resulting in disciplinary action, the disciplinary action taken, and whether the disciplinary action was imposed by an agreed settlement or default order issued by the executive director or a final order issued by TCLR;
  - (E) a breakdown of the nature of the alleged violations in complaints opened for investigation, and in cases that resulted in disciplinary action; and
  - (F) the number of complaints resolved, categorized by whether the complaint originated from TDLR staff or from the public;
- (4) the average time required to resolve a complaint;
- (5) the average amount of administrative penalties assessed; and
- (6) the number and amount of refunds ordered by TCLR or the executive director or obtained through an informal resolution.

SECTION 1.08. Amends Section 51.351, Occupations Code, by adding Subsection (e) to authorize TDLR to take action under Section 51.353 (License Denial; Administrative Sanctions) for a violation identified during an inspection.

SECTION 1.09. Amends Subchapter G, Chapter 51, Occupations Code, by adding Section 51.359, as follows:

Sec. 51.359. REFUND. (a) Authorizes TCLR or the executive director, subject to Subsection (b), to order a license holder to pay a refund to a consumer as provided in an agreed settlement, default order, or TCLR order instead of or in addition to imposing an administrative penalty or sanction.

(b) Prohibits the amount of a refund ordered from exceeding the amount the consumer paid to the license holder for a service regulated by TDLR. Prohibits TCLR or the executive director from requiring payment of other damages or estimating harm in a refund order.

SECTION 1.10. Amends Section 51.4012(a), Occupations Code, to delete existing text authorizing TCLR, notwithstanding any other law, to determine that a person is not eligible for a

license based on other information that indicates that the person lacks the honesty, trustworthiness, and integrity to hold a license issued by TDLR.

SECTION 1.11. Amends Section 51.405, Occupations Code, as follows:

Sec. 51.405. CONTINUING EDUCATION. (a) Creates this subsection from existing text. Requires TDLR, rather than TCLR, to recognize, prepare, or administer continuing education programs for license holders.

(b) Authorizes TCLR by rule, notwithstanding any other law, to establish a minimum number of hours of continuing education required for license renewal, to provide for the registration and renewal of continuing education providers and the approval of continuing education courses, and to assess reasonable and necessary fees on continuing education providers.

(c) Requires TCLR, in adopting rules under this section for a program regulated by TDLR, to consult, if applicable, with the advisory board established for the program.

SECTION 1.12. Amends Subchapter H, Chapter 51, Occupations Code, by adding Section 51.409, as follows:

Sec. 51.409. FINANCIAL DISCLOSURE STATEMENT. (a) Authorizes TCLR by rule to require a person, other than an individual, applying for a license issued by TDLR to submit with the license application a financial disclosure statement. Authorizes the rules to require any of the following information to be disclosed based on the type of license for which the application is submitted:

- (1) the name of the applicable business entity;
- (2) the name of each person who has a direct financial investment in the business;
- (3) the name of each person, other than an individual, who has a financial investment in the business and is not otherwise disclosed under Subdivision (2);
- (4) the total amount or percentage of the financial investment made by each person described by Subdivision (2); and
- (5) the name of each of the following persons associated with the business, if the person is not otherwise disclosed under Subdivision (2) or (3):
  - (A) a partner;
  - (B) an officer;
  - (C) a director;
  - (D) a managing employee;
  - (E) an owner or person who controls the owner; and
  - (F) a person who acts as a controlling person of the business through the exercise of direct or indirect influence or control over the management of the business, the expenditure of money by the business, or a policy of the business, including:
    - (i) any management company, landlord, marketing company, or similar person who operates or contracts for

the operation of the business and, if the business is a publicly traded corporation or is controlled by a publicly traded corporation, any officer or director of the corporation;

(ii) an individual who has a personal, familial, or other relationship with an owner, manager, landlord, tenant, or provider of a business that allows the individual to exercise actual control of the business; and

(iii) any other person TCLR by rule requires to be included based on the person's exercise of direct or indirect influence or control other than a shareholder or lender of the corporation.

(b) Authorizes TDLR to deny an application for the issuance or renewal of a license or to suspend or revoke a license on the grounds that an applicant or license holder fails to disclose a relationship for which disclosure is required by rules adopted under this section, or discloses a relationship for which disclosure is required by rules adopted under this section with a person who has failed to comply with an order of TCLR or the executive director.

SECTION 1.13. Amends Section 202.505, Occupations Code, to delete existing text authorizing TDLR to refuse to reinstate a license or to issue a new license until a podiatrist has passed the regular license examination if TCLR or the executive director suspended or revoked the license for failure to satisfy continuing education requirements under Section 202.305 (Continuing Education).

SECTION 1.14. Amends Section 402.305, Occupations Code, to authorize TDLR to renew the license of a license holder who does not comply with the applicable continuing education requirements, rather than the continuing education requirements of Section 402.303 or 402.304 (Alternative to Continuing Education Requirement), if the license holder meets certain criteria.

SECTION 1.15. Amends Section 802.062(b), Occupations Code, to require that an inspection by TDLR, rather than the inspection, be conducted during the facility's normal business hours, and that the licensed dog or cat breeder or a representative of the licensed breeder be given a reasonable opportunity to be present during the inspection.

SECTION 1.16. Amends Section 1151.1581, Occupations Code, as follows:

Sec. 1151.1581. CONTINUING EDUCATION. (a) Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to review and approve any, rather than all, continuing education programs for registrants.

(b) and (c) Creates these subsections from existing text and makes conforming changes.

Deletes existing text requiring TCLR to recognize, prepare, or administer continuing education programs for registrants under Chapter 1151 (Property Tax Professionals). Deletes existing text requiring a registrant to participate in the programs to the extent required by TDLR to keep the person's certificate of registration. Deletes existing text authorizing TCLR to set fees for continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover TDLR's costs in administering TDLR's duties under this section.

SECTION 1.17. Amends Section 1152.106, Occupations Code, as follows:

Sec. 1152.106. New heading: VOTE REQUIRED FOR ACTION. Deletes existing text requiring the Property Tax Consultants Advisory Council to meet at least semiannually at the call of the presiding officer or at the call of a majority of its members.

SECTION 1.18. Amends Section 1953.106, Occupations Code, to require a professional sanitarian, to renew a certification of registration under Chapter 1953 (Sanitarians), to provide proof of completion of any applicable continuing education requirements, rather than of continuing education requirements, prescribed by TCLR rule. Makes a conforming change.

SECTION 1.19. Amends Section 1958.104, Occupations Code, to delete existing text including ongoing continuing education required under Section 1958.106 (Training; Continuing Education) in the renewal requirements for a license as a mold assessor or remediator.

SECTION 1.20. Amends Section 1958.106, Occupations Code, as follows:

Sec. 1958.106. New heading: TRAINING. (a) Deletes existing text requiring TCLR to adopt rules regarding continuing education required for a license holder under Chapter 1958 (Mold Assessors and Remediators).

(b) Deletes existing text authorizing inclusion in the rules of requirements regarding continuing education providers.

SECTION 1.21. Amends Section 2308.157, Occupations Code, as follows:

Sec. 2308.157. New heading: REQUIREMENT FOR INITIAL RENEWAL OF INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE. Deletes existing text requiring TCLR by rule to recognize, prepare, or administer continuing education programs for license holders. Deletes existing text requiring each license holder, except as provided by Subsection (c), to complete a continuing education program before the license holder is authorized to renew the license holder's license. Deletes existing text requiring a person recognized by TCLR to offer a continuing education program to register with TDLR and to comply with rules adopted by TCLR relating to continuing education. Makes nonsubstantive changes.

SECTION 1.22. Amends Section 2308.159(c), Occupations Code, to authorize a license holder to renew a license issued under Chapter 2308 (Vehicle Towing and Booting) by completing any applicable continuing education requirements, rather than by completing continuing education as required by Section 2308.157 (Continuing Education).

SECTION 1.23. (1) Repealer: Section 1001.058(h) (relating to the requirement that the advisory committee meet at the call of the presiding officer), Education Code.

(2) Repealer: Section 469.053(e) (relating to the requirement that the advisory committee meet at least twice each year at the call of the presiding officer), Government Code.

(3) Repealer: Section 754.012(d) (relating to the requirement that the advisory board meet as determined by the executive director or the presiding officer), Health and Safety Code.

(4) Repealer: Section 754.0174 (Continuing Education for Renewal of Elevator Inspector and Contractor Registrations), Health and Safety Code.

(5) Repealer: Section 755.016 (Meetings), Health and Safety Code.

(6) Repealer: Section 51.0021 (Sunset Review of Transferred Programs), Occupations Code.

(7) Repealer: Section 51.252(d) (relating to TCLR complaint procedures), Occupations Code.

