

## **BILL ANALYSIS**

C.S.H.B. 613

By: Orr

Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the absence of state standards for people operating as, or representing themselves to the public as, foundation repair contractors allows unqualified and unscrupulous people to perform foundation repairs, often with disastrous results for people's homes. The parties note that, in addition to possibly going into debt to pay repair bills, homeowners can be left with a home that is in worse condition than before the foundation repair because of the work of incompetent or negligent contractors. C.S.H.B. 613 seeks to address this issue by creating a licensing program for companies and individuals engaged in the business of certain types of foundation repair.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 1 and 3 of this bill.

### **ANALYSIS**

C.S.H.B. 613 amends the Occupations Code to establish the Foundation Repair Advisory Board to provide advice and recommendations to the Texas Department of Licensing and Regulation (TDLR) and the Texas Commission of Licensing and Regulation regarding the regulation of foundation repair contractors. The bill sets out provisions relating to the board's composition and duties, members' terms of office, board vacancies, the presiding officer, and board meetings. The bill provides for the reimbursement of board members but specifies that a member serves without compensation.

Effective September 1, 2014, C.S.H.B. 613 prohibits an individual or entity, unless the individual or entity holds the appropriate license under the bill's provisions, from operating a foundation repair company, performing or supervising foundation repair work, preparing or providing cost estimates for foundation repair work or a contract to perform foundation repair work, or offering to perform any of these activities. The bill specifies that a license issued under the bill's provisions is not transferable and may be used only by the person, including a single foundation repair company, listed on the license.

C.S.H.B. 613 requires TDLR to issue foundation repair company, master, journeyman, and estimator licenses. The bill entitles a foundation repair company license holder to engage in business as a foundation repair company and sets out eligibility requirements for the license. The bill requires a foundation repair company to be a sole proprietorship owned by a master license holder or to employ at least one master license holder full-time who is designated as the company's master license holder. The bill prohibits a foundation repair company license holder that does not meet these requirements at the time foundation repair contracting services are performed, if the contract was entered into or renewed on or after September 1, 2014, from collecting a fee or otherwise enforcing a contract for those services. The bill specifies that the designated master license holder is responsible for the company's compliance with the bill's provisions and rules adopted under the bill's provisions and sets out procedures for submitting satisfactory evidence of a replacement master license holder. The bill prohibits a master license

holder from being designated for more than one foundation repair company at any time.

C.S.H.B. 613 entitles a master license holder to engage in foundation repair contracting, entitles a journeyman license holder to engage in the foundation repair contracting under the supervision of a master license holder, entitles an estimator license holder to engage in providing estimates or preparations for foundation repair contracting or work under the supervision of a master or journeyman license holder, and sets out certain requirements for an applicant for these licenses. The bill sets out provisions relating to substitutions for the licenses' practical experience requirements.

C.S.H.B. 613 sets out form and content requirements for a license application, requires an applicant to submit any other information required by the executive director of TDLR or by commission rule, and authorizes TDLR to deny an application for a license or for the renewal of a license if the applicant has previously had a license under the bill's provisions revoked or if the applicant has violated an order of the commission or the executive director. The bill requires the executive director to prescribe a separate examination, including the examination's method and content, for each class of license other than a foundation repair company license, and authorizes the executive director to approve and accept results of an examination administered by another organization. The bill sets out provisions relating to the issuance, term, expiration, and renewal of a license.

C.S.H.B. 613 requires the commission by rule to recognize, prepare, or administer continuing education programs for license holders and requires each master, journeyman, and estimator license holder to complete a continuing education program before the license holder may renew the license holder's master license or journeyman license. The bill requires a person recognized by the commission to offer a continuing education program to register with TDLR and to comply with rules adopted by the commission relating to continuing education.

C.S.H.B. 613 sets out provisions relating to the delegation of foundation repair work and the supervision of such work. The bill authorizes TDLR to determine whether a specific act constitutes foundation repair work and prohibits a person who does not hold an appropriate license from supervising a person who holds a license in performing foundation repair contracting or foundation repair work.

C.S.H.B. 613 prohibits a license holder from performing or offering or attempting to perform certain acts, services, or functions that the license holder is not licensed to perform and from failing to provide services for which payment has been made or failing to honor the terms of a contract in the absence of a good faith dispute; from knowingly misrepresenting a necessary service, service to be provided, or service that has been provided; from making a fraudulent promise to induce an individual to contract for a service; from performing foundation repair work that requires a permit from a political subdivision without first obtaining the required permit; or from using the services of or assisting a person to perform foundation repair contracting or work if the other person is required to hold a license under the bill's provisions and does not hold the appropriate license.

C.S.H.B. 613 specifies that its provisions do not affect a person's obligation to comply with a local regulation establishing a permit, inspection, or approval process in connection with foundation repair work and establishes that the standard for the practice of foundation repair work and contracting in a local political subdivision is the standard established by local regulation if the standard is not less stringent than the standard imposed by the bill's provisions. The bill establishes that a license holder is not required to hold a license issued by a local political subdivision or take an examination required by a local regulation to engage in foundation repair work or contracting. The bill provides that a person who obtains a foundation repair company license is required to provide notice to a local political subdivision if required to perform work in the local political subdivision and requires such notice to be in a form required by the local political subdivision.

