

1-1 By: Kuempel (Senate Sponsor - Taylor) H.B. No. 2911
 1-2 (In the Senate - Received from the House April 29, 2013;
 1-3 May 7, 2013, read first time and referred to Committee on Business
 1-4 and Commerce; May 15, 2013, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 1;
 1-6 May 15, 2013, sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 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 COMMITTEE SUBSTITUTE FOR H.B. No. 2911 By: Taylor

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

1-21 relating to the regulation of real estate inspectors; changing
 1-22 fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter C, Chapter 1102, Occupations Code, is
 1-25 amended by adding Section 1102.1051 to read as follows:

1-26 Sec. 1102.1051. CRIMINAL HISTORY RECORD INFORMATION

1-27 REQUIREMENT FOR LICENSE. (a) The commission shall require that an
 1-28 applicant for a license or renewal of an unexpired license submit a
 1-29 complete and legible set of fingerprints, on a form prescribed by
 1-30 the commission, to the commission or to the Department of Public
 1-31 Safety for the purpose of obtaining criminal history record
 1-32 information from the Department of Public Safety and the Federal
 1-33 Bureau of Investigation.

1-34 (b) The commission shall refuse to issue a license to or
 1-35 renew the license of a person who does not comply with the
 1-36 requirement of Subsection (a).

1-37 (c) The commission shall conduct a criminal history check of
 1-38 each applicant for a license or renewal of a license using
 1-39 information:

1-40 (1) provided by the individual under this section; and

1-41 (2) made available to the commission by the Department
 1-42 of Public Safety, the Federal Bureau of Investigation, and any
 1-43 other criminal justice agency under Chapter 411, Government Code.

1-44 (d) The commission may:

1-45 (1) enter into an agreement with the Department of
 1-46 Public Safety to administer a criminal history check required under
 1-47 this section; and

1-48 (2) authorize the Department of Public Safety to
 1-49 collect from each applicant the costs incurred by the department in
 1-50 conducting the criminal history check.

1-51 SECTION 2. Section 1102.109, Occupations Code, is amended
 1-52 to read as follows:

1-53 Sec. 1102.109. ELIGIBILITY FOR PROFESSIONAL INSPECTOR
 1-54 LICENSE. To be eligible for a professional inspector license, an
 1-55 applicant must:

1-56 (1) at the time of application have:

1-57 (A) held a real estate inspector license for at
 1-58 least 12 months; and

1-59 (B) performed at least 175 real estate
 1-60 inspections under indirect supervision;

2-1 (2) submit evidence satisfactory to the commission of
2-2 successful completion of at least 40 [~~30~~] classroom hours of core
2-3 real estate inspection courses, in addition to the hours required
2-4 by Section 1102.108 [~~, and at least eight classroom hours related to~~
2-5 ~~the study of standards of practice, legal issues, or ethics related~~
2-6 ~~to the practice of real estate inspecting];~~

2-7 (3) demonstrate competence based on the examination
2-8 under Subchapter D; and

2-9 (4) satisfy the commission as to the applicant's
2-10 honesty, trustworthiness, integrity, and competence.

2-11 SECTION 3. Section 1102.110, Occupations Code, is amended
2-12 to read as follows:

2-13 Sec. 1102.110. ELIGIBILITY OF PREVIOUS LICENSE HOLDERS.

2-14 (a) Notwithstanding Section 1102.108, an applicant is eligible
2-15 for and has satisfied all requirements for a real estate inspector
2-16 license if the applicant:

2-17 (1) held a real estate inspector license during the
2-18 24-month period preceding the date the application is filed;

2-19 (2) is sponsored by a professional inspector; [~~and~~]

2-20 (3) satisfies the commission as to the applicant's
2-21 honesty, trustworthiness, and integrity; and

2-22 (4) submits evidence satisfactory to the commission of
2-23 successful completion of not less than the number of hours of
2-24 continuing education courses that would have been required for the
2-25 applicant to renew the license described by Subdivision (1).

