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H.B. No. 636

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Texas State Board
3 of Plumbing Examiners; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1301.002(9-a), Occupations Code, is
6 amended to read as follows:

7 (9-a) "Responsible master plumber" means a person
8 licensed as a master plumber under this chapter who:

9 (A) allows the person's master plumber license to
10 be used by one plumbing company for the purpose of offering and
11 performing plumbing work under the person's master plumber license;

12 (B) is authorized to obtain permits for plumbing
13 work;

14 (C) assumes responsibility for plumbing work
15 performed under the person's license; and

16 (D) has submitted a certificate of insurance as
17 required by Section 1301.3576 [~~and~~

18 [~~(E) has completed a training program required by~~
19 ~~Section 1301.3576]~~.

20 SECTION 2. Section 1301.003, Occupations Code, is amended
21 to read as follows:

22 Sec. 1301.003. APPLICATION OF SUNSET ACT. The Texas State
23 Board of Plumbing Examiners is subject to Chapter 325, Government
24 Code (Texas Sunset Act). Unless continued in existence as provided

1 by that chapter, the board is abolished and this chapter expires
2 September 1, 2027 [~~2019~~].

3 SECTION 3. The heading to Section 1301.202, Occupations
4 Code, is amended to read as follows:

5 Sec. 1301.202. CERTAIN PLUMBING EXAMINERS [~~EXAMINER~~].

6 SECTION 4. Section 1301.202(a), Occupations Code, is
7 amended to read as follows:

8 (a) If an examination required for the issuance of a
9 license, registration, or endorsement under this chapter contains a
10 practical component, the [~~The~~] board shall employ or contract with
11 one or more plumbing examiners to administer that portion of the
12 examination. [~~A plumbing examiner serves at the will of the board.~~]

13 A plumbing examiner must:

14 (1) hold a license as a plumber issued under this
15 chapter;

16 (2) be knowledgeable of this chapter and municipal
17 ordinances relating to plumbing; and

18 (3) be qualified by experience and training in
19 plumbing practice.

20 SECTION 5. Section 1301.203, Occupations Code, is amended
21 by adding Subsection (c) to read as follows:

22 (c) The board by rule shall assign priorities and prescribe
23 procedures for conducting checks described by Subsection (b)(1)
24 based on:

25 (1) the degree of potential harm to public health,
26 safety, or property;

27 (2) the history of previous violations of this chapter

1 or a rule adopted under this chapter by a person regulated under
2 this chapter; and

3 (3) any other indication of increased risk to public
4 health, safety, or property, as determined by the board.

5 SECTION 6. Subchapter E, Chapter 1301, Occupations Code, is
6 amended by adding Section 1301.263 to read as follows:

7 Sec. 1301.263. EXAMINATION ADMINISTRATION AND CONTENT. (a)
8 The board may adopt, recognize, develop, or contract for an
9 examination required by this chapter, including the administration
10 of the examination.

11 (b) For each examination required by this chapter, the board
12 shall, to the extent feasible, adopt, recognize, develop, or
13 contract for an examination that includes components that may be
14 administered:

15 (1) in writing or online; and

16 (2) by a person other than a plumbing examiner
17 described by Section 1301.202.

18 (c) The board shall determine the passing score for an
19 examination required by this chapter.

20 SECTION 7. Section 1301.303(e), Occupations Code, is
21 amended to read as follows:

22 (e) The board by rule shall assign priorities and prescribe
23 investigative procedures for investigations of complaints based
24 on:

25 (1) the severity of the conduct alleged in the
26 complaint; ~~and~~

27 (2) the degree of harm to public health, safety, or

1 property;

2 (3) the history of previous violations of this chapter
3 by the person who is the subject of the complaint; and

4 (4) any other indication of increased risk to public
5 health, safety, or property, as determined by the board.

6 SECTION 8. Subchapter F, Chapter 1301, Occupations Code, is
7 amended by adding Section 1301.305 to read as follows:

8 Sec. 1301.305. PUBLIC ACCESS TO INFORMATION RELATING TO
9 DISCIPLINARY ACTIONS. (a) The board shall make available to the
10 public through a toll-free telephone number, Internet website, or
11 other easily accessible medium determined by the board the
12 following information relating to a disciplinary action taken
13 regarding a person regulated under this chapter:

14 (1) the identity of the person;

15 (2) the nature of the complaint that was the basis of
16 the disciplinary action; and

17 (3) the disciplinary action taken by the board.

18 (b) The board may not include the name of the person who
19 filed the complaint in the information made available under
20 Subsection (a).

21 (c) The board shall present the information made available
22 under Subsection (a) in an impartial manner using commonly
23 understood language.

24 (d) The board shall regularly update the information made
25 available under this section.