(8) Repealer: Section 202.305 (Continuing Education), Occupations Code.

(9) Repealer: Section 202.5085 (Refund), Occupations Code.

- (10) Repealer: Section 203.304 (Continuing Midwifery Education), Occupations Code.
- (11) Repealer: Section 203.406 (Refund), Occupations Code.
- (12) Repealer: Section 401.355 (Continuing Education), Occupations Code.
- (13) Repealer: Section 403.152 (Continuing Education), Occupations Code.
- (14) Repealer: Section 455.0571 (Continuing Education), Occupations Code.
- (15) Repealer: Section 506.105 (Meetings), Occupations Code.
- (16) Repealer: Section 605.261 (Continuing Education), Occupations Code.
- (17) Repealer: Section 701.303 (Continuing Education), Occupations Code.
- (18) Repealer: Section 701.512 (Refund), Occupations Code.
- (19) Repealer: Section 802.065(e) (relating to requirements for an advisory committee on dog and cat breeder regulations), Occupations Code.
- (20) Repealer: Section 1302.208(a) (relating to meeting requirements for an advisory committee on air conditioning and refrigeration contractor regulations), Occupations Code.
- (21) Repealer: Section 1305.055 (Meetings), Occupations Code.
- (22) Repealer: Section 1901.107(a) (relating to the requirement that the Texas Water Well Drillers Advisory Council hold meetings at the call of the presiding officer), Occupations Code.
- (23) Repealer: Section 1952.1051 (Continuing Education), Occupations Code.
- (24) Repealer: Section 1958.056(b) (relating to the requirement that TCLR adopt rules regarding compliance investigations), Occupations Code.
- (25) Repealer: Section 2303.056(b) (relating to TDLR inspection intervals for vehicle storage facilities), Occupations Code.
- (26) Repealer: Section 2308.055 (Meetings), Occupations Code.
- (27) Repealer: Section 2309.056 (Meetings), Occupations Code.
- (28) Repealer: Section 2309.106(a) (relating to TDLR inspection intervals for automotive parts recycling facilities), Occupations Code.

SECTION 1.24. (a) Provides that except as provided by Subsection (b) of this section, Section 51.054, Occupations Code, as amended by this article, applies to a member of TCLR appointed before, on, or after the effective date of this Act.

(b) Provides that a member of TCLR who, before the effective date of this Act, completed the training program required by Section 51.054, Occupations Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this article to the training program required by Section 51.054, Occupations Code. Prohibits a member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of TCLR held on or after December 1, 2021, until the member completes the additional training.

## ARTICLE 2. DEREGULATION



SECTION 2.01. (1) Repealer: Chapter 1703 (Polygraph Examiners), Occupations Code.

(2) Repealer: Section 2052.002(11-a) (relating to the definition of "event coordinator"), Occupations Code.

SECTION 2.02. Amends Section 54.0405(d), Family Code, to require that a polygraph examination required as a condition of probation under Subsection (a) (relating to requirements for a child placed on probation for conduct constituting a sexual offense) be administered by an individual who is specified by the local juvenile probation department supervising the child, rather than who is specified by the local juvenile probation department supervising the child and licensed as a polygraph examiner under Chapter 1703, Occupations Code.

SECTION 2.03. Amends Sections 411.0074(c) and (d), Government Code, as follows:

(c) Makes a conforming change.

(d) Deletes existing text authorizing TDLR and the polygraph examiner to disclose the results of a polygraph administered under Section 411.0074 (Polygraph Examinations for Certain Applicants), Government Code, in accordance with Section 1703.306 (Confidentiality of Examination Results), Occupations Code. Makes conforming and nonsubstantive changes.

SECTION 2.04. Amends Section 245.053(d), Human Resources Code, to make conforming and nonsubstantive changes.

SECTION 2.05. Amends Section 2052.107, Occupations Code, to prohibit a person, unless the person holds a license or registration issued under Chapter 2052 (Combative Sports), from acting as a combative sports professional contestant, manager of a professional contestant, referee, or judge, rather than from acting as a combative sports professional contestant, manager of a professional contestant, referee, judge, second, matchmaker, or event coordinator.

SECTION 2.06. Provides that on the effective date of this Act, the Polygraph Advisory Committee is abolished.

SECTION 2.07. Provides that on the effective date of this Act, a pending regulatory action, including a complaint investigation, disciplinary action, or administrative penalty proceeding, of TDLR with respect to a license, permit, or certification issued under a law repealed by this article, is terminated.

SECTION 2.08. Provides that on the effective date of this Act, a license, permit, or certification issued under a law repealed by this article expires.

SECTION 2.09. Requires TDLR, not later than January 1, 2023, in consultation with the Auctioneer Advisory Board and the advisory committee established under Section 1001.058 (Advisory Committee), Education Code, to study the regulation of auctioneering and driver training and prepare a report with any findings and recommendations to improve public safety and TDLR's processes and to eliminate inefficiencies, including any necessary legislative changes. Authorizes TDLR, in conducting the study, to consult with any interested organizations, associations, and stakeholders. Requires TDLR to submit the report to the standing legislative committees with jurisdiction over TDLR.

### ARTICLE 3. BARBERING AND COSMETOLOGY

SECTION 3.01. Amends Section 1603.001, Occupations Code, to define "advisory board," "establishment," "manager," and "school." Deletes existing text providing that unless the context clearly indicates otherwise, the definitions in Chapters 1601 (Barbers) and 1602 (Cosmetologists) apply to Chapter 1603 (Regulation of Barbering and Cosmetology). Makes nonsubstantive changes.

SECTION 3.02. Amends Subchapter A, Chapter 1603, Occupations Code, by adding Sections 1603.0011, 1603.0012, and 1603.0013, as follows:

Sec. 1603.0011. PRACTICE OF BARBERING OR COSMETOLOGY. (a) Provides that the practices of barbering and cosmetology consist of performing or offering to perform for compensation any of the following services:

(1) treating a person's hair by:

(A) providing any method of treatment as a primary service, including arranging, beautifying, bleaching, cleansing, coloring, cutting, dressing, dyeing, processing, shaping, singeing, straightening, styling, tinting, or waving;

(B) providing a necessary service that is preparatory or ancillary to a service under Paragraph (A), including bobbing, clipping, cutting, or trimming a person's hair or shaving a person's neck with a safety razor; or

(C) cutting the person's hair as a separate and independent service for which a charge is directly or indirectly made separately from charges for any other service;

(2) treating a person's mustache or beard by arranging, beautifying, coloring, processing, styling, trimming, or shaving with a safety razor;

(3) cleansing, stimulating, or massaging a person's scalp, face, neck, or arms:

(A) by hand or by using a device, apparatus, or appliance; and

(B) with or without the use of any cosmetic preparation, antiseptic, tonic, lotion, or cream;

(4) beautifying a person's face, neck, shoulders, or arms using a cosmetic preparation, antiseptic, tonic, lotion, powder, oil, clay, cream, or appliance;

(5) administering facial treatments;

(6) removing superfluous hair from a person's body using depilatories, preparations or chemicals, tweezers, or other devices or appliances of any kind or description;

(7) treating a person's nails by:

(A) cutting, trimming, polishing, tinting, coloring, cleansing, manicuring, or pedicuring; or

(B) attaching false nails;

(8) massaging, cleansing, treating, or beautifying a person's hands or feet; or

(9) weaving a person's hair by using any method to attach commercial hair to a person's hair or scalp.

(b) Provides that in addition to the services described by Subsection (a), the practice of barbering includes performing or offering to perform for compensation

the service of shaving a person's face, neck, mustache, or beard with a razor of any type.

(c) Provides that in addition to the services described by Subsection (a), the practice of cosmetology includes performing or offering to perform for compensation the service of applying semipermanent, thread-like extensions composed of single fibers to a person's eyelashes.

(d) Provides that advertising or representing to the public in any manner that a person is licensed to perform a barbering or cosmetology service under Chapter 1603, or that a location or place of business is an establishment or school, constitutes the practice of barbering or cosmetology.

(e) Defines "safety razor."

Sec. 1603.0012. SERVICES NOT CONSTITUTING BARBERING OR COSMETOLOGY. Provides that barbering and cosmetology do not include:

(1) threading, which involves removing unwanted hair from a person by using a piece of thread that is looped around the hair and pulled to remove the hair and includes the incidental trimming of eyebrow hair; or

(2) servicing a person's wig, toupee, or artificial hairpiece on a person's head or on a block after the initial retail sale in any manner described by Section 1603.0011(a)(1).