Effective September 1, 2014, C.S.H.B. 613 authorizes the commission or executive director to impose an administrative penalty on a person under the statutory provisions governing TDLR, regardless of whether the person holds a license under the bill's provisions, and authorizes the commission to impose administrative sanctions under those same statutory provisions. The bill makes it a Class C misdemeanor offense to violate the licensing requirements of the bill's provisions; to employ an individual who does not hold the appropriate license, other than a laborer; or to submit to TDLR a false document relating to work experience, certification, or training in connection with an application for a license under the bill's provisions.

C.S.H.B. 613 adds temporary provisions, set to expire October 1, 2014, to require TDLR to waive the respective examination requirements for a master license applicant who has been an owner or manager of a foundation repair company or similar entity for at least 60 months before September 1, 2014, regardless of whether that company or entity holds a license under the bill's provisions, and for a journeyman license applicant who has worked for a foundation repair company or similar entity as a salesperson, estimator, or manager for at least 24 months before September 1, 2014, regardless of whether that company or entity holds a license under the bill's provisions. The bill requires TDLR to issue the appropriate initial licenses to such applicants who submit an application not later than September 1, 2014. The bill requires the initial license holders to comply with the bill's provisions relating to the renewal of the appropriate license in order to qualify to renew the license.

C.S.H.B. 613 requires the commission to appoint persons who meet the practical experience requirement for an initial master license to serve as initial members of the advisory board as soon as practicable after the bill's effective date and to determine with respect to the full initial membership of the advisory board which terms of three members expire February 1, 2015, which terms of three members expire February 1, 2017, and which terms of three members expire February 1, 2019.

C.S.H.B. 613 requires the commission, not later than February 1, 2014, to adopt rules as necessary to implement the bill's provisions, including rules regarding requirements to obtain and renew each type of license; regarding the operation of a foundation repair company; governing the use, display, and advertisement of a license; regarding advertising in relation to an offer to perform foundation repair work or foundation repair contracting; and relating to administrative sanctions that may be imposed on a person under the bill's provisions. The bill authorizes TDLR to contract with another state agency or political subdivision of the state to enforce the bill's provisions and rules adopted under the bill's provisions. The bill authorizes TDLR to employ personnel necessary to administer the bill's provisions and requires TDLR to maintain and make publicly available on the Internet a directory of license holders. The bill requires the commission to set and TDLR to collect reasonable and necessary fees in amounts sufficient to cover the costs of administering the bill's provisions. The bill authorizes TDLR to obtain criminal history record information for an applicant for or holder of a license under the bill's provisions and specifies that an applicant for or holder of a license includes a principal of the applicant or the license holder for the purposes of TDLR access to criminal history record information. The bill requires the commission to begin accepting applications for and issuing foundation repair company, master, journeyman, and estimator licenses not later than March 1, 2014. The bill specifies that a person is not required to obtain a license to engage in foundation repair contracting or work under the bill's provisions before September 1, 2014.

C.S.H.B. 613 exempts certain individuals and activities from the bill's provisions and specifies a person who for compensation remodels a single-family home or duplex is not exempt if the work consists solely of foundation repair work. The bill specifies that a laborer performing nonsupervisory manual labor is not required to hold a foundation repair company, master, journeyman, or estimator license if the laborer is engaged in foundation repair under the supervision of a license holder and in accordance with the bill's provisions.

**EFFECTIVE DATE**

Except as otherwise provided, September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 613 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differential differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subtitle A, Title 6, Occupations Code, is amended by adding Chapter 1003 to read as follows:

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**CHAPTER 1003. FOUNDATION REPAIR CONTRACTORS**

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**SUBCHAPTER A. GENERAL PROVISIONS**

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**Sec. 1003.001. SHORT TITLE.**

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**Sec. 1003.002. DEFINITIONS.** In this chapter:

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(1) "Advisory board" means the **Foundation Repair Contractors Advisory Board.**

(1) "Advisory board" means the **Foundation Repair Advisory Board.**

(2) "Commission" means the Texas Commission of Licensing and Regulation.

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(3) "Department" means the Texas Department of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Executive director" means the executive director of the department.

(4) "Executive director" means the executive director of the department.

(5) "Foundation" means that portion of a structure that serves the function of:

(5) "Foundation" means that portion of the structure **of a residential property, other than a column,** that serves the function of:

(A) supporting an overlying structure;

(A) supporting an overlying structure;

(B) providing a base for an overlying structure; or

(B) providing a base for an overlying structure; or

(C) transmitting loads from an overlying structure to the underlying soils.

(C) transmitting loads from an overlying structure to the underlying soils.

(6) "Foundation repair" means the performance of or an offer to perform the design, installation, or construction functions in connection with the repair or maintenance of a foundation.

(6) "Foundation repair company" means a person engaged in the business of foundation repair contracting.

(7) "Foundation repair contracting company" means an individual or business engaged in foundation repair contracting for the public.

(7) "Foundation repair contracting" means performing or offering to prepare an estimation or to perform the preparation for, installation of, or construction functions in connection with the repair or maintenance of a foundation.

(8) "Foundation repair work" means the preparation for or estimation of the repair or maintenance of a foundation, or labor or the use of materials for the installation or construction functions in connection with the repair or maintenance of a foundation.

(8) "Laborer" means an individual who, under the supervision of a person licensed under this chapter, performs manual labor, including digging holes, pouring foundations, tunneling, and installing underpinning.

(9) "Manager" means an individual who oversees activities related to foundation repair, including foundation installation, foundation lifting, customer service, and sales.

(10) "Mobile structure" means a structure that has wheels attached for the purpose of moving the structure from one location to another.