26 SECTION 9. Subchapter G, Chapter 1301, Occupations Code, is
27 amended by adding Section 1301.3515 to read as follows:

1 Sec. 1301.3515. CRIMINAL HISTORY RECORD INFORMATION FOR
2 LICENSE ISSUANCE. (a) The board shall require that an applicant
3 for a license submit a complete and legible set of fingerprints, on
4 a form prescribed by the board, to the board or to the Department of
5 Public Safety for the purpose of obtaining criminal history record
6 information from the Department of Public Safety and the Federal
7 Bureau of Investigation.

8 (b) The board may not issue a license to a person who does
9 not comply with the requirement of Subsection (a).

10 (c) The board shall conduct a criminal history record
11 information check of each applicant for a license using
12 information:

13 (1) provided by the individual under this section; and

14 (2) made available to the department by the Department
15 of Public Safety, the Federal Bureau of Investigation, and any
16 other criminal justice agency under Chapter 411, Government Code.

17 (d) The board may:

18 (1) enter into an agreement with the Department of
19 Public Safety to administer a criminal history record information
20 check required under this section; and

21 (2) authorize the Department of Public Safety to
22 collect from each applicant the costs incurred by the Department of
23 Public Safety in conducting the criminal history record information
24 check.

25 SECTION 10. Section 1301.3576, Occupations Code, is amended
26 to read as follows:

27 Sec. 1301.3576. CERTIFICATE OF INSURANCE [~~AND TRAINING~~] FOR

1 RESPONSIBLE MASTER PLUMBER. Before a master plumber works as a
2 responsible master plumber, the master plumber must[+]

3 [~~(1)~~] provide the board with a certificate of
4 insurance that meets the requirements of Section 1301.552[+, and

5 [~~(2)~~ present evidence satisfactory to the board of
6 successful completion of a training program approved or
7 administered by the board regarding the laws and rules applicable
8 to the operation of a plumbing business in this state].

9 SECTION 11. Subchapter G, Chapter 1301, Occupations Code,
10 is amended by adding Section 1301.360 to read as follows:

11 Sec. 1301.360. TEMPORARY LICENSE. (a) The board by rule
12 may provide for the issuance of a temporary license to an applicant
13 who:

14 (1) submits to the board an application on a form
15 prescribed by the board;

16 (2) meets preliminary qualifications established by
17 board rule; and

18 (3) pays a fee set by the board.

19 (b) A temporary license issued under this section expires on
20 the 30th day after the date of issuance and may not be renewed.

21 (c) A temporary license holder is subject to:

22 (1) this chapter;

23 (2) any law applicable to the activity for which the
24 license is required, including municipal rules, orders, or
25 ordinances; and

26 (3) any rule of the board applicable to the license.

27 SECTION 12. Section 1301.401, Occupations Code, is amended

1 by amending Subsection (a) and adding Subsection (c) to read as
2 follows:

3 Sec. 1301.401. ANNUAL RENEWAL REQUIRED. (a) A license,
4 ~~[or]~~ registration, or endorsement under this chapter is valid for
5 one year. On payment of the required fee, a license, registration,
6 or endorsement may be renewed annually.

7 (c) An endorsement issued under Section 1301.356,
8 1301.3565, or 1301.357 expires on the date the master plumber or
9 journeyman plumber license of the endorsement holder expires. The
10 board shall adopt rules to provide for the license holder to renew
11 the endorsement in the same transaction as the license if the
12 license holder:

13 (1) has completed any continuing education
14 requirement established by rule and applicable to the endorsement;
15 and

16 (2) complies with other requirements prescribed by
17 board rule.

18 SECTION 13. Sections 1301.404(a), (b), (c), (d), and (e),
19 Occupations Code, are amended to read as follows:

20 (a) The board by rule shall establish:

21 (1) minimum curriculum standards for ~~[recognize,~~
22 ~~approve, and administer]~~ continuing education programs and courses
23 for persons who hold a license ~~[licenses]~~ or endorsement issued
24 ~~[endorsements]~~ under this chapter; and

25 (2) minimum qualifications for an instructor of the
26 continuing education programs and courses described by Subdivision
27 (1).

1 (b) A person who holds a license or endorsement under this
2 chapter must complete at least six hours of continuing professional
3 education annually [~~each year the person holds the license or~~
4 ~~endorsement~~] to renew the person's license or endorsement. Three of
5 the six hours must be in the subjects of health protection, energy
6 conservation, and water conservation.

7 (c) The executive director shall approve:

8 (1) a program or course that meets the minimum
9 curriculum standards established by the board under Subsection (a);
10 and

11 (2) an instructor who meets the minimum qualifications
12 established by the board under Subsection (a) [~~board by rule shall~~
13 ~~adopt the criteria for the continuing professional education~~].

14 (d) A person may receive credit for participating in a
15 continuing professional education program or course only if the
16 program or course is approved by the executive director [~~provided:~~

17 [~~(1) by an individual, business, or association~~
18 ~~approved by the board; and~~

19 [~~(2) according to criteria adopted by the board~~].

20 (e) A person may complete the continuing professional
21 education requirement of this section through a correspondence
22 course as approved by the executive director [~~board~~].