Sec. 1603.0013. APPLICATION OF CHAPTER. Provides that Chapter 1603 does not apply to a person who:

(1) does not represent or advertise to the public directly or indirectly that the person is authorized by TDLR to practice barbering or cosmetology and the person is licensed in Texas to practice medicine, dentistry, podiatry, chiropractic, or nursing and operating within the scope of the person's license, is a commissioned or authorized medical or surgical officer of the United States armed forces, or is an inmate in the institutional division of the Texas Department of Criminal Justice who performs barbering or cosmetology during the person's incarceration;

(2) provides a service in an emergency;

(3) is in the business of or receives compensation for makeup applications only;

(4) provides a cosmetic service as a volunteer or an employee performing regular duties at a licensed nursing or convalescent custodial or personal care home to a patient residing in the home;

(5) owns, operates, or manages a licensed nursing or convalescent custodial or personal care home that allows a person with an operator license to perform cosmetic services for patients residing in the home on an occasional but not daily basis;

(6) provides an incidental cosmetic service, or owns, operates, or manages the location where that service is provided, if the primary purpose of the service is to enable or assist the recipient of the service to participate as the subject of a photographic sitting at a permanent establishment that charges a fee exclusively for a photographic sitting, a television appearance, or the filming of a motion picture; or

(7) performs only natural hair braiding, including braiding a person's hair, trimming hair extensions only as applicable to the braiding process, and attaching commercial hair by braiding and without the use of chemicals or adhesives.

SECTION 3.03. Amends Section 1603.002, Occupations Code, as follows:

Sec. 1603.002. REGULATION OF BARBERING AND COSMETOLOGY BY DEPARTMENT OF LICENSING AND REGULATION. Requires TDLR to administer Chapter 1603. Provides that Chapter 1603 does not limit TDLR or TCLR's general powers under Chapter 51 (Texas Department of Licensing and Regulation). Deletes existing text requiring TDLR to administer Chapters 1601 and 1602, and providing that a reference in Chapter 1603 to TCLR's or TDLR's powers or duties applies only in relation to those chapters.

SECTION 3.04. Amends Subchapter B, Chapter 1603, Occupations Code, as follows:

SUBCHAPTER B. New heading: BARBERING AND COSMETOLOGY  
ADVISORY BOARD

Sec. 1603.051. ADVISORY BOARD; MEMBERSHIP. Provides that the Barbering and Cosmetology Advisory Board consists of nine members appointed by the presiding officer, with TCLR's approval, as follows:

- (1) four members who each hold an individual practitioner license under Subchapter E-1, including at least one holder of a Class A barber license and at least one holder of a cosmetology operator license;
- (2) two members who each hold an establishment license;
- (3) two members who each hold a school license; and
- (4) one member who represents the public.

Sec. 1603.052. DUTIES OF ADVISORY BOARD. (a) Requires the advisory board to advise TCLR and TDLR on education and curricula for applicants, the content of examinations, proposed rules and standards on technical issues related to barbering and cosmetology, and other issues affecting barbering and cosmetology. Makes conforming and nonsubstantive changes.

(b) Requires the advisory board to respond to questions from TCLR and TDLR regarding barbering and cosmetology.

Sec. 1603.053. TERMS; VACANCY. (a) Provides that members of the advisory board serve staggered six-year terms, with the terms of three members expiring January 31 of each odd-numbered year.

(b) Requires the presiding officer, if a vacancy occurs during a member's term, with TCLR's approval, to appoint a replacement to fill the unexpired term.

Sec. 1603.054. PRESIDING OFFICER. (a) Requires the presiding officer to appoint one of the advisory board members to serve as the presiding officer of the advisory board for a two-year term.

Deletes existing text requiring the advisory boards established under Chapters 1601 and 1602 to advise TCLR on administering Chapter 1603 and Chapters 1601 and 1602 regarding barbering or cosmetology, as applicable.

SECTION 3.05. Amends Section 1603.101, Occupations Code, to delete existing text requiring TCLR to adopt rules consistent with Chapter 1603 for the administration of Chapters 1601 and 1602.

SECTION 3.06. Amends Section 1603.103(a), Occupations Code, to delete existing text prohibiting a person from operating a school permitted under Chapter 1601 or Chapter 1602 until TDLR determines, by inspection, that the person has established the school in compliance with Chapter 1603.

SECTION 3.07. Amends the heading to Section 1603.104, Occupations Code, to read as follows:

Sec. 1603.104. INSPECTIONS.

SECTION 3.08. Amends Sections 1603.104(a) and (d), Occupations Code, as follows:

(a) Deletes existing text authorizing TDLR to enter and inspect at any time during business hours the place of business of any person regulated under Chapter 1601 or Chapter 1602. Makes conforming and nonsubstantive changes.

(d) Deletes existing text requiring an inspector who discovers a violation of Chapter 1601 or Chapter 1602 to provide written notice of the violation to the license, certificate, or permit holder on a form prescribed by TDLR and file a complaint with the executive director. Deletes existing text requiring an inspector who discovers a violation of Chapter 1603 or of a rule or order of TCLR or the executive director to file a complaint with the executive director. Makes a conforming change.

SECTION 3.09. Amends Section 1603.1045, Occupations Code, to authorize TDLR to contract with a person to perform for TDLR inspections of a school or establishment, rather than inspections of a school, shop, or other facility under Chapter 1603, Chapter 1601, or Chapter 1602.

SECTION 3.10. Amends Subchapter C, Chapter 1603, Occupations Code, by adding Section 1603.106, as follows:

Sec. 1603.106. CERTAIN BUILDING AND FACILITY STANDARDS PROHIBITED. Prohibits TCLR from establishing building or facility standards for a school that are not related to health and safety, including a requirement that a building or facility of the school have a specific square footage of floor space, number of chairs, or number of sinks.

SECTION 3.11. Amends Section 1603.151, Occupations Code, to make conforming changes.

SECTION 3.12. Amends the heading to Subchapter E, Chapter 1603, Occupations Code, to read as follows:

#### SUBCHAPTER E. GENERAL LICENSE AND PERMIT PROVISIONS

SECTION 3.13. Amends Subchapter E, Chapter 1603, Occupations Code, by adding Section 1603.2001, as follows:

Sec. 1603.2001. RULES FOR ISSUANCE OF LICENSE OR PERMIT. (a) Requires TCLR by rule to establish requirements for the issuance of a license for an individual practitioner, instructor, establishment, or school, and for a student permit.

(b) Authorizes requirements established by TCLR under Subsection (a) for an individual practitioner or instructor to include requirements regarding an applicant's minimum age, education level, and completed hours of instruction.

(c) Requires TCLR, in establishing a requirement under this section for the issuance of a license, to consider whether the requirement is the least restrictive requirement possible to ensure public safety without creating a barrier to entry into the licensed occupation.

(d) Provides that requirements established under this section for an individual practitioner specialty license are prohibited from being more stringent than requirements for a Class A barber license or a cosmetology operator license, and, for a specialty establishment license, are prohibited from being more stringent than requirements for an establishment license.

(e) Authorizes TCLR, as appropriate, to establish standardized requirements within license categories.

SECTION 3.14. Amends Sections 1603.201 and 1603.202, Occupations Code, as follows:

Sec. 1603.201. APPLICATION FORM. Requires that an application for a license or permit under Chapter 1603 be made on a form prescribed by TDLR, rather than requiring that an application for a certificate, license, or permit be made on a form prescribed and provided by TDLR.

Sec. 1603.202. New heading: DUPLICATE LICENSE OR PERMIT. Deletes existing text requiring TDLR to issue a duplicate certificate to an applicant who submits an application for a duplicate certificate to TDLR and pays the required fee.

SECTION 3.15. Amends Subchapter E, Chapter 1603, Occupations Code, by adding Section 1603.2025, as follows:

Sec. 1603.2025. TEMPORARY LICENSE. (a) Authorizes TDLR to issue a temporary license.

(b) Authorizes TCLR by rule to establish requirements for the issuance of a temporary license.

(c) Provides that a temporary license expires on the 60th day after the date the license is issued. Prohibits a temporary license from being renewed.

SECTION 3.16. Amends Sections 1603.203 and 1603.204, Occupations Code, as follows:

Sec. 1603.203. New heading: PROVISIONAL LICENSE. (a) Authorizes TDLR to issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who meets certain conditions, including having passed a national or other examination recognized by TDLR, rather than recognized by TCLR, relating to the practice of that profession. Deletes existing text authorizing TDLR to issue a provisional certificate to an applicant currently licensed in another jurisdiction who seeks a certificate in this state and who meets certain conditions. Makes conforming changes.

(b) Requires TDLR to issue a license to the provisional license holder if the provisional license holder meets certain conditions, including that the provisional license holder passes the part of the examination that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of the profession in this state and TDLR verifies that the provisional license holder meets the education and experience requirements, rather than the academic and experience requirements, for the license. Makes conforming changes.