(9) "Laborer" means an individual who, under the supervision and direction of a person licensed under this chapter, performs nonsupervisory manual labor, including digging holes, pouring supports, tunneling, and installing underpinning.

(10) "Mobile structure" means:  
(A) a manufactured home that complies with the construction and safety standards of the United States Department of Housing and Urban Development; or

(B) a mobile home, as defined by Section 1201.003.

(11) "Principal" means an individual who:

(A) personally or constructively holds, including as the beneficiary of a trust:

(i) at least 10 percent of a corporation's outstanding stock; or

(ii) more than \$25,000 of the fair market value of a business entity;

(B) has the controlling interest in a business entity;

(C) has a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights are included, of more than 10 percent of the profits, proceeds, or capital gains of a business entity;

(D) is a member of the board of directors or other governing body of a business entity; or

(E) serves as an elected officer of a business entity.

(12) "Residential property" means a single-family home or duplex not more than three stories in height or a townhome not more

Sec. 1003.003. EXEMPTIONS. (a) This chapter does not apply to:

(1) an individual who, without paid help, repairs the foundation of a home that the individual owns and in which the individual resides;

(2) an individual licensed as an engineer under Chapter 1001 who engages in foundation repair in connection with the business in which the individual is employed but who does not engage in that work for the public;

(3) an individual or entity that engages in foundation repair for a mobile structure;

(4) an individual or entity that performs foundation repair only on nonresidential properties; or

(5) an individual or entity that, for compensation:

(A) sells, constructs, or remodels a single-family house or duplex;

(B) supervises or manages the construction or remodeling of a single-family house or duplex; or

(C) contracts for the supervision or management of the construction or remodeling of a single-family house or duplex.

(b) For purposes of Subsection (a), remodeling of a single-family house or duplex is exempt to the extent it does not include foundation repair.

than two stories in height.

Sec. 1003.003. EXEMPTIONS. (a) This chapter does not apply to:

(1) an individual who performs foundation repair work only on a home for which the individual is listed in the records of the local appraisal district as the owner, except that the individual may not pay compensation to any person for the repair other than to purchase materials;

(2) an individual licensed as an engineer under Chapter 1001;

(3) a person who performs foundation repair work only on a mobile structure;

(4) a person who performs foundation repair work only on nonresidential property;

(5) a person who, for compensation:

(A) constructs or remodels a single-family home or duplex;

(B) supervises or manages the construction or remodeling of a single-family home or duplex; or

(C) contracts for the supervision or management of the construction or remodeling of a single-family home or duplex; or

(6) a person regularly employed as a maintenance person for the owner of residential or commercial property who:

(A) physically performs work on structures on the property; and

(B) does not perform or offer to perform foundation repair work for the public.

(b) For the purposes of Subsection (a)(5):

(1) the remodeling of a single-family home or duplex is not exempt if the work consists solely of foundation repair work; and

(2) foundation repair work, including work done under a structural or foundation warranty covering the original construction or the remodel, conducted on a single-family home or duplex is exempt from the requirements of this chapter to the extent that the repair work is supervised, managed, or performed, or contracted to be supervised, managed, or performed, by the person who originally:

(A) constructed or remodeled the single-family home or duplex;

(c) A laborer is not required to hold a license under this chapter if the laborer is engaged in foundation repair under the supervision of a license holder under this chapter.

Sec. 1003.004. APPLICATION OF MUNICIPAL ORDINANCES. Foundation repair by an individual or entity, including an individual or entity that is exempt under this chapter, is subject to a permit, inspection, or approval requirement established by a municipal ordinance. [Sections 1003.005-1003.050 reserved for expansion]

SUBCHAPTER B. FOUNDATION REPAIR CONTRACTORS ADVISORY BOARD

Sec. 1003.051. ADVISORY BOARD MEMBERSHIP. The Foundation Repair Contractors Advisory Board consists of seven members appointed by the presiding officer of the commission, with the commission's approval.

Sec. 1003.052. MEMBERS. (a) Each advisory board member, other than the public member, must be experienced in the design, installation, construction, maintenance, service, repair, or modification of a foundation.

(b) The members shall be appointed as follows:

- (1) one member who is an official of a municipality;
- (2) one member who is an engineer licensed under Chapter 1001;
- (3) four members who are foundation repair master license holders, of whom two must be members of a statewide foundation repair organization; and

(B) supervised or managed the construction or remodeling of the single-family home or duplex; or

(C) contracted for the supervision or management of the construction or remodeling of the single-family home or duplex.

(c) A laborer is not required to hold a license under this chapter if the laborer is engaged in foundation repair under the supervision of a license holder and in accordance with this chapter.

No equivalent provision.

SUBCHAPTER B. FOUNDATION REPAIR ADVISORY BOARD

Sec. 1003.051. ADVISORY BOARD MEMBERSHIP. (a) The Foundation Repair Advisory Board consists of nine members appointed by the presiding officer of the commission, with the commission's approval, as follows:

No equivalent provision.

- (1) one member who is an official of a municipality;
- (2) one member who is an engineer licensed under Chapter 1001;
- (3) four members who are foundation repair master license holders;

(4) one member who is a journeyman license holder;

(5) one member who is a building contractor principally engaged in residential building; and

(4) one member who represents the public and is not affiliated with any foundation repair contracting company.

