



March 11, 2022

Submitted via Department Website:
<https://ga.tdlr.texas.gov:1443/form/gcerules>

Monica Nuñez, Legal Assistant,
Texas Department of Licensing and Regulation
P.O. Box 12157
Austin, Texas 78711

**RE: Comments to Proposed Rules
Ch 77. Service Contract Providers and Administrators**

Dear Ms. Nuñez:

On behalf of the Service Contract Industry Council ("SCIC"), I am writing to you to provide the SCIC's comments to the Proposed Rules in Chapter 77 regarding Service Contract Providers and Administrators. By way of background, the SCIC is a national trade association whose member companies include manufacturers, service contract providers, administrators, and retailers offering service contracts covering motor vehicles, homes, and consumer goods throughout the country. We estimate that our member companies, which include Ford Motor Company, Ally Financial, American Home Shield, Phoenix American, Assurant, Asurion, Best Buy, CNA National Warranty Co., Automobile Protection Corporation, and Toyota Motor Insurance Services, Inc., among others, offer over 80% of service contracts available in the marketplace today.

The SCIC has played a significant role in the development of uniform regulatory standards appropriate for the industry and contract holders, and actively pursues model legislation, lobbies for those standards, and provides industry advice for legislative and regulatory issues. The association was established in 1991 and has worked with lawmakers and regulators around the country as well as the National Association of Insurance Commissioners ("NAIC") in the development of fair and comprehensive regulations governing the service contract industry.

The SCIC appreciates the opportunity to respond to the proposed rulemaking.

In large part the bill folds residential service contracts into the existing Texas Department of Licensing and Regulation ("TDLR") framework from the Texas Real Estate Commission ("TREC") in accordance with House Bill 1560 and current law.

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The primary area of concern is that the proposed rule, section §77.70, adds a new paragraph “(k)”, that requires all service contract providers to notify the Department of affiliations with other persons or entities within 30 days of the establishment of the affiliation and adjusting the lettering for the remaining section of the rule. This paragraph, in similar and expansive verbiage, was in the TREC regulations under §539.66, which read as follows:

“If a residential service company wishes to begin issuing and administering contracts in affiliation with another company, the residential service company shall give the Commission no less than 30 days written notice before commencing such action. The residential service company shall also provide the Commission with copies of any contract and any advertising to be issued or administered by the affiliate. All contracts issued or administered by an affiliate must clearly indicate the relationship between the residential service company and the affiliate. Failure to provide the Commission in a timely manner written notice of affiliation with another company, any contract or any advertising to be issued by the affiliate violates Section 1303.352(a)(7) of the Act.”

We feel the addition of paragraph “(k)” is mistaken and should be removed in its entirety. This regulation appears to have been added to the TREC regulations several years ago (approximately 2013) and these requirements were not historically enforced by TREC as not contemplated in the enacting statutes. The TDLR’s inclusion of paragraph “(k)” would essentially add a new industry requirement. In addition, the term “affiliation” is not defined and that would be difficult to determine and confusing to ensure compliance.

We appreciate the TDLR’s willingness to allow written comments and to carefully consider the items outlined in this public comment letter. We are very interested in continuing the dialogue with TDLR on the proposed revisions to the rules. Based upon the foregoing, it is our hope that a consensus can be reached that both addresses the TDLR’s concerns as well as avoids the establishment of new requirements that are broader than what is contemplated in the statute.

Sincerely,



Timothy J. Meenan
Executive Director & General Counsel
Service Contract Industry Council