(c) Makes conforming changes to this subsection.

Sec. 1603.204. New heading: SUBSTANTIALLY EQUIVALENT LICENSE. (a) Deletes existing text authorizing a person who holds a certificate or permit to practice barbering or cosmetology from another state or country that has standards or work experience requirements that are substantially equivalent to the requirements of Chapter 1601 or Chapter 1602 to apply for a certificate or permit to perform the same acts of barbering or cosmetology in this state that the person practiced in the other state or country. Makes a conforming change.

(b) Makes conforming changes to this subsection.

(c) Authorizes a person issued a license under this section to perform the acts of barbering or cosmetology authorized by the license, rather than stated on the license, certificate or permit. Makes conforming changes.

SECTION 3.17. Amends Sections 1603.208(a)(2) and (3), Occupations Code, to redefine "digitally prearranged remote service" and "remote service business."

SECTION 3.18. Amends Sections 1603.208(c), (d), (f), (g), and (i), Occupations Code, as follows:

(c) Provides that Sections 1603.2110 and 1603.2111, rather than Sections 1601.453 (Location of Practice), 1601.455 (Service at Unlicensed Location), 1602.251(c) (relating to the requirement that a person licensed by TDLR practice cosmetology only at facilities operated by a person holding certain licenses), and 1602.407 (Service at Unlicensed Location), do not apply to a digitally prearranged remote service scheduled through a remote service business.

(d) Makes conforming changes to this subsection.

(f) Provides that a remote service business, before a person licensed to practice barbering or cosmetology performs a digitally prearranged remote service for a client requesting the service, must, rather than shall, provide through the entity's digital network certain information. Makes conforming and nonsubstantive changes.

(g) and (i) Makes conforming and nonsubstantive changes to these subsections.

SECTION 3.19. Amends Subchapter E, Chapter 1603, Occupations Code, by adding Section 1603.209, as follows:

Sec. 1603.209. INFECTIOUS AND CONTAGIOUS DISEASES. (a) Prohibits a person holding a license or permit issued under Subchapter E-1 from performing any practice of barbering or cosmetology if the person knows the person is suffering from an infectious or contagious disease for which the person is not entitled to protection under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(b) Prohibits a person holding an establishment or school license from employing a person to perform any practice of barbering or cosmetology or to instruct in the practice of barbering or cosmetology if the license holder knows that the person is suffering from an infectious or contagious disease for which the person is not entitled to protection under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

SECTION 3.20. Amends Chapter 1603, Occupations Code, by adding Subchapters E-1, E-2, and E-3, as follows:

**SUBCHAPTER E-1. INDIVIDUAL PRACTITIONER AND INSTRUCTOR LICENSES;  
STUDENT PERMIT; PRACTICE**

Sec. 1603.2101. INDIVIDUAL PRACTITIONER LICENSE OR STUDENT PERMIT REQUIRED; USE OF CERTAIN TERMS WITHOUT LICENSE PROHIBITED. (a) Prohibits a person from performing or offering or attempting to perform any act of barbering or cosmetology unless the person holds a license or permit issued under this subchapter to perform that act.

(b) Prohibits a person, unless the person holds an appropriate license issued under this subchapter, from directly or indirectly using or causing to be used as a professional or business identification, title, name, representation, asset, or means of advantage or benefit:

- (1) the term "barber" or "barbering";
- (2) the term "cosmetologist" or "cosmetology"; or
- (3) any combination, variation, or abbreviation of the terms listed in Subdivisions (1) and (2).

Sec. 1603.2102. ISSUANCE OF INDIVIDUAL PRACTITIONER LICENSE. Requires TDLR to issue an individual practitioner license to an applicant who meets the applicable eligibility requirements, passes the applicable examination, pays the required fee, has not committed an act that constitutes a ground for denial of the license, and submits an application on a form prescribed by TDLR.

Sec. 1603.2103. INDIVIDUAL PRACTITIONER LICENSES. (a) Provides that a person holding:

- (1) a Class A barber license is authorized to perform any barbering service;
- (2) a cosmetology operator license is authorized to perform any cosmetology service;
- (3) a manicurist license is authorized to perform any service described by Section 1603.0012(a)(7) or (8);
- (4) an esthetician license is authorized to perform any service described by Section 1603.0011(a)(3), (4), (5), or (6), or (c);
- (5) a manicurist/esthetician license is authorized to perform any service described by Section 1603.0011(a)(3), (4), (5), (6), (7), or (8), or (c);
- (6) a hair weaving specialist license is authorized to perform any service described by Section 1603.0011(a)(9);
- (7) a hair weaving specialist/esthetician license is authorized to perform any service described by Section 1603.0011(a)(3), (4), (5), (6), or (9), or (c); and
- (8) an eyelash extension specialist license is authorized to perform any service described by Section 1603.0011(c).

(b) Requires TDLR by rule to provide for the issuance of a Class A barber license to a person who holds a cosmetology operator license and the issuance of a cosmetology operator license to a person who holds a Class A barber license.

Sec. 1603.2104. INSTRUCTOR LICENSE REQUIRED. (a) Prohibits a person from teaching or offering or attempting to teach any act of barbering or cosmetology unless the person holds an instructor license issued under this subchapter to perform that act.

(b) Authorizes a person holding an instructor license to perform any act of barbering or cosmetology authorized by the license and to instruct a person in any act of barbering or cosmetology authorized by the license.

Sec. 1603.2105. ISSUANCE OF INSTRUCTOR LICENSE. (a) Requires TDLR to issue an instructor license to an applicant who:

- (1) meets the applicable eligibility requirements;
- (2) has completed:



(A) a course consisting of at least 750 hours of instruction in barbering or cosmetology courses and methods of teaching in a barber or cosmetology school; or

(B) at least one year of work experience as the holder of a Class A barber license or cosmetology operator license and:

(i) has completed 500 hours of instruction in barbering or cosmetology courses and methods of teaching in a TCLR-approved training program;

(ii) has completed 15 semester hours in education courses from an accredited college or university in the 10-year period preceding the date of the application; or

(iii) has a degree in education from an accredited college or university;

(3) passes the applicable examination;

(4) pays the required fee;

(5) has not committed an act that constitutes a ground for denial of the license; and

(6) submits an application on a form prescribed by TDLR.

(b) Requires TCLR to adopt rules for the licensing of specialty instructors to teach specialty courses in the practice of barbering or cosmetology.

Sec. 1603.2106. WAIVER OF CERTAIN LICENSE REQUIREMENTS. (a) Authorizes TDLR to waive any requirement for a license issued under this subchapter for an applicant holding a license from another jurisdiction that has license requirements substantially equivalent to those of this state.

(b) Requires TDLR to issue a license to an applicant under Subsection (a) if the applicant submits an application on a form prescribed by TDLR, pays the application fee, and provides proof that the applicant holds a current license to engage in the same or a similar activity issued by another jurisdiction that has license requirements substantially equivalent to those of this state.

(c) Prohibits TDLR from requiring a personal interview as part of the application process under this section.

(d) Authorizes a license issued under this section to be renewed as provided by Subchapter G.

Sec. 1603.2107. STUDENT PERMIT. (a) Requires a student enrolled in a school licensed under Subchapter E-3 to hold a permit stating the student's name and the name of the school.

(b) Requires TDLR to issue a student permit to an applicant who submits an application to TDLR for a student permit accompanied by the required fee.

(c) Provides that a separate application is required for each enrollment. Provides that the application fee applies only to the first enrollment. Prohibits TDLR from charging the application fee for any later enrollment.

Sec. 1603.2108. TRANSFER OF LICENSE OR PERMIT PROHIBITED. Provides that a license or permit issued under this subchapter is not transferable.

Sec. 1603.2109. DISPLAY OF LICENSE OR PERMIT. (a) Requires the holder of a license issued under this subchapter to:

(1) display the original license and an attached photograph of the license holder in a conspicuous place near the license holder's work chair in the establishment in which the holder is working; or

(2) make available at the reception desk of the establishment in which the holder is working, in the manner prescribed by TDLR:

(A) the original license and an attached photograph of the license holder; or

(B) a digital image of the license and photograph of the license holder.

(b) Requires the holder of a student permit issued under this subchapter to display the permit in a reasonable manner at the school in which the permit holder is enrolled.

Sec. 1603.2110. LOCATION OF PRACTICE. Authorizes a person holding a license or permit issued under this subchapter to practice barbering or cosmetology only at a licensed establishment or school.

Sec. 1603.2111. SERVICE AT UNLICENSED LOCATION. (a) Defines "licensed facility."

(b) Authorizes a person holding a license under this subchapter to perform a service within the scope of the license at a location other than a licensed facility for a client who, because of illness or physical or mental incapacitation, is unable to receive the service at a licensed facility, or for a client in preparation for and at the location of a special event, including a wedding.