(6) one member who represents the public and is not affiliated with any foundation repair company.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) Notwithstanding Subsection (a)(3), the commission may appoint a person to the advisory board under that subdivision if the person:

(1) does not hold a license under this chapter; and

(2) meets the qualifications for the license, including the requirement that the person pass a criminal background check.

(d) A member appointed under Subsection (c) must apply for and obtain a license not later than the 30th day after the date the member is appointed.

Sec. 1003.053. ADVISORY BOARD DUTIES. The advisory board shall provide advice and recommendations to the department and commission on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, fees, rules, and continuing education requirements.

Sec. 1003.052. ADVISORY BOARD DUTIES. The advisory board shall provide advice and recommendations to the department and commission on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, foundation repair standards, fees, rules, and continuing education requirements.

Sec. 1003.054. TERMS; VACANCY. (a) Advisory board members shall serve staggered six-year terms. The terms of two or three members expire on February 1 of each odd-numbered year.

Sec. 1003.053. TERMS; VACANCY. (a) Advisory board members serve staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall fill the vacancy for the remainder of the unexpired term with an individual having the same qualifications as the predecessor.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall fill the vacancy for the remainder of the unexpired term with an individual having the same qualifications as the individual's predecessor.

(c) A member may not serve more than two consecutive full terms.

Sec. 1003.055. PRESIDING OFFICER. The presiding officer of the commission, with the commission's approval, shall designate one member of the advisory board to serve as presiding officer of the advisory board for a two-year term.

Sec. 1003.054. PRESIDING OFFICER. (a) The presiding officer of the commission, with the commission's approval, shall designate one member of the advisory board to serve as presiding officer of the advisory board for a one-year term.

(b) The presiding officer of the advisory board may vote on any matter before the



Sec. 1003.056. COMPENSATION; REIMBURSEMENT. An advisory board member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as an advisory board member, as provided by the General Appropriations Act and the budget of the department.

Sec. 1003.057. MEETINGS. (a) The advisory board shall meet at least annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

(b) The advisory board shall meet in this state at a place designated by the executive director.

[Sections 1003.058-1003.100 reserved for expansion]

### SUBCHAPTER C. POWERS AND DUTIES

Sec. 1003.101. RULES. The commission shall adopt rules as necessary to implement this chapter.

*(See Sec. 1003.161 below.)*

Sec. 1003.102. INSURANCE REQUIREMENTS. The commission by rule shall establish reasonable minimum liability insurance requirements for a contracting company license holder under this chapter.

Sec. 1003.103. CONTRACTS FOR ENFORCEMENT.

advisory board.

Sec. 1003.055. COMPENSATION; REIMBURSEMENT. An advisory board member serves without compensation but may receive reimbursement for actual and necessary expenses incurred in performing functions as an advisory board member, as provided by the General Appropriations Act and the budget of the department.

Sec. 1003.056. MEETINGS. The advisory board shall meet at least annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

### SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 1003.101. RULES. The commission shall adopt rules as necessary to implement this chapter, including rules:

(1) regarding the requirements to obtain and renew each type of license under this chapter;  
(2) regarding the operation of a foundation repair company, including reasonable minimum insurance requirements, and the performance of foundation repair contracting;

(3) governing the use, display, and advertisement of a license issued under this chapter;

(4) regarding advertising in relation to an offer to perform foundation repair work or foundation repair contracting; and

(5) relating to administrative sanctions that may be imposed on a person under this chapter.

Sec. 1003.102. CONTRACTS FOR ENFORCEMENT.

Sec. 1003.104. PERSONNEL.

Sec. 1003.105. DIRECTORY OF LICENSE HOLDERS. The department shall maintain a directory of license holders and make the directory available to the public.

[Sections 1003.106-1003.150 reserved for expansion]

No equivalent provision.

(See Sec. 1003.157(d) below)

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 1003.151. LICENSE REQUIRED.

(a) An individual or entity may not engage in foundation repair unless the individual or entity holds the appropriate license under this chapter.

(b) An individual or entity that holds a license issued under this chapter is not required to hold a license issued by a municipality to engage in foundation repair in the municipality.

Sec. 1003.103. PERSONNEL.

Sec. 1003.104. DIRECTORY OF LICENSE HOLDERS. The department shall maintain a directory of license holders and make the directory available to the public on the Internet.

Sec. 1003.105. FEES. The commission shall establish and the department shall collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 1003.106. CRIMINAL HISTORY BACKGROUND CHECK. The department may obtain criminal history record information under Subchapter F, Chapter 411, Government Code, for an applicant for or holder of a license under this chapter. For purposes of Section 411.093, Government Code, an applicant for or holder of a license under this chapter includes a principal of the applicant or license holder.

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 1003.151. LICENSE REQUIRED.

(a) Unless the person holds an appropriate license issued under this chapter, a person may not:

- (1) operate a foundation repair company;
- (2) perform foundation repair work or supervise the performance of foundation repair work; or
- (3) prepare or provide:
  - (A) cost estimates for foundation repair work, including bids or proposals; or
  - (B) a contract to perform foundation repair work.

(b) A person may not offer to perform an activity listed in Subsection (a) unless the person holds an appropriate license issued under this chapter.

(c) A license issued under this chapter is not transferable and may be used only by the person, including a single foundation repair

Sec. 1003.152. LICENSE CLASSIFICATIONS. The department shall issue contracting company, master, and journeyman licenses.

Sec. 1003.153. CONTRACTING COMPANY LICENSE. (a) A contracting company license entitles the license holder to engage in business as a foundation repair contracting company.

