

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: HB1542

House of Origin ☐ Introduced ☒ Substitute ☒ Engrossed
Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Kilgore

3. Committee: Commerce and Labor

Title: Home service contract providers

5. Summary: The substitute bill moves the responsibility for regulating home service contract providers from the State Corporation Commission to the Department of Agriculture and Consumer Services (VDACS). The bill also states that home service contracts are not insurance contracts and therefore, they are not subject to the Commonwealth's insurance laws. The bill requires the providers to register with VDACS and to maintain a funded reserve account to meet their contract obligations. The reserve account must be not less than 40 percent of the gross consideration received, less claims paid on the sale of the contract for all active contracts sold in the Commonwealth. The bill requires providers to file a bond with VDACS or provide a copy of a liability insurance policy, which cover 100 percent of the provider's contracts liabilities. This bill requires home service contract providers to pay an annual registration fee of \$300. Lastly, the bill exempts providers with a net worth in excess of \$100 million from these requirements. Violators of these provisions shall be guilty of a Class 3 misdemeanor. The substitute bill includes enactment clauses that require providers to pay the premium tax at the same rate as currently until the Department of Taxation promulgates a regulation for home service contract providers and delay the effective date until January 1, 2018.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary.

7a. Expenditure Impact: Indeterminate. See item 8.

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2018	\$0	NGF
2019	\$3,600	NGF
2020	\$3,600	NGF
2021	\$3,600	NGF
2022	\$3,600	NGF
2023	\$3,600	NGF

8. Fiscal Implications:

Expenditure

The bill has an enactment date of January 1, 2018. As such, there is no anticipated fiscal impact to the Department of Agriculture and Consumer Services (VDACS) in FY 2018. Costs to begin implementation will be absorbed in the existing appropriation.

The fiscal impact to VDACS in FY 2019 and later is indeterminate. The bill could result in an increased number of companies registering to sell home service contracts in Virginia. It is estimated that one position may be required to review registrations and conduct investigations in FY 2019. The salary and fringe benefits associated with the position are estimated at \$65,412 annually. While the bill provides for an annual registration fee, the fee revenue is not anticipated to be sufficient to cover administration. Additionally, if the bill results in a significant increase in the number of registered providers, then VDACS may incur additional costs. It may be necessary to develop and maintain a database to register providers and track consumer complaints. Additional resources may also be needed for fiscal processing of registration and late filing fees. Based on similar registration systems and programs, the costs may be up to \$175,000 annually.

The Department of Taxation considers implementation of this bill as routine and does not anticipate a fiscal impact.

Revenue

This bill exempts home service contract providers from the Insurance Premiums License Tax and, as such, makes such providers subject to the Corporate Income Tax. According to the Department of Taxation, the minimum tax proposed by this bill would make the change from the Insurance Premiums License Tax to the Corporate Income Tax revenue-neutral for the general fund.

According to the State Corporation Commission, there are 12 registered providers of home service contracts. The bill proposes an annual registration fee of \$300 for each provider that will generate \$3,600 in nongeneral fund revenue to be used for program administration.

The bill provides that violators of the provisions shall be guilty of a Class 3 misdemeanor. Such misdemeanor offenses may result in fines. At this time, the number of potential violations is indeterminate. All revenue from fines is deposited to the State Literary Fund.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Agriculture and Consumer Services, State Corporation Commission, Department of Taxation; Circuit Court of the City of Richmond.

10. Technical Amendment Necessary: The Department of Taxation believes that a technical amendment is necessary to ensure consistency with tax exemptions for home service contract providers. Currently, home service contract providers are subject to the Insurance Premiums License Tax in lieu of all other state and local license fees or license taxes, and state income

taxes. This bill as drafted exempts home service contract providers subject to the minimum tax from all other state and local taxes and license fees imposed by Virginia. If this provision stands, the department anticipates an indeterminate negative impact on the general fund. As such, the department suggests the following technical amendment:

Line 360, after “state and local” strike “taxes and license fees imposed” and insert “license fees or license taxes and state income taxes”.

11. Other Comments: None