(c) Requires that an appointment for a service performed under this section be made through a licensed facility.

#### SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

Sec. 1603.2201. LICENSE REQUIRED. (a) Prohibits a person from owning, operating, or managing an establishment in which an act of barbering or cosmetology is practiced unless the person holds a license issued under this subchapter to operate the establishment.

(b) Prohibits a person from leasing space on the premises of a licensed establishment to engage in the practice of barbering or cosmetology as an independent contractor unless the person holds a license issued under Subchapter E-1.

Sec. 1603.2202. ISSUANCE OF LICENSE. Requires TDLR to issue the applicable establishment license under this subchapter to an applicant if:

(1) the applicant owns or rents the establishment, verifies the application, complies with the application requirements of this chapter, pays the required inspection and license fees, and has not committed an act that constitutes a ground for denial of a license; and

(2) the establishment meets TCLR's minimum health standards for an establishment and complies with all TCLR rules.

Sec. 1603.2203. ESTABLISHMENT LICENSES. (a) Provides that an establishment licensed as:

(1) an establishment is authorized to provide any barbering or cosmetology service;

(2) a manicurist specialty establishment is authorized to provide any service described by Section 1603.0011(a)(7) or (8);

(3) an esthetician specialty establishment is authorized to provide any service described by Section 1603.0011(a)(3), (4), (5), or (6) or (c);

(4) a manicurist/esthetician specialty establishment is authorized to provide any service described by Section 1603.0011(a)(3), (4), (5), (6), (7), or (8) or (c);

(5) a hair weaving specialty establishment is authorized to provide any service described by Section 1603.0011(a)(9);

(6) an eyelash extension specialty establishment is authorized to provide any service described by Section 1603.0011(c);

(7) a mini-establishment is authorized to provide any barbering or cosmetology service; and

(8) a mobile establishment is authorized to provide any barbering or cosmetology service.

(b) Defines "mini-establishment" and "mobile establishment."

Sec. 1603.2204. TRANSFER OF LICENSE PROHIBITED. Provides that a license issued under this subchapter is not transferable.

Sec. 1603.2205. USE OF ESTABLISHMENT AS SLEEPING QUARTERS PROHIBITED. (a) Prohibits an owner or manager of a licensed establishment from permitting a person to sleep in a room used as part of the establishment.

(b) Prohibits a person from performing an act for which a license is required in a room in an establishment that is used as sleeping quarters.

### SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

Sec. 1603.2301. LICENSE REQUIRED. Prohibits a person from operating a school for instruction in the practice of barbering or cosmetology unless the person holds a license issued under this subchapter to operate the school.

Sec. 1603.2302. ISSUANCE OF LICENSE. Requires TDLR to issue a license under this subchapter to an applicant who, as applicable, submits an application on a form prescribed by TDLR, pays the required fee, provides to TDLR adequate proof of financial responsibility, meets the health and safety standards established by TCLR, and satisfies any other requirements of this chapter or TCLR rule.

Sec. 1603.2303. SCHOOL LICENSES; INSTRUCTORS; ENFORCEMENT. (a) Provides that the holder of a public secondary school license, public postsecondary school license, or private postsecondary school license:

(1) is authorized to provide instruction in the barbering or cosmetology services for which the license holder has been approved by TDLR; and

(2) is authorized to only employ to provide the instruction described by Subdivision (1) a person who holds an instructor license issued under Subchapter E-1 to teach the acts of barbering or cosmetology for which the person will provide instruction.

(b) Authorizes TDLR to take any disciplinary or other enforcement action against a person who violates Subsection (a)(2).

Sec. 1603.2304. CHANGE OF SCHOOL OWNERSHIP OR LOCATION. (a) Provides that if a licensed school changes ownership, the outgoing owner is required to notify TDLR of the change not later than the 10th day before the date the change takes effect, and the new owner is required to obtain a license under this subchapter in accordance with TCLR rule.

(b) Prohibits a school from changing the location of the school unless the school obtains approval from TDLR before the change by showing that the proposed location meets the requirements of this chapter and TCLR rules.

Sec. 1603.2305. SIGNS REQUIRED. Requires the holder of a school license to place a sign on the front outside portion of the school's building in a prominent place that reads "SCHOOL--STUDENT PRACTITIONERS" in at least 10-inch block letters, or in a manner prescribed by TDLR.

Sec. 1603.2306. INFORMATION PROVIDED TO PROSPECTIVE STUDENT. Requires the holder of a school license to provide to each prospective student, as applicable, a course outline; a schedule of the tuition and other fees assessed; the school's refund policy required under Section 1603.3602; the school's grading policy and rules relating to incomplete grades; the school's rules of operation and conduct, including rules relating to absences; TDLR's name, mailing address, and telephone number for the purpose of directing complaints to TDLR; and the current job placement rates and employment rates of students who complete a course of instruction.

Sec. 1603.2307. COURSE LENGTH AND CURRICULUM CONTENT. (a) Requires a school to design course length and curriculum content to reasonably ensure that a student develops the job skills and knowledge necessary for employment.

(b) Requires a school to submit to TDLR for approval the course length and curriculum content for each course offered by the school. Prohibits the school from implementing a course length and curriculum content without the approval of TDLR.

(c) Requires TDLR, before issuing or renewing a license under this subchapter, to require the school to account for each course length and curriculum content.

Sec. 1603.2308. REQUIRED COURSES. (a) Requires a school to instruct students in the theory and practice of subjects necessary and beneficial to the practice of barbering and cosmetology.

(b) Requires TCLR by rule to establish the subjects in which students are required to receive instruction.

(c) Prohibits a school from increasing, decreasing, or withholding for any reason the number of hours earned by a student.

Sec. 1603.2309. DAILY ATTENDANCE RECORDS. (a) Requires a school to maintain an attendance record showing the students' daily attendance.

(b) Authorizes TDLR to inspect a school's attendance records at any time.

Sec. 1603.2310. INSTRUCTOR-TO-STUDENT RATIO. Requires a licensed school to have at least one instructor for every 25 students on the school's premises.

Sec. 1603.2311. REPORTS TO DEPARTMENT. (a) Requires a licensed school to maintain a monthly progress report regarding each student attending the school. Requires that the report certify the daily attendance record of each student and the number of hours earned by each student during the previous month.

(b) Requires the school, on a student's completion of a prescribed course of instruction, to notify TDLR that the student has completed the required number of hours and is eligible to take the appropriate examination.

(c) Requires the holder of a school license to provide to TDLR on request the current course completion rates of students who attend a course of instruction offered by the school and job placement rates and employment rates of students who complete a course of instruction.

Sec. 1603.2312. ADDITIONAL DUTIES OF LICENSE HOLDER. Requires the holder of a school license to maintain a sanitary premises, establish regular class and instruction hours and grades, hold examinations before issuing diplomas, and maintain a copy of the school's curriculum in a conspicuous place and verify that the curriculum is being followed.

Sec. 1603.2313. TRANSFER OF HOURS OF INSTRUCTION. (a) Authorizes a student at a licensed school to transfer completed hours of instruction to another licensed school in this state.

(b) Requires that a transcript showing the completed courses and number of hours certified by the school in which the instruction was given be submitted to TDLR in order for the hours of instruction to be transferred.

(c) Requires TDLR, in evaluating a student's transcript, to determine whether the agreed tuition has been paid. Requires TDLR, if the tuition has not been paid, to notify the student that the student's transcript cannot be certified to the school to which the student seeks a transfer until proof is provided that the tuition has been paid.

(d) Requires TDLR, on evaluation and approval, to certify in writing to the student and to the school to which the student seeks a transfer that the stated courses and hours have been successfully completed, and the student is not required to repeat the hours of instruction.

Sec. 1603.2314. IDENTIFICATION OF AND WORK PERFORMED BY STUDENT. (a) Requires each licensed school to maintain in a conspicuous place a list of the names and identifying pictures of the students who are enrolled in the school's courses.

(b) Prohibits a school from receiving compensation for work done by a student unless the student has completed 10 percent of the required number of hours for a license under Subchapter E-1.

(c) Authorizes the license of a school that violates this section to be revoked or suspended.

SECTION 3.21. Amends Section 1603.252(b), Occupations Code, to require the executive director to determine uniform standards for acceptable performance on an examination for a license under Subchapter E-1, rather than for a license or certificate under Chapter 1601 and for a license or certificate under Chapter 1602.

SECTION 3.22. Amends Sections 1603.253 and 1603.255, Occupations Code, as follows:

Sec. 1603.253. WRITTEN EXAMINATION. Requires TDLR, rather than TCLR, to select an examination for each written examination required under Chapter 1603. Deletes existing text requiring TCLR to select an examination for each written examination required under Chapter 1601 or Chapter 1602.