(b) A contracting company license holder shall employ at least one full-time master license holder.

(c) A contracting company license holder that does not employ a master license holder as required by Subsection (b) at the time the services are performed may not collect a fee or otherwise enforce the contract.

(d) A contracting company license holder shall maintain at all times insurance as required by commission rule.

company, listed on the license.

Sec. 1003.152. LICENSE CLASSIFICATIONS. The department shall issue foundation repair company, master, journeyman, and estimator licenses.

Sec. 1003.153. FOUNDATION REPAIR COMPANY LICENSE. (a) A foundation repair company license entitles the license holder to engage in business as a foundation repair company.

(b) To be eligible for a foundation repair company license:

(1) if the applicant is an individual, the applicant must:

(A) submit proof that the applicant owns the foundation repair company as a sole proprietor;

(B) be a master license holder or submit proof that the applicant will employ at least one master license holder full-time;

(C) submit proof that the applicant has insurance that meets the requirements of commission rules; and

(D) pass a criminal history background check; or

(2) if the applicant is a business entity:

(A) the applicant must identify each principal of the applicant, including:

(i) the name and address of each partner, if the applicant is a partnership; and

(ii) the name and address of the president, secretary, and treasurer, if the applicant is a corporation;

(B) the applicant must submit proof that the applicant will employ at least one master license holder full-time;

(C) the applicant must submit proof that the applicant has insurance that meets the

requirements of commission rules; and  
(D) each principal of the applicant must pass a criminal history background check.

Sec. 1003.154. MASTER LICENSE. (a) A master license entitles the license holder to engage in foundation repair.

(b) An applicant for a master license under this chapter must:

- (1) be at least 21 years of age;
- (2) have at least 60 months of documented, practical work experience in foundation repair under the supervision of a master license holder during the preceding seven years or substantially equivalent experience; and

(3) pass an examination administered by the department.

Sec. 1003.155. JOURNEYMAN LICENSE. (a) A journeyman license entitles the license holder to engage in the design and sale of foundation repair and the lifting, lowering, and adjusting of buildings under the supervision of a master license holder.

(b) An applicant for a journeyman license under this chapter must:

- (1) be at least 21 years of age;
- (2) have at least 24 months of documented, practical work experience in foundation repair under the supervision of a master license holder during the preceding five years or substantially equivalent experience; and

(3) pass an examination administered by the department.

No equivalent provision.

Sec. 1003.154. MASTER LICENSE. (a) A master license entitles the license holder to engage in foundation repair contracting.

(b) An applicant for a master license under this chapter must:

- (1) be at least 21 years of age;
- (2) have at least 60 months of documented, practical work experience performing foundation repair contracting under the supervision of a master license holder during the preceding 10 years or substantially equivalent experience as determined by the department;

(3) pass a criminal history background check; and

(4) pass an examination administered by the department.

Sec. 1003.155. JOURNEYMAN LICENSE. (a) A journeyman license entitles the license holder to engage in foundation repair contracting

under the supervision of a master license holder.

(b) An applicant for a journeyman license under this chapter must:

- (1) be at least 21 years of age;
- (2) have at least 24 months of documented, practical work experience in foundation repair contracting under the supervision of a master license holder during the preceding 10 years or substantially equivalent experience as determined by the department;

(3) pass a criminal history background check; and

(4) pass an examination administered or accepted by the department.

Sec. 1003.156. ESTIMATOR LICENSE. (a) An estimator license entitles the license holder to engage in providing estimates or preparations for foundation repair contracting or foundation repair work under the supervision of a master or journeyman license holder.

(b) An applicant for an estimator license under this chapter must:

- (1) be at least 18 years of age;
- (2) pass a criminal history background

Sec. 1003.156. PRACTICAL EXPERIENCE. For purposes of determining an applicant's practical experience under this subchapter,

a four-year degree in engineering is equivalent to two years of practical experience if the degree is from an institution of higher education.

check; and

(3) pass an examination administered or accepted by the department.

Sec. 1003.157. PRACTICAL EXPERIENCE. (a) An applicant who holds a degree or diploma or completes a certification program from an institution of higher education that is accredited by an accrediting agency recognized by the Texas Higher Education Coordinating Board, holds a certificate of authority to grant degrees issued by the Texas Higher Education Coordinating Board, or is similarly authorized to award degrees by an equivalent governing body in another state as determined by the executive director may substitute:

(1) a four-year degree or diploma in engineering for 24 months of practical experience required under this subchapter;

(2) a two-year associate's degree, a two-year diploma, or a two-year certification program primarily focused on engineering or construction-related work for 12 months of practical experience required under this subchapter;

(3) a one-year certification program, or a program that is not less than two semesters, in engineering or construction-related work for six months of practical experience required under this subchapter; and

(4) a program resulting in another applicable degree, diploma, or certificate for an amount of practical experience required under this subchapter as determined by the department under commission rule.

(b) Each of the following qualifies as practical experience required under this subchapter:

(1) verified military service in which the person was trained in or performed related engineering or construction-related work as part of the person's military occupational specialty; and

(2) experience performing engineering or construction work related to foundation repair while employed by a governmental entity.

(c) An applicant who has substantially equivalent experience obtained in another state and who held a similar license in that state may receive credit for the experience as determined by the department under commission rule.

Sec. 1003.157. APPLICATION. (a) An applicant for a license must submit an application on the form prescribed by the department.

(b) The application must specify the class of license for which the applicant is applying and include the required fees.