2-26 (b) Notwithstanding Section 1102.109, an applicant is
2-27 eligible for and has satisfied all requirements for a professional
2-28 inspector license if the applicant:

2-29 (1) held a professional inspector license during the
2-30 24-month period preceding the date the application is filed; [~~and~~]

2-31 (2) satisfies the commission as to the applicant's
2-32 honesty, trustworthiness, and integrity; and

2-33 (3) submits evidence satisfactory to the commission of
2-34 successful completion of not less than the number of hours of
2-35 continuing education courses that would have been required for the
2-36 applicant to renew the license described by Subdivision (1).

2-37 SECTION 4. Section 1102.111(b), Occupations Code, is
2-38 amended to read as follows:

2-39 (b) Rules adopted under Subsection (a) may not require an
2-40 applicant to:

2-41 (1) complete more than 320 additional [~~classroom~~]
2-42 hours of core real estate inspection courses; or

2-43 (2) have more than seven years of relevant experience.

2-44 SECTION 5. Section 1102.114, Occupations Code, is amended
2-45 to read as follows:

2-46 Sec. 1102.114. ISSUANCE OF LICENSE. The commission shall
2-47 issue the appropriate license to an applicant who:

2-48 (1) meets the required qualifications; and

2-49 (2) submits [~~pays the fee required by Section~~
2-50 ~~1102.352(a), and~~

2-51 ~~[(3) offers] proof of financial responsibility as~~
2-52 ~~required by Section 1102.1141 [that the applicant carries liability~~
2-53 ~~insurance with a minimum limit of \$100,000 per occurrence to~~
2-54 ~~protect the public against a violation of Subchapter G].~~

2-55 SECTION 6. Subchapter C, Chapter 1102, Occupations Code, is
2-56 amended by adding Section 1102.1141 to read as follows:

2-57 Sec. 1102.1141. FINANCIAL RESPONSIBILITY REQUIREMENT. (a)
2-58 An inspector must maintain financial responsibility in the form of:

2-59 (1) a liability insurance policy with a minimum limit
2-60 of \$100,000 per occurrence and an aggregate annual total of at least
2-61 \$100,000, and that:

2-62 (A) is written by an insurer authorized to engage
2-63 in the business of insurance in this state, a risk retention group
2-64 as defined by Chapter 2201, Insurance Code, or an eligible surplus
2-65 lines insurer, as defined by Section 981.002, Insurance Code; and

2-66 (B) specifically provides for professional
2-67 liability coverage to protect the public against a violation of
2-68 Subchapter G; or

2-69 (2) a bond or other security accepted by the

3-1 commission.

3-2 (b) A bond posted as security under Subsection (a)(2) must:
 3-3 (1) be issued by a carrier admitted in this state;
 3-4 (2) be in an amount not less than \$100,000;
 3-5 (3) be continuous; and
 3-6 (4) be cancellable by the surety only after the surety
 3-7 has provided at least 90 days' written notice to the commission
 3-8 before the effective date of the cancellation.

3-9 (c) Any security provided under this section in a form other
 3-10 than a bond must be convertible to cash by the commission for the
 3-11 benefit of a person who contracts with an inspector in this state,
 3-12 without requiring approval of a court, if the commission determines
 3-13 that the inspector has violated Subchapter G. Any amount remaining
 3-14 after an inspector's license has expired shall be returned to the
 3-15 inspector not later than the 180th day after the date the license
 3-16 expires.

3-17 (d) An inspector who posts a bond or other security under
 3-18 this section must designate an unaffiliated third party to handle
 3-19 the processing of any claim regarding the bond or other security.

3-20 SECTION 7. Section 1102.118, Occupations Code, is amended
 3-21 to read as follows:

3-22 Sec. 1102.118. CONTACT INFORMATION [CHANGE OF ADDRESS].
 3-23 (a) An inspector shall provide the commission with a current
 3-24 mailing address, telephone number, and, if available, e-mail
 3-25 address.