Sec. 1603.255. EARLY EXAMINATION. Authorizes TCLR by rule to allow for the early written examination of a student. Deletes existing text authorizing TDLR to allow for the early written examination of a student who has completed certain provided numbers of hours of instruction in a TDLR-approved training program.

SECTION 3.23. Amends Sections 1603.256(a) and (c), Occupations Code, as follows:

(a) Authorizes TCLR to require a practical examination as it considers necessary for a license issued under Subchapter E-1, rather than under Chapter 1601 or 1602. Makes a conforming change.

(c) Authorizes certain persons to administer a practical examination, including a licensed school that is approved by TDLR to administer the examination under Section 1603.252 (General Examination Requirements), rather than a barber school, private beauty culture school, or a public secondary or postsecondary beauty culture school that is approved by TDLR to administer the examination under Section 1603.252. Makes a conforming change.

SECTION 3.24. Amends Subchapter G, Chapter 1603, Occupations Code, as follows:

#### SUBCHAPTER G. New heading: LICENSE RENEWAL

Sec. 1603.3001. LICENSE TERMS. (a) Provides that, except as provided by Subsection (b), a license other than a temporary license expires on the second anniversary of the date the license is issued.

(b) Provides that a school license expires on the first anniversary of the date the license is issued.

Sec. 1603.3002. RENEWAL RULES. (a) Authorizes TCLR by rule to establish requirements for the renewal of a license issued under Chapter 1603, including continuing education requirements.

(b) Authorizes TCLR to establish separate requirements for the initial renewal of a license and subsequent renewals of a license.

(c) Requires TCLR, before establishing continuing education requirements under this section, to consider the potential impact of continuing education with respect to identifying and assisting trafficked persons and providing license holders with opportunities to acquire new skills.

Sec. 1603.3003. ISSUANCE OF RENEWAL LICENSE. Requires TDLR to issue a renewal license on receipt of a renewal application in the form prescribed by TDLR and any renewal fee.

Sec. 1603.3004. RENEWAL WHILE IN ARMED FORCES. (a) Prohibits TDLR from requiring the holder of a license issued under Subchapter E-1 who is serving on active duty in the United States armed forces to renew the person's license.

(b) Requires TDLR to issue a renewal license on application and payment of the required renewal fee not later than the 90th day after the date the person is released or discharged from active duty in the United States armed forces.

Sec. 1603.301. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE PENALTY. Makes conforming changes to this section.

SECTION 3.25. Amends the heading to Subchapter H, Chapter 1603, Occupations Code, to read as follows:

SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO MORE THAN ONE  
LICENSE TYPE

SECTION 3.26. Amends Section 1603.351, Occupations Code, as follows:

Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE EDUCATION. (a) Requires TCLR to prescribe the minimum curriculum, including the subjects and the number of hours in each subject, taught by a licensed school, rather than taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.

(a-1)-(c) Makes conforming changes to these subsections.

SECTION 3.27. Amends Sections 1603.352(a) and (b), Occupations Code, to make conforming and nonsubstantive changes.

SECTION 3.28. Amends Subchapter H, Chapter 1603, Occupations Code, by adding Sections 1603.353, 1603.354, 1603.355, 1603.356, 1603.357, and 1603.358, as follows:

Sec. 1603.353. EMPLOYMENT OF LICENSE HOLDER. (a) Prohibits a licensed school from employing a person holding a license issued under Subchapter E-1 solely to perform the practices of barbering or cosmetology for which the person is licensed.

(b) Prohibits a person holding a license for an establishment from employing or leasing to a person to practice barbering or cosmetology at the establishment unless the person holds a license issued under Subchapter E-1.

Sec. 1603.354. NECESSARY EQUIPMENT. Requires the owner, operator, or manager of a licensed establishment or school to equip the establishment or school with the facilities, supplies, appliances, furnishings, and materials necessary to enable a person employed on the premises to comply with Chapter 1603.

Sec. 1603.355. DISPLAY OF LICENSE. Requires a licensed school or establishment to display the license in a conspicuous place in the school or establishment for which the license is issued.

Sec. 1603.356. DISPLAY OF HUMAN TRAFFICKING INFORMATION. (a) Requires a licensed school or establishment to display a sign approved by or acceptable to TCLR or TDLR concerning services and assistance available to victims of human trafficking.

(b) Requires that the sign required by this section be in English, Spanish, Vietnamese, and any other language required by TCLR rule and include a toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

(c) Requires TCLR by rule to establish requirements regarding the posting of signs under this section.

Sec. 1603.357. DISPLAY OF SANITATION RULES. Requires a licensed school or establishment to display a copy of TCLR's sanitation rules.

Sec. 1603.358. OPERATION OF ESTABLISHMENT AND SCHOOL ON SINGLE PREMISES. Prohibits a person from operating an establishment on the same premises as a school unless the facilities are separated by walls of permanent construction without an opening between the facilities.

SECTION 3.29. Amends Chapter 1603, Occupations Code, by adding Subchapter H-1, as follows:

SUBCHAPTER H-1. FINANCIAL PROVISIONS APPLICABLE TO PRIVATE  
POSTSECONDARY SCHOOLS

Sec. 1603.3601. CANCELLATION AND SETTLEMENT POLICY. Requires the holder of a private postsecondary school license to maintain a cancellation and settlement policy that provides a full refund of money paid by a student if the student cancels the enrollment agreement or contract not later than midnight of the third day after the date the agreement or contract is signed by the student, excluding Saturdays, Sundays, and legal holidays or if the student entered into the enrollment agreement or contract because of a misrepresentation made in the advertising or promotional materials of the school or by an owner or representative of the school.

Sec. 1603.3602. REFUND POLICY. (a) Requires the holder of a private postsecondary school license to maintain a refund policy to provide for the refund of any unused parts of tuition, fees, and other charges paid by a student who, at the expiration of the cancellation period established under Section 1603.3601, fails to enter the course of training, withdraws from the course of training, or is terminated from the course of training before completion of the course.

(b) Requires that the refund policy provide that:

(1) the refund is based on the period of the student's enrollment, computed on the basis of course time expressed in scheduled hours, as specified by an enrollment agreement, contract, or other document acceptable to TDLR;

(2) the effective date of the termination for refund purposes is the earliest of:

(A) the last date of attendance, if the student is terminated by the school;

(B) the date the license holder receives the student's written notice of withdrawal; or

(C) 10 school days after the last date of attendance; and

(3) the school is authorized to retain not more than \$100 if:

(A) tuition is collected before the course of training begins; and

(B) the student does not begin the course of training before the cancellation period established under Section 1603.3601 expires.

Sec. 1603.3603. WITHDRAWAL OR TERMINATION OF STUDENT. (a) Provides that if a student at a private postsecondary school begins a course of training that is scheduled to run not more than 12 months and, during the last 50 percent of the course, withdraws from the course or is terminated by the school, the school is authorized to retain 100 percent of the tuition and fees paid by the student and is not obligated to refund any additional outstanding tuition.

(b) Requires a school, if a student at a private postsecondary school begins a course of training that is scheduled to run not more than 12 months and, before the last 50 percent of the course, withdraws from the course or is terminated by the school, to refund:



(1) 90 percent of any outstanding tuition for a withdrawal or termination that occurs during the first week or first 10 percent of the course, whichever period is shorter;

(2) 80 percent of any outstanding tuition for a withdrawal or termination that occurs after the first week or first 10 percent of the course, whichever period is shorter, but within the first three weeks of the course;

(3) 75 percent of any outstanding tuition for a withdrawal or termination that occurs after the first three weeks of the course but not later than the completion of the first 25 percent of the course; and

(4) 50 percent of any outstanding tuition for a withdrawal or termination that occurs not later than the completion of the first 50 percent of the course.

(c) Requires that a refund owed under this section be paid not later than the 30th day after the date the student becomes eligible for the refund.

Sec. 1603.3604. INTEREST ON REFUND. (a) Requires the private postsecondary school, if tuition is not refunded within the period required by Section 1603.3603, to pay interest on the amount of the refund for the period beginning the first day after the date the refund period expires and ending the day preceding the date the refund is made.

(b) Requires that the interest, if tuition is refunded to a lending institution, be paid to that institution and applied against the student's loan.

(c) Requires the commissioner of education to annually set the interest rate at a rate sufficient to deter a school from retaining money paid by a student.

(d) Authorizes TDLR to exempt a school from the payment of interest if the school makes a good faith effort to refund the tuition but is unable to locate the student. Requires the school to provide to TDLR on request documentation of the effort to locate the student.