23 SECTION 14. Section 1301.405, Occupations Code, is amended
24 by adding Subsections (a-1) and (a-2) and amending Subsection (b)
25 to read as follows:

26 (a-1) The board by rule shall establish:

27 (1) minimum curriculum standards for a training

1 program described by Subsection (a) for persons who hold a
2 registration under this chapter; and

3 (2) minimum qualifications for an instructor of the
4 training program.

5 (a-2) The executive director shall approve:

6 (1) a training program that meets the minimum
7 curriculum standards established by the board under Subsection
8 (a-1); and

9 (2) an instructor who meets the minimum qualifications
10 established by the board under Subsection (a-1).

11 (b) A person may receive credit for participating in a
12 training program only if the program is ~~[provided:~~

13 ~~[(1) by a person]~~ approved by the executive director
14 ~~[board; and~~

15 ~~[(2) according to criteria adopted by the board].~~

16 SECTION 15. Subchapter H, Chapter 1301, Occupations Code,
17 is amended by adding Section 1301.4055 to read as follows:

18 Sec. 1301.4055. PERIOD FOR COMPLETING CONTINUING
19 EDUCATION. The board shall adopt rules to ensure that each holder
20 of a license, registration, or endorsement has at least 12 months to
21 complete any continuing education required for the renewal of the
22 license, registration, or endorsement.

23 SECTION 16. Section 1301.452(a), Occupations Code, is
24 amended to read as follows:

25 (a) A person is subject to disciplinary action under Section
26 1301.451 if the person violates this chapter, an order issued by the
27 board, or a board rule. A violation of this chapter includes:

1 (1) attempting to obtain or obtaining a license,
2 endorsement, or registration through [~~error or~~] fraud;

3 (2) wilfully, negligently, or arbitrarily violating a
4 municipal rule or ordinance that regulates sanitation, drainage, or
5 plumbing;

6 (3) making a misrepresentation of services provided or
7 to be provided;

8 (4) making a false promise with the intent to induce a
9 person to contract for a service; [~~or~~]

10 (5) employing a person who does not hold a license or
11 endorsement or who is not registered to engage in an activity for
12 which a license, endorsement, or registration is required under
13 this chapter;

14 (6) performing plumbing without holding the proper
15 license, endorsement, or registration required by this chapter; or

16 (7) performing plumbing in violation of a plumbing
17 code adopted under Section 1301.255.

18 SECTION 17. Section 1301.5071, Occupations Code, is amended
19 by adding Subsection (a-1) to read as follows:

20 (a-1) The procedures established under Subsection (a) must:

21 (1) identify the types of complaints for which an
22 informal settlement conference may be used; and

23 (2) require appropriate documentation of each
24 informal settlement conference that is conducted, including the
25 outcome of the conference.

26 SECTION 18. The following provisions of the Occupations
27 Code are repealed:

- 1 (1) Section 1301.356(c);
- 2 (2) Section 1301.3565(c);
- 3 (3) Section 1301.357(c);
- 4 (4) Section 1301.403(f); and
- 5 (5) Section 1301.505.

6 SECTION 19. (a) Not later than:

7 (1) September 1, 2023, the Texas State Board of
8 Plumbing Examiners shall obtain criminal history record
9 information using a person's name, date of birth, and other
10 alphanumeric identifiers on each person who:

11 (A) on September 1, 2021, holds a license issued
12 under Chapter 1301, Occupations Code; and

13 (B) did not undergo a criminal history record
14 information check based on the person's name or fingerprints on
15 submission of the person's initial license application; and

16 (2) September 1, 2025, the Texas State Board of
17 Plumbing Examiners shall obtain criminal history record
18 information using a person's fingerprints on each person who:

19 (A) on September 1, 2021, holds a license issued
20 under Chapter 1301, Occupations Code; and

21 (B) did not undergo a criminal history record
22 information check based on the person's fingerprints on submission
23 of the person's initial license application.

24 (b) The Texas State Board of Plumbing Examiners may suspend
25 the license of a person who holds a license under Chapter 1301,
26 Occupations Code, who does not comply with a request by the board to
27 provide information or fingerprints, in a form and manner

1 prescribed by the board, that would enable the board to obtain
2 criminal history record information as required by this section.

3 SECTION 20. Notwithstanding Section 1301.003, Occupations
4 Code, it is the intent of the legislature in enacting this Act to
5 amend Chapter 1301, Occupations Code, as that chapter was continued
6 in existence by Executive Order No. GA-06.

7 SECTION 21. As soon as practicable after the effective date
8 of this Act, the board shall adopt rules necessary to implement the
9 changes in law made by this Act to Chapter 1301, Occupations Code.

10 SECTION 22. The change in law made by this Act to Section
11 1301.452, Occupations Code, applies only to conduct that occurs on
12 or after the effective date of this Act. Conduct that occurs before
13 that date is governed by the law in effect on the date the conduct
14 occurred, and the former law is continued in effect for that
15 purpose.

16 SECTION 23. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2021.