(c) The application for a master or journeyman license must include a statement containing evidence satisfactory to the department of the applicant's required practical experience. An application for a contracting company license must include proof of insurance as required by commission rule.

(d) The department may conduct a criminal background check on an applicant.

Sec. 1003.158. EXAMINATIONS. (a) The department shall prescribe a separate examination for each class of license under this chapter, except that an examination is not required for a contracting company license.

(b) The department shall prescribe the method and content of an examination administered under this chapter.

(c) The examination:

(1) must be offered on a monthly basis or more frequently as determined by the executive director;

(2) must be offered at locations throughout the state as determined by the executive director; and

(3) may be offered online as determined by the executive director.

Sec. 1003.159. ISSUANCE AND TERM OF LICENSE. (a) The department shall issue a license to an applicant who:

Sec. 1003.158. APPLICATION. (a) An applicant for a license must submit an application on the form prescribed by the executive director.

(b) The application must specify the class of license for which the applicant is applying and include the required fees.

(c) The application for a master or journeyman license must include a statement containing evidence satisfactory to the department of the applicant's required practical experience.

(See Sec 1003.106 above.)

(d) The applicant must submit any other information required by the executive director or by commission rule.

(e) The department may deny an application for a license or for the renewal of a license if the applicant has previously had a license under this chapter revoked or if the applicant has violated an order of the commission or the executive director, including an order imposing sanctions or an administrative penalty.

Sec. 1003.159. EXAMINATIONS. (a) The executive director shall prescribe a separate examination for each class of license under this chapter, except that an examination is not required for a foundation repair company license.

(b) The executive director shall prescribe the method and content of an examination required under this chapter and may approve and accept results of an examination administered by another organization.

Sec. 1003.160. ISSUANCE AND TERM OF LICENSE. (a) The department shall issue a license to an applicant who

- (1) submits a verified application on a form prescribed by the department;
  - (2) provides evidence of insurance coverage required by commission rule, if applicable;
  - (3) passes an examination, if applicable;
  - (4) pays the required fees; and
  - (5) meets the requirements of this chapter and rules adopted under this chapter.
- (b) A license issued under this chapter expires at the end of the license period set by the commission.

Sec. 1003.160. RENEWAL OF LICENSE.  
To renew a license, the license holder must:

- (1) submit a renewal application in the form prescribed by the executive director;
- (2) pay the required fee;
- (3) show evidence of insurance required by commission rule, if applicable; and
- (4) show evidence of having completed the continuing education requirements established by the commission, as applicable.

Sec. 1003.161. DISPLAY OF LICENSE.  
The commission, with the advice of the advisory board, shall adopt rules relating to the use, display, and advertisement of a license.

- Sec. 1003.162. NOTICE TO MUNICIPALITIES. (a) An individual or entity that obtains a license under this chapter shall provide a notice to the municipal authority that enforces foundation repair regulations in each municipality in which the individual or entity engages in foundation repair.
- (b) The notice must be in the form required by the municipality and inform the municipality that the individual or entity has obtained a license under this chapter.

meets the requirements of this chapter and rules adopted under this chapter.

- (b) A license issued under this chapter is valid for one year and expires on the first anniversary of the date the license is issued.

Sec. 1003.161. RENEWAL OF LICENSE.

(a) To renew a license, the license holder must:

- (1) submit a renewal application in the form prescribed by the executive director;
- (2) pay the required fee; and

(3) show evidence of having completed the continuing education requirements established under Section 1003.162, if applicable.

(b) In addition to the requirements of Subsection (a), an applicant to renew a foundation repair company license must also meet the requirements of Section 1003.153(b).

(c) In addition to the requirements of Subsection (a), an applicant to renew a master, journeyman, or estimator license must pass a criminal history background check.

*(See Sec. 1003.101(3) above.)*

*(See Sec. 1003.254 below.)*

No equivalent provision.

Sec. 1003.162. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Each master, journeyman, and estimator license holder must complete a continuing education program before the license holder may renew the license holder's master license or journeyman license. (b) A person recognized by the commission to offer a continuing education program must: (1) register with the department; and (2) comply with rules adopted by the commission relating to continuing education.

No equivalent provision.

SUBCHAPTER E. PRACTICE BY LICENSE HOLDERS

No equivalent provision.

Sec. 1003.201. DELEGATION; SUPERVISION OF LABORERS AND CERTAIN EMPLOYEES. (a) A person holding a master or journeyman license may delegate to a laborer under the license holder's supervision any foundation repair work that does not require a license under this chapter. (b) A master license holder is responsible for foundation repair work performed by a journeyman, estimator, laborer, or other employee of a foundation repair company who is not required to hold a license under this chapter under the supervision of the master license holder. (c) A journeyman license holder is responsible for foundation repair work performed by a laborer or other employee of a foundation repair company who is not required to hold a license under this chapter under the supervision of the journeyman license holder. (d) The department may determine whether a specific act constitutes foundation repair work under this chapter. (e) A person who does not hold an appropriate license under this chapter may not supervise a person who holds a license under this chapter in performing foundation repair contracting or foundation repair work.

No equivalent provision.