Sec. 1603.3605. REENTRY OF STUDENT AFTER WITHDRAWAL. Requires a private postsecondary school, if a student voluntarily withdraws or is terminated after completing 50 percent of the course at the school, to allow the student to reenter at any time during the 48-month period following the date of withdrawal or termination.

Sec. 1603.3606. EFFECT OF STUDENT WITHDRAWAL. (a) Requires a private postsecondary school to record a grade of incomplete for a student who withdraws but is not entitled to a refund under Section 1603.3603 if the student requests the grade at the time the student withdraws, and withdraws for an appropriate reason unrelated to the student's academic status.

(b) Authorizes a student who receives a grade of incomplete to reenroll in the program during the 48-month period following the date the student withdraws and complete the subjects without payment of additional tuition.

Sec. 1603.3607. EFFECT OF PRIVATE POSTSECONDARY SCHOOL CLOSURE. (a) Requires TDLR, if a private postsecondary school closes, to attempt to arrange for students enrolled in the closed school to attend another private postsecondary school.

(b) Requires that the expense incurred by the school in providing training directly related to educating the student, including the applicable tuition for the period for which the student paid tuition, if a student from a closed school is placed in another private postsecondary school, be paid from the barbering and cosmetology school tuition protection account.

(c) Requires that the student's tuition and fees, if a student from a closed private postsecondary school cannot be placed in another private postsecondary school, be refunded as provided by Section 1603.3602. Requires that the student's tuition and fees, if a student from a closed private postsecondary school does not accept a place that is available and reasonable in another private postsecondary school, be refunded as provided by Section 1603.3603. Requires that a refund under this subsection be paid from the barbering and cosmetology school tuition protection account. Prohibits the amount of the refund from exceeding \$35,000.

(d) Provides that, if another private postsecondary school assumes responsibility for the closed school's students and there are no significant changes in the quality of the training, the student from the closed school is not entitled to a refund under Subsection (c).

Sec. 1603.3608. BARBERING AND COSMETOLOGY SCHOOL TUITION PROTECTION ACCOUNT. (a) Requires TDLR, if on January 1 of any year the amount in the barbering and cosmetology school tuition protection account is less than \$225,000, to collect a fee from each private postsecondary school during that year by applying a percentage to the school's renewal fee at a rate that will bring the balance of the account to \$225,000.

(b) Requires TDLR to administer claims made against the account.

(c) Requires the comptroller to invest the account in the same manner as other state funds.

(d) Requires that sufficient money from the account be appropriated to TDLR for the purpose described by Section 1603.3607.

(e) Prohibits attorney's fees, court costs, or damages from being paid from the account.

Sec. 1603.3609. RULES. Authorizes TDLR by rule to adjust any tuition reimbursement limit established under this subchapter and to adopt procedures regarding the collection of fees from private postsecondary schools under Section 1603.3608.

SECTION 3.30. Amends Section 1603.401, Occupations Code, as follows:

Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. Authorizes, rather than requires, TDLR to deny an application for issuance or renewal of, or to suspend or revoke, a license or permit if the applicant or person holding the license or permit, rather than a certificate, license, or permit if the applicant or person holding the certificate, license, or permit, engages in certain conduct, including engages in an act that violates Chapter 1603 or Chapter 51 or a rule or order adopted or issued under Chapter 1603 or Chapter 51, rather than engages in an act that violates Chapter 1603, Chapter 51, Chapter 1601, or Chapter 1602 or a rule or order adopted or issued under those chapters.

SECTION 3.31. Amends the heading to Subchapter J, Chapter 1603, Occupations Code, to read as follows:

#### SUBCHAPTER J. OTHER ENFORCEMENT PROVISIONS

SECTION 3.32. Amends Sections 1603.453 and 1603.454, Occupations Code, to make conforming changes.

SECTION 3.33. Repealer: Chapters 1601 (Barbers) and 1602 (Cosmetologists), Occupations Code.

Repealers: Sections 1603.104(b) (relating to inspection intervals for certain barbering and cosmetology shops and other facilities), Occupations Code.

Repealers: Sections 1603.104(c) (relating to inspection intervals for certain barbering and cosmetology schools), Occupations Code.

Repealers: Sections 1603.104(c-1) (relating to inspection intervals for certain barbering and cosmetology specialty shops), Occupations Code.

Repealer: Section 1603.205 (Dual Barber and Beauty Shop License), Occupations Code.

Repealer: Section 1603.206 (Mobile Shops), Occupations Code.

Repealer: Section 1603.207 (Mini-Salons and Mini-Barbershops), Occupations Code.

Repealer: Section 1603.254 (Examination for Barbers), Occupations Code.

Repealer: Section 1603.451 (Injunctive Relief), Occupations Code.

Repealer: Section 1603.452 (Civil Penalty), Occupations Code.

Repealer: Section 1603.455 (Emergency Orders), Occupations Code.

Repealer: Section 1603.456 (Cease and Desist Orders), Occupations Code.

SECTION 3.34. (a) Requires TCLR, to ensure that licensed schools offering instruction in barbering and cosmetology maintain accreditation and that students of those schools continue to qualify for federal aid, to, as soon as practicable after the effective date of this Act, adopt any rules necessary for the orderly implementation of the changes in law made by this article to the licensing system and curricula requirements and standards for schools offering instruction in barbering and cosmetology.

(b) Provides that not later than September 1, 2023, TCLR is required to adopt any additional rules necessary to implement the changes in law made by this article, and TDLR is required to begin to issue licenses and permits under Subchapters E-1, E-2, and E-3, Chapter 1603, Occupations Code, as added by this article.

SECTION 3.35. Authorizes TDLR, notwithstanding the repeal by this article of Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and 1603.207, Occupations Code, to continue to issue until September 1, 2023, a certificate, license, or permit under those provisions as they existed immediately before the effective date of this Act, and provides that those provisions are continued in effect for that purpose.

SECTION 3.36. Requires TDLR, notwithstanding the repeal by this article of Chapters 1601 and 1602, Occupations Code, until TCLR adopts rules regarding written and practical examination requirements for the issuance of licenses under Chapter 1603, Occupations Code, as amended by this article, to continue to operate under the requirements regarding written and practical examinations in former Chapters 1601 and 1602, Occupations Code, as those chapters were in effect immediately before the effective date of this Act, and provides that those provisions are continued in effect for that purpose.

SECTION 3.37. (a) Provides that a certificate, license, or permit issued under former Chapter 1601 or 1602, Occupations Code, or under former Section 1603.205, 1603.206, or 1603.207, Occupations Code, before September 1, 2023, continues to be valid until the certificate, license, or permit expires, and that those chapters and sections are continued in effect for that purpose.

(b) Provides that a person who on the effective date of this Act holds a certificate, license, or permit issued under former Chapter 1601 or 1602, Occupations Code, or under former Section 1603.205, 1603.206, or 1603.207, Occupations Code, is entitled on expiration of that certificate, license, or permit to issuance of a comparable license or permit under the

applicable provision of Chapter 1603, Occupations Code, as amended by this article, if the person otherwise meets the requirements for the license or permit.

SECTION 3.38. Authorizes the holder of a license issued under former Section 1601.256, 1601.262, or 1601.263, Occupations Code, before the effective date of this Act, notwithstanding any other law, on the effective date of this Act, to perform the services described by Sections 1603.0011(a)(6) and (c), Occupations Code, as added by this Act.

SECTION 3.39. (a) Requires the presiding officer, not later than December 1, 2021, to appoint members to the Barbering and Cosmetology Advisory Board in accordance with Section 1603.051, Occupations Code, as amended by this article.

(b) Provides that on December 1, 2021, the Advisory Board on Barbering and the Advisory Board on Cosmetology are abolished.

(c) Requires the presiding officer, notwithstanding Section 1603.053, Occupations Code, as added by this article, in making the initial appointments to the Barbering and Cosmetology Advisory Board, to designate three members of the advisory board to serve terms expiring January 31, 2023, three members to serve terms expiring January 31, 2025, and three members to serve terms expiring January 31, 2027.

SECTION 3.40. Requires the comptroller, as soon as practicable after the effective date of this Act, to transfer to the barbering and cosmetology school tuition protection account the unexpended and unencumbered balance of the barber school tuition protection account and the unexpended and unencumbered balance of the private beauty culture school tuition protection account.

SECTION 3.41. (a) Provides that the changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending on the effective date of this Act. Provides that a disciplinary action that is pending on the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Provides that the repeal of a law by this article does not entitle a person to a refund of a certificate, license, or permit fee paid by the person before the effective date of this Act.

#### ARTICLE 4. RESIDENTIAL SERVICE CONTRACTS

SECTION 4.01. Amends Section 1101.006, Occupations Code, as follows:

Sec. 1101.006. APPLICATION OF SUNSET ACT. Deletes existing text providing that, unless continued in existence as provided by Chapter 325, Government Code (Texas Sunset Act), Chapter 1303 (Residential Service Companies) expires September 1, 2025.