3-26 (b) Not later than the 30th day after the date of a change in
 3-27 the mailing address, telephone number, or e-mail address of an
 3-28 inspector [~~changes the inspector's place of business~~], the
 3-29 inspector shall notify the commission of the change and pay any
 3-30 [~~the~~] required fee.

3-31 SECTION 8. Section 1102.153, Occupations Code, is amended
 3-32 to read as follows:

3-33 Sec. 1102.153. DEADLINE FOR COMPLETION. A license
 3-34 applicant who does not satisfy the examination requirement before
 3-35 the first anniversary of [~~within six months after~~] the date the
 3-36 application is filed must submit a new application and pay another
 3-37 examination fee to be eligible for examination.

3-38 SECTION 9. Section 1102.155(b), Occupations Code, is
 3-39 amended to read as follows:

3-40 (b) An applicant who fails the examination three
 3-41 consecutive times [~~in connection with the same application~~] may not
 3-42 apply for reexamination or submit a new license application unless
 3-43 [~~before six months~~] after the date of the third failed examination
 3-44 the applicant completes additional educational requirements as
 3-45 prescribed by the commission and submits evidence satisfactory to
 3-46 the commission of successful completion of those requirements.

3-47 SECTION 10. Section 1102.202, Occupations Code, is amended
 3-48 to read as follows:

3-49 Sec. 1102.202. NOTICE OF LICENSE EXPIRATION. Not later
 3-50 than the 31st day before the expiration date of a person's license,
 3-51 the commission shall provide notice of the expiration [~~send~~] to the
 3-52 person [~~at the person's last known address according to the~~
 3-53 commission's records written notice of the license expiration].

3-54 SECTION 11. Section 1102.203, Occupations Code, is amended
 3-55 to read as follows:

3-56 Sec. 1102.203. RENEWAL OF LICENSE; INFORMATION REQUIRED.
 3-57 (a) A person may renew an unexpired license by paying the required
 3-58 renewal fee to the commission before the expiration date of the
 3-59 license and providing proof of financial responsibility [~~liability~~
 3-60 insurance] as required by Section 1102.1141 [~~1102.114(3)].~~

3-61 (a-1) A person whose license has been expired for 90 days or
 3-62 less may renew the license by paying to the commission a fee equal
 3-63 to 1-1/2 times the required renewal fee. If a license has been
 3-64 expired for more than 90 days but less than six months, the person
 3-65 may renew the license by paying to the commission a fee equal to two
 3-66 times the required renewal fee.

3-67 (b) If the person's license has been expired for six months
 3-68 or longer [~~expires~~], the person may not renew the license. The
 3-69 person may obtain a new license by submitting to reexamination, if

4-1 required, and complying with the requirements and procedures for
4-2 obtaining an original license.

4-3 (c) Each applicant for renewal of a license must disclose to
4-4 the commission whether the applicant has:

4-5 (1) entered a plea of guilty or nolo contendere to a
4-6 felony; or

4-7 (2) been convicted of a felony and the time for appeal
4-8 has elapsed or the judgment or conviction has been affirmed on
4-9 appeal.

4-10 (d) The disclosure under Subsection (c) must be provided
4-11 even if an order has granted community supervision suspending the
4-12 imposition of the sentence.

4-13 SECTION 12. Section 1102.402(c), Occupations Code, is
4-14 amended to read as follows:

4-15 (c) A person is not eligible for a license until the person
4-16 has reimbursed the commission [repaid] in full for any [the] amount
4-17 paid on the person's behalf from the real estate inspection
4-18 recovery fund or the real estate recovery trust account under
4-19 Subchapter M, Chapter 1101 [on the person's account], plus interest
4-20 at the legal rate.