Sec. 1003.202. PRACTICE; FOUNDATION REPAIR COMPANY. (a) A foundation repair company must be a sole proprietorship owned by a master license holder or employ at least one master license holder full-time who is designated as the



Sec. 1003.163. PROHIBITED PRACTICES. (a) A license holder may not perform or offer or attempt to perform an act, service, or function that is:

- (1) defined as the practice of engineering under Chapter 1001, unless the individual holds a license under that chapter;
- (2) defined as the practice of architecture under Chapter 1051, unless the individual holds a license under that chapter;
- (3) regulated under Chapter 113, Natural Resources Code, unless the individual holds a license or is exempt by rule under that chapter; or
- (4) defined as plumbing under Chapter 1301, unless the individual holds a license under that chapter.

(b) A license holder may not:

- (1) fail to provide services for which payment has been made or fail to honor the terms of a contract in the absence of a good faith dispute;
- (2) intentionally or knowingly misrepresent a necessary service, service to be provided, or service that has been provided; or
- (3) make a fraudulent promise to induce an individual to contract for a service.

[Sections 1003.164-1003.200 reserved for expansion]

company's master license holder.

(b) Not later than the 30th day after the date a master license holder required by Subsection (a) leaves the employment of a foundation repair company, the company shall submit to the department satisfactory evidence of a replacement master license holder.

(c) A foundation repair company license holder that does not meet the requirements of Subsection (a) at the time foundation repair contracting services are performed may not collect a fee or otherwise enforce a contract for those services.

(d) A master license holder designated under Subsection (a) is responsible for the foundation repair company's compliance with this chapter and rules adopted under this chapter.

(e) A master license holder may not be designated under Subsection (a) for more than one foundation repair company at any time.

Sec. 1003.203. PROHIBITED PRACTICES. (a) A license holder may not perform or offer or attempt to perform an act, service, or function that is:

- (1) defined as the practice of engineering under Chapter 1001, unless the individual holds a license under that chapter;
- (2) defined as the practice of architecture under Chapter 1051, unless the individual holds a license under that chapter;
- (3) regulated under Chapter 113, Natural Resources Code, unless the individual holds a license or is exempt by rule under that chapter; or
- (4) defined as plumbing under Chapter 1301, unless the individual holds a license under that chapter.

(b) A license holder may not:

- (1) fail to provide services for which payment has been made;
- (2) fail to honor the terms of a contract in the absence of a good faith dispute;
- (3) knowingly misrepresent a necessary service, service to be provided, or service that has been provided;
- (4) make a fraudulent promise to induce an individual to contract for a service; or
- (5) perform foundation repair work that requires a permit from a political subdivision without first obtaining the required permit.

(c) A person licensed under this chapter may not use the services of or assist a person to perform foundation repair contracting or foundation repair work if the other person is required to hold a license under this chapter and does not hold the appropriate license.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

*(See Sec. 1003.162 above.)*

#### SUBCHAPTER E. DISCIPLINARY ACTION; PENALTY

Sec. 1003.201. DISCIPLINARY ACTION. The commission or executive director may impose an administrative penalty or take disciplinary action under Chapter 51 or this chapter if a license

#### SUBCHAPTER F. LOCAL REGULATION

Sec. 1003.251. DEFINITIONS. In this subchapter:

(1) "Local political subdivision" means a county or municipality in which a person seeks to perform foundation repair work or foundation repair contracting.

(2) "Local regulation" means an order adopted by a county commissioners court or an ordinance or other regulation adopted by a municipality.

Sec. 1003.252. APPLICATION OF LOCAL ORDINANCE. This chapter does not affect a person's obligation to comply with a local regulation establishing a permit, inspection, or approval process in connection with foundation repair work.

Sec. 1003.253. LOCAL STANDARDS. (a) The standard for the practice of foundation repair work or foundation repair contracting in a local political subdivision is the standard established by local regulation if the standard is not less stringent than the standard imposed by this chapter.

(b) A person who holds a license issued under this chapter is not required to hold a license issued by a local political subdivision or take an examination required by a local regulation to engage in foundation repair work or foundation repair contracting.

Sec. 1003.254. NOTICE TO LOCAL POLITICAL SUBDIVISION. (a) A person who obtains a foundation repair company license shall provide notice to a local political subdivision if required to perform work in the local political subdivision.

(b) The notice must be in a form required by the local political subdivision.

#### SUBCHAPTER G. ENFORCEMENT

Sec. 1003.301. ADMINISTRATIVE PENALTY. The commission or the executive director may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of

holder violates this chapter, a rule adopted under this chapter, or an order of the commission or the executive director.

No equivalent provision.

Sec. 1003.202. CRIMINAL PENALTY.  
(a) A person commits an offense if the person knowingly engages in foundation repair without holding a license required by this chapter.

(b) An offense under this section is a Class C misdemeanor.  
[Sections 1003.203-1003.250 reserved for expansion]

#### SUBCHAPTER F. INITIAL LICENSES

No equivalent provision.

Sec. 1003.251. WAIVER OF EXAMINATION REQUIREMENT.

(a) The department shall waive the examination requirement of Section 1003.154(b) for a master license for an applicant who has been an owner or manager of a foundation repair contracting company for at least 60 months before September 1, 2014.

(b) The department shall waive the examination requirement of Section 1003.155(b) for a journeyman license for an applicant who has worked for a foundation repair contracting company as a

whether the person holds a license under this chapter.

Sec. 1003.302. ADMINISTRATIVE SANCTIONS. The commission may impose administrative sanctions as provided by Section 51.353.

Sec. 1003.303. CRIMINAL PENALTY; LICENSING. (a) A person commits an offense if the person:

(1) violates the licensing requirements of this chapter;

(2) employs an individual who does not hold the appropriate license required by this chapter, other than a laborer; or

(3) submits to the department a false document relating to work experience, certification, or training in connection with an application for a license under this chapter.

