

1-1 By: Kuempel (Senate Sponsor - Zaffirini) H.B. No. 1363
 1-2 (In the Senate - Received from the House April 6, 2023;
 1-3 April 27, 2023, read first time and referred to Committee on
 1-4 Business & Commerce; May 19, 2023, reported favorably by the
 1-5 following vote: Yeas 10, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7 | | | | |
| 1-8 | X | | | |
| 1-9 | X | | | |
| 1-10 | | | X | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the repeal of the real estate inspection recovery fund.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Section 1101.603(c), Occupations Code, is
 1-24 amended to read as follows:
 1-25 (c) Notwithstanding any other law, the commission shall
 1-26 deposit to the credit of the trust account ~~[or the real estate~~
 1-27 ~~inspection recovery fund, as determined by the commission,] an~~
 1-28 administrative penalty collected under Subchapter O ~~[for a~~
 1-29 ~~violation by a person licensed under this chapter or Chapter 1102].~~
 1-30 SECTION 2. Section 1102.114, Occupations Code, is amended
 1-31 to read as follows:
 1-32 Sec. 1102.114. ISSUANCE OF LICENSE. The commission shall
 1-33 issue the appropriate license to an applicant who:
 1-34 (1) meets the required qualifications; and
 1-35 (2) ~~[pays the fee required by Section 1102.352(a), and~~
 1-36 ~~[(3)]~~ submits proof of financial responsibility as
 1-37 required by Section 1102.1141.
 1-38 SECTION 3. Section 1102.402, Occupations Code, is amended
 1-39 to read as follows:
 1-40 Sec. 1102.402. LICENSE INELIGIBILITY ~~[REVOCAION]~~ FOR
 1-41 CLAIM ON FUND. ~~[(a) The commission may revoke a license issued~~
 1-42 ~~under this chapter or a license, approval, or registration issued~~
 1-43 ~~under Chapter 1101 if the commission makes a payment from the real~~
 1-44 ~~estate inspection recovery fund to satisfy all or part of a judgment~~
 1-45 ~~against the person issued the license, approval, or registration.~~
 1-46 ~~[(b) The commission may probate an order revoking a license.~~
 1-47 ~~[(c)]~~ A person is not eligible for a license under this
 1-48 chapter until the person has reimbursed the commission in full for
 1-49 any amount paid on the person's behalf from the real estate
 1-50 inspection recovery fund under former Subchapter H, as that
 1-51 subchapter existed on August 31, 2023, or the real estate recovery
 1-52 trust account under Subchapter M, Chapter 1101, plus interest at
 1-53 the legal rate.
 1-54 SECTION 4. Section 1102.403(b), Occupations Code, is
 1-55 amended to read as follows:
 1-56 (b) An administrative penalty collected under this section
 1-57 for a violation by an inspector shall be deposited to the credit of
 1-58 the general revenue ~~[real estate inspection recovery]~~ fund. A
 1-59 penalty collected under this section for a violation by a person who
 1-60 is not licensed under this chapter or Chapter 1101 shall be
 1-61 deposited to the credit of the real estate recovery trust account or

2-1 the general revenue [~~real estate inspection recovery~~] fund, as
 2-2 determined by the commission. Any amounts deposited to the credit
 2-3 of the general revenue fund under this section shall offset any
 2-4 amount required to be remitted to that fund by the commission.

2-5 SECTION 5. The following provisions of the Occupations Code
 2-6 are repealed:

2-7 (1) Section 1101.603(d); and

2-8 (2) Subchapter H, Chapter 1102.

2-9 SECTION 6. (a) In this section:

2-10 (1) "Commission" means the Texas Real Estate
 2-11 Commission.

2-12 (2) "Eligible inspector" means a person who holds a
 2-13 real estate inspector license or professional inspector license
 2-14 under Chapter 1102, Occupations Code, as of September 1, 2023.

2-15 (b) Not later than December 31, 2023, the commission shall
 2-16 transfer not less than \$200,000 from the real estate inspection
 2-17 recovery fund to the general revenue fund.

2-18 (c) Not later than August 31, 2026, the commission shall
 2-19 determine the remaining liability of the real estate inspection
 2-20 recovery fund based on any pending claims for payment under former
 2-21 Subchapter H, Chapter 1102, Occupations Code, and shall set aside
 2-22 an amount in the fund equal to that liability to be used for the
 2-23 payment of those pending claims.

2-24 (d) If funds remain in the real estate inspection recovery
 2-25 fund after setting aside the amount determined under Subsection (c)
 2-26 of this section, the commission shall set aside an additional
 2-27 amount not to exceed \$10 per eligible inspector. The commission
 2-28 shall apply the amount set aside as a credit toward the renewal of
 2-29 the license of each eligible inspector whose license expires on or
 2-30 after September 30, 2026, and on or before September 30, 2028, and
 2-31 who renews the license on or before September 30, 2028.

2-32 (e) After paying all claims for payment from the real estate
 2-33 inspection recovery fund and applying any credits under Subsection
 2-34 (d) of this section, the commission shall transfer any money
 2-35 remaining in the real estate inspection recovery fund to the
 2-36 general revenue fund.

2-37 (f) Any money transferred to the general revenue fund under
 2-38 this section shall offset any amount required to be remitted to that
 2-39 fund by the commission.

2-40 SECTION 7. (a) Section 1102.114, Occupations Code, as
 2-41 amended by this Act, applies only to an application for an inspector
 2-42 license submitted to the Texas Real Estate Commission on or after
 2-43 the effective date of this Act. An application for a license
 2-44 submitted before the effective date of this Act is governed by the
 2-45 law in effect on the date the application was submitted, and the
 2-46 former law is continued in effect for that purpose.

2-47 (b) The change in law made by this Act to Section 1102.402,
 2-48 Occupations Code, does not affect the authority of the Texas Real
 2-49 Estate Commission to revoke a license, approval, or registration,
 2-50 or probate an order revoking a license under that section as it
 2-51 existed before the effective date of this Act, for a payment made
 2-52 from the real estate inspection recovery fund based on a cause of
 2-53 action that accrues before the effective date of this Act, and the
 2-54 former law is continued in effect for that purpose.

2-55 (c) Sections 1101.603 and 1102.403, Occupations Code, as
 2-56 amended by this Act, apply only to an administrative penalty that is
 2-57 collected on or after the effective date of this Act. An
 2-58 administrative penalty that is collected before the effective date
 2-59 of this Act is governed by the law in effect on the date the
 2-60 administrative penalty was collected, and the former law is
 2-61 continued in effect for that purpose.

2-62 (d) Subject to Subsection (e) of this section, the repeal by
 2-63 this Act of Subchapter H, Chapter 1102, Occupations Code, does not
 2-64 affect the validity of a claim for payment from the real estate
 2-65 inspection recovery fund based on a cause of action that accrues
 2-66 before the effective date of this Act. A claim for payment from the
 2-67 fund based on a cause of action that accrues before the effective
 2-68 date of this Act is governed by the law in effect on the date the
 2-69 cause of action accrued, and the former law is continued in effect

3-1 for that purpose.

3-2 (e) A claim for payment from the real estate inspection
3-3 recovery fund under former Section [1102.355](#), Occupations Code, for
3-4 a cause of action that accrues before the effective date of this Act
3-5 must be filed before March 1, 2026.

3-6 SECTION 8. This Act takes effect September 1, 2023.

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