

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2972
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Applicants for any assisted living license or license renewal and managers of assisted living facilities are required to provide personal information, which may include the address, telephone number, driver's license number, and Social Security number of an individual who the law designates as a "controlling person." However, the definition of a "controlling person" is extremely broad and may include any entity that lends money to, or owns more than a five percent equity interest in, another entity or the parent entity of that entity applying for an assisted living facility license. Reporting this information is impossible for a publicly traded company in which stock is traded by individuals and large investment companies on a daily basis or that borrows funds from national lending institutions. This is delaying the assisted living facility license application process and monopolizing the resources of the Department of Aging and Disability Services for extended periods.

C.S.H.B. 2972 amends current law relating to licensing of certain health facilities.

[**Note:** While the statutory reference in this bill is to the Texas Department of Human Services (TDHS), the following amendments affect the Health and Human Services Commission, as the successor agency to TDHS.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 242.039, Health and Safety Code), SECTION 5 (Section 247.0211, Health and Safety Code), and SECTION 9 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 242.0021, Health and Safety Code, by adding Subsection (b-1), as follows:

(b-1) Provides that notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an institution or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. Provides that the term does not include a shareholder or lender of the publicly traded corporation.

SECTION 2. Amends Section 242.039, Health and Safety Code, by adding Subsection (g), as follows:

(g) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules to implement an expedited inspection process that allows an applicant for a license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made. Authorizes the Texas Department of Human Services (TDHS) to charge a fee to recover the cost of the expedited inspection.

SECTION 3. Amends Section 247.005, Health and Safety Code, by adding Subsection (b-1), as follows:

(b-1) Provides that a controlling person of an assisted living facility or of a management company or other business entity described by Subsection (b)(1) (relating to the definition of a "controlling person") that is a publicly traded corporation or is controlled by a publicly traded corporation, notwithstanding any other provision of this section, for purposes of this chapter, means an officer or director of the corporation. Provides that the term does not include a shareholder or lender of the publicly traded corporation.

SECTION 4. Amends Section 247.021, Health and Safety Code, by amending Subsections (d), (g), and (h) and adding Subsections (d-1), (d-2), (d-3), and (d-4), as follows:

(d) Authorizes TDHS to issue a provisional license if, rather than only if, certain conditions are met.

(d-1) Provides that a provisional license is effective on the date requested by the applicant.

(d-2) Provides that a provisional license expires the earlier of the 180th day after the effective date of the provisional license or the end of any extension period granted by TDHS, in TDHS's sole discretion, or the date a license is issued to the provisional license holder under Subsection (d-4).

(d-3) Requires TDHS to conduct a life safety code inspection of the facility as soon as reasonably possible after TDHS issues a provisional license.

(d-4) Requires TDHS, after conducting a life safety code inspection, to issue a license under Section 247.023 (Issuance and Renewal of License) to the provisional license holder if the facility passes the inspection and the applicant meets all requirements for a license. Provides that a license issued under this subsection has the same effective date as the provisional license.

(g) Requires TDHS, upon submission of a written request by the applicant, to automatically issue a provisional license to a newly constructed facility if before beginning construction, the license applicant submits working drawings and specifications to TDHS for review and TDHS determines that the license applicant constructed another facility in this state that complies with TDHS's life safety code standards, rather than authorizes TDHS, notwithstanding Subsection (f) (relating to prohibiting a provisional license being issued after a certain date), to automatically issue a provisional license to a newly constructed facility if certain conditions are met.

(h) Makes conforming changes.

SECTION 5. Amends Subchapter B, Chapter 247, Health and Safety Code, by adding Section 247.0211, as follows:

Sec. 247.0211. EXPEDITED LIFE SAFETY CODE INSPECTION. (a) Requires the executive commissioner to adopt rules to implement an expedited inspection process that allows an applicant for an assisted living facility license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made.

(b) Authorizes TDHS to charge a fee to recover the cost of the expedited inspection.

SECTION 6. Amends Section 247.022, Health and Safety Code, by adding Subsection (b-1), to authorize TDHS, if TDHS conducts at least three life safety code inspections at the applicant's facility, to collect a fee in addition to the fee under Subsection (b) (relating to requiring each application be accompanied by a nonrefundable license fee in a certain amount) for the application for the license.

SECTION 7. Amends Section 247.032(a), Health and Safety Code, to redefine "accreditation commission."

SECTION 8. Repealers: Sections 247.021(e) (relating to TDHS being prohibited from issuing a license under certain conditions) and (f) (relating to prohibiting a provisional license being issued after a certain date), Health and Safety Code.

SECTION 9. Requires the executive commissioner, not later January 1, 2010, to adopt rules to implement the expedited inspection processes as required by Sections 242.039(g) and 247.0211, Health and Safety Code, as added by this Act.

SECTION 10. Effective date: September 1, 2009.