(b) An offense under this section is a Class C misdemeanor.

#### SUBCHAPTER H. INITIAL LICENSING

Sec. 1003.351. DEFINITIONS. In this subchapter:

(1) "Manager" means a person employed by a foundation repair company or similar entity, regardless of whether that company or entity holds a license under this chapter, to direct and perform foundation repair work, including foundation installation and lifting.

(2) "Salesperson" means a person who engages in the selection of methods used to repair or maintain a foundation, including estimation of the cost of labor and materials.

Sec. 1003.352. WAIVER OF EXAMINATION REQUIREMENT.

(a) The department shall waive the examination requirement under Section 1003.154(b) for a master license for an applicant who meets the requirements of this subchapter.

(b) The department shall waive the examination requirement under Section 1003.155(b) for a journeyman license for an applicant who meets the requirements of this subchapter.

salesperson, estimator, foreman, or manager for at least 24 months before September 1, 2014.

Sec. 1003.252. INITIAL LICENSING.

(a) The department shall issue a master license to a qualified applicant who:

(1) submits an application not later than September 1, 2014;

(2) is at least 21 years of age; and

(3) has been an owner or manager of a foundation repair contracting company for at least 60 months.

(b) The department shall issue a journeyman license to a qualified applicant who:

(1) submits an application not later than September 1, 2014;

(2) is at least 21 years of age; and

(3) has worked for a foundation repair contracting company as a salesperson, estimator, foreman, or manager for at least 24 months.

Sec. 1003.253. RENEWAL OF LICENSE.

Sec. 1003.254. EXPIRATION OF SUBCHAPTER.

SECTION 2. (a) Notwithstanding the requirement of Section 1003.052(b)(3), Occupations Code, as added by this Act, the Texas Commission of Licensing and Regulation shall appoint persons who meet the practical experience requirement for an initial master license to serve as initial members of the Foundation Repair Contractors Advisory Board as soon as practicable after the effective date of this Act.

(b) The Texas Commission of Licensing and Regulation shall determine with respect to the members of the Foundation Repair Contractors Advisory Board appointed under Chapter 1003, Occupations Code, as added by this Act, which terms of two members expire February 1, 2015, which terms of two members expire February 1, 2017, and which terms of three members expire February 1, 2019.

(c) The changes in law made by Section

Sec. 1003.353. INITIAL LICENSING.

(a) The department shall issue a master license to a qualified applicant who:

(1) submits an application not later than September 1, 2014; and

(2) has been an owner or manager of a foundation repair company or similar entity for at least 60 months, regardless of whether that company or entity holds a license under this chapter.

(b) The department shall issue a journeyman license to a qualified applicant who:

(1) submits an application not later than September 1, 2014; and

(2) has worked for a foundation repair company or similar entity as a salesperson, estimator, or manager for at least 24 months, regardless of whether that company or entity holds a license under this chapter.

Sec. 1003.354. RENEWAL OF LICENSE.

Sec. 1003.355. EXPIRATION OF SUBCHAPTER.

SECTION 2. (a) Notwithstanding the requirement of Section 1003.051(a)(3), Occupations Code, as added by this Act, the Texas Commission of Licensing and Regulation shall appoint persons who meet the practical experience requirement for an initial master license to serve as initial members of the Foundation Repair Advisory Board as soon as practicable after the effective date of this Act.

(b) The Texas Commission of Licensing and Regulation shall determine with respect to the members of the Foundation Repair Advisory Board appointed under Chapter 1003, Occupations Code, as added by this Act, which terms of three members expire February 1, 2015, which terms of three members expire February 1, 2017, and which terms of three members expire February 1, 2019.

(c) The changes in law made by Section

**1003.153**, Occupations Code, as added by this Act, apply only to a contract for foundation repair entered into or renewed on or after September 1, 2014. A contract for foundation repair entered into or renewed before September 1, 2014, is governed by the law as it existed on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. (a) The Texas Commission of Licensing and Regulation shall adopt rules to implement Chapter 1003, Occupations Code, as added by this Act, not later than February 1, 2014.

(b) Not later than March 1, 2014, the Texas Commission of Licensing and Regulation shall begin accepting applications for and issuing licenses under Chapter 1003, Occupations Code, as added by this Act.

(c) A person is not required to obtain a license to engage in foundation repair under Chapter 1003, Occupations Code, as added by this Act, before September 1, 2014.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Sections 1003.151, **1003.201**, and **1003.202**, Occupations Code, as added by this Act, take effect September 1, 2014.

**1003.202(c)**, Occupations Code, as added by this Act, apply only to a contract for foundation repair entered into or renewed on or after September 1, 2014. A contract for foundation repair entered into or renewed before September 1, 2014, is governed by the law as it existed on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. (a) The Texas Commission of Licensing and Regulation shall adopt rules to implement Chapter 1003, Occupations Code, as added by this Act, not later than February 1, 2014.

(b) Not later than March 1, 2014, the Texas Commission of Licensing and Regulation shall begin accepting applications for and issuing licenses under Chapter 1003, Occupations Code, as added by this Act.

(c) A person is not required to obtain a license to engage in foundation repair **contracting or foundation repair work** under Chapter 1003, Occupations Code, as added by this Act, before September 1, 2014.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Section 1003.151 and **Subchapter G**, Chapter 1003, Occupations Code, as added by this Act, take effect September 1, 2014.