SECTION 4.02. Amends Section 1304.003(a), Occupations Code, by amending Subdivision (2) and adding Subdivision (4), as follows:

(2) Redefines, for purposes of Chapter 1304 (Service Contract Providers and Administrators), "service contract" to include an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to provide a service, reimbursement, or payment under a residential service contract. Makes nonsubstantive changes.

(4) Defines, for purposes of Chapter 1304, "residential service contract" to mean a service contract of any duration under which a provider agrees to, in the event of the operational or structural failure of, damage caused by a power surge to, a defect in materials or workmanship of, or damage caused by normal wear to a structural component, an appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system of a residential property that is attached to or located on the residential property:

(A) service, maintain, repair, or replace all or any part of the structural component, appliance, or electrical, plumbing, heating, cooling, or air-conditioning system;

(B) provide incidental payment of indemnity under limited circumstances, including food spoilage; or

(C) provide reimbursement or payment instead of service, repair, or replacement when a part, structural component, appliance, or service provider or technician is unavailable.

SECTION 4.03. Amends Section 1304.003(b), Occupations Code, to authorize a service contract described by Subsection (a)(2)(A) (relating to a service contract to repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for certain damage and wear) to provide for, rather than to also provide for, certain services.

SECTION 4.04. Amends Section 1304.004(b), Occupations Code, to delete existing text providing that Chapter 1304 does not apply to a residential service contract sold by an entity licensed by the Texas Real Estate Commission (TREC) under Chapter 1303. Makes nonsubstantive changes.

SECTION 4.05. Amends Subchapter A, Chapter 1304, Occupations Code, by adding Section 1304.0041, as follows:

Sec. 1304.0041. CERTAIN EXEMPT AGREEMENTS. Provides that Chapter 1304 does not apply to:

(1) a performance guarantee offered by the builder of a residential property or by the manufacturer or seller of an appliance or other system or component of a residential property;

(2) a residential service contract executed before August 28, 1979;

(3) 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 that 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;

(4) a service or maintenance agreement or a warranty that 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 that provides for, warrants, or guarantees the maintenance, repair, replacement, or performance of the product or part of the product; or

(5) home warranty insurance as defined by Section 2005.001 (Definitions), Insurance Code.

SECTION 4.06. Amends Section 1304.005, Occupations Code, to delete existing text providing that marketing, selling, offering for sale, issuing, making, proposing to make, and administering a service contract are exempt from Chapter 1303. Makes nonsubstantive changes.

SECTION 4.07. Amends Section 1304.151, Occupations Code, by amending Subsection (b) and adding Subsection (b-4), as follows:

(b) Prohibits the amount of the security deposit, except as provided by Subsections (b-1) (relating to certain occasions when the amount of the security deposit is prohibited from being less than \$25,000) and (b-4), rather than except as provided by Subsection (b-1), from being less than \$250,000.

(b-4) Prohibits the amount of the security deposit required under Subsection (b) from being less than \$25,000 for a provider of a residential service contract.

SECTION 4.08. Amends Section 1304.156, Occupations Code, by adding Subsection (f), to require that a residential service contract state that the provider agrees that, under normal circumstances, the provider will initiate the performance of services not later than 48 hours after the contract holder requests the services.

SECTION 4.09. Amends Subchapter D, Chapter 1304, Occupations Code, by adding Section 1304.157, as follows:

Sec. 1304.157. RESIDENTIAL SERVICE CONTRACTS. (a) Prohibits a person from selling, offering to sell, arranging or soliciting the sale of, or receiving an application for a residential service contract unless the person is employed by a provider or administrator of a residential service contract who is licensed under Chapter 1304 or unless the person is licensed as a real estate sales agent, real estate broker, mobile home dealer, or insurance agent in this state.

(b) Authorizes a person compensated by a provider or administrator, but who is not employed by that provider or administrator, notwithstanding Subsection (a), to sell, offer to sell, arrange or solicit the sale of, or receive an application for a residential service contract if the contract contains the following statement in at least 10-point boldface type: "NOTICE: THIS COMPANY PAYS PERSONS NOT EMPLOYED BY THE PROVIDER FOR THE SALE, ADVERTISING, INSPECTION, OR PROCESSING OF A RESIDENTIAL SERVICE CONTRACT UNDER CHAPTER 1304, OCCUPATIONS CODE." Provides that for purposes of Subsection (a) and this subsection, a person is employed by a provider or administrator if, in connection with the person selling, offering to sell, arranging or soliciting the sale of, or receiving applications for residential service contracts, the provider or administrator directs and controls the person's performance and is responsible for representations made by the person when acting within the scope of the person's employment.

(c) Authorizes a provider of a residential service contract, notwithstanding Section 1304.151(a)(1) (relating to insurance of a provider's service contract to ensure faithful performance of a provider's obligations), to use a reimbursement insurance policy issued by a captive insurance company as defined by Section 964.001 (Definitions), Insurance Code, to insure the provider's residential service contracts if the provider maintains a funded reserve equal to not less than 25 percent of the gross consideration the provider received from consumers from the sale of all the provider's service contracts issued and outstanding in this state, minus any claims paid. Provides that a reimbursement insurance policy issued to a residential service contract provider in accordance with this subsection is not subject to Section 1304.152 (Reimbursement Insurance Policy) and is considered to satisfy the requirements of Sections 1304.1025 (Additional Registration and Renewal Requirements for Providers) and 1304.151(a)(1) for purposes of this chapter.

SECTION 4.10. Repealer: Chapter 1303 (Residential Service Companies), Occupations Code.

SECTION 4.11. Requires TCLR, not later than June 1, 2022, to adopt rules necessary to implement the changes in law made by this article to Chapter 1304, Occupations Code.

SECTION 4.12. (a) Requires a residential service company licensed under former Chapter 1303, Occupations Code, that on May 1, 2021, maintained security in accordance with former Section 1303.154 (Amount of Security), Occupations Code, to continue to maintain security in an amount not less than the amount required under that section until September 1, 2026, and provides that the former law is continued in effect for that purpose.

(b) Provides that a residential service company described by Subsection (a) of this section that is operating as a residential service contract provider licensed under Chapter 1304, Occupations Code, as amended by this article, is not required to comply with the security requirements for residential service contract providers under Chapter 1304, Occupations Code, as amended by this article, until September 1, 2026.

(c) Requires a residential service company described by Subsection (a) of this section that is operating as a residential service contract provider licensed under Chapter 1304, Occupations Code, as amended by this article, to update the company's financial security documents to list TDLR as a party to the financial security document and to replace each reference to TREC with a reference to TDLR, not later than September 1, 2022.

SECTION 4.13. (a) Defines "department."

(b) Provides that on the effective date of this Act:

(1) a license issued by TREC under former Chapter 1303, Occupations Code, is continued in effect as a license of TDLR;

(2) all rules, fees, policies, procedures, decisions, and forms of TREC that relate to a program or activity transferred under this article are continued in effect as rules, fees, policies, procedures, decisions, and forms of TCLR or TDLR, as applicable, and remain in effect until changed by TCLR or TDLR; and

(3) a complaint, investigation, contested case, or other proceeding related to a program that is transferred under this article and that is pending on the effective date of this Act is transferred without change in status to TCLR or TDLR, as appropriate.

(c) Provides that on the effective date of this Act all money, contracts, leases, property, software source code and documentation, records, and obligations of TREC relating to a program or activity transferred to TDLR under this article are transferred to TDLR; and the unexpended and unobligated balance of any money appropriated by the legislature relating to that program or activity is transferred to TDLR.

(d) Requires TREC, as soon as practicable after the effective date of this Act, to transfer to TCLR or TDLR, as appropriate, any bond, reimbursement insurance policy, or other security held for a residential service company that relates to a program or activity transferred under this article.

(e) Provides that unless the context indicates otherwise, a reference in law or administrative rule to TREC with respect to a program or activity transferred from TREC to TDLR under this article means TCLR or TDLR, as appropriate.

(f) Requires TREC to provide TDLR with access to any systems, facilities, or information necessary to implement the change in law made by this article.

ARTICLE 5. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

SECTION 5.01. Amends Section 401.304(a), Occupations Code, as follows:

(a) Requires an applicant, to be eligible for licensing as a speech-language pathologist or audiologist, to meet certain conditions, including, if the application is for a license in audiology, to possess at least a master's degree, rather than a doctoral degree, in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by TCLR or TDLR and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university.

SECTION 5.02. Makes application of Section 401.304(a), Occupations Code, as amended by this Act, prospective.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Effective date: September 1, 2021.