4-21 SECTION 13. Section 1102.403(b), Occupations Code, is
4-22 amended to read as follows:

4-23 (b) An administrative penalty collected under this section
4-24 ~~[for a violation by an inspector]~~ shall be deposited to the credit
4-25 of the general revenue [real estate inspection recovery] fund and
4-26 shall offset any amount required to be remitted to the general
4-27 revenue fund by the commission. [A penalty collected under this
4-28 section for a violation by a person who is not licensed under this
4-29 chapter or Chapter 1101 shall be deposited to the credit of the real
4-30 estate recovery trust account or the real estate inspection
4-31 recovery fund, as determined by the commission.]

4-32 SECTION 14. Section 1101.603(d), Occupations Code, is
4-33 amended to read as follows:

4-34 (d) An administrative penalty collected under Subchapter O
4-35 for a violation by a person who is not licensed under this chapter
4-36 or Chapter 1102 shall be deposited to the credit of the trust
4-37 account ~~[or the real estate inspection recovery fund, as determined~~
4-38 ~~by the commission].~~

4-39 SECTION 15. The following laws are repealed:

4-40 (1) Sections 1102.252 and 1102.253, Occupations Code;
4-41 and

4-42 (2) Subchapter H, Chapter 1102, Occupations Code.

4-43 SECTION 16. (a) In this section:

4-44 (1) "Commission" means the Texas Real Estate
4-45 Commission.

4-46 (2) "Eligible inspector" means a person who holds a
4-47 real estate inspector license or professional inspector license
4-48 under Chapter 1102, Occupations Code, as of September 1, 2013.

4-49 (b) Not later than August 31, 2015, the commission shall
4-50 transfer not less than \$300,000 from the real estate inspection
4-51 recovery fund to the general revenue fund.

4-52 (c) Not later than November 1, 2017, the commission shall
4-53 determine the remaining liability of the real estate inspection
4-54 recovery fund based on any pending claims for payment under former
4-55 Subchapter H, Chapter 1102, Occupations Code.

4-56 (d) After determining the remaining liability under
4-57 Subsection (c) of this section, the commission shall refund to each
4-58 eligible inspector a portion of the amount in excess of the
4-59 remaining liability of the real estate inspection recovery fund, if
4-60 the eligible inspector holds a license issued under Chapter 1102,
4-61 Occupations Code, as of the date of the refund. A refund under this
4-62 subsection may not exceed \$100 per person.

4-63 (e) The commission shall transfer any money remaining in the
4-64 real estate inspection recovery fund to the general revenue fund
4-65 after paying all claims for payment from the fund and issuing
4-66 refunds under Subsection (d) of this section.

4-67 (f) Any money transferred to the general revenue fund under
4-68 this section shall offset any amount required to be remitted to the
4-69 general revenue fund by the commission.

5-1 SECTION 17. (a) Sections 1102.1051 and 1102.1141,
5-2 Occupations Code, as added by this Act, and Sections 1102.109,
5-3 1102.110, 1102.111, 1102.114, 1102.153, 1102.155, and 1102.402,
5-4 Occupations Code, as amended by this Act, apply only to an
5-5 application for an inspector license submitted to the Texas Real
5-6 Estate Commission on or after the effective date of this Act. An
5-7 application for a license submitted before that date is governed by
5-8 the law in effect on the date the application was submitted, and the
5-9 former law is continued in effect for that purpose.

5-10 (b) Sections 1102.203 and 1102.402, Occupations Code, as
5-11 amended by this Act, and Sections 1102.1051 and 1102.1141,
5-12 Occupations Code, as added by this Act, apply only to the renewal of
5-13 an inspector license that expires on or after the effective date of
5-14 this Act. A license that expires before that date is governed by
5-15 the law in effect on the date the license expires, and the former
5-16 law is continued in effect for that purpose.

5-17 (c) Sections 1102.403 and 1101.603, Occupations Code, as
5-18 amended by this Act, apply only to an administrative penalty that is
5-19 collected on or after the effective date of this Act. An
5-20 administrative penalty that is collected before the effective date
5-21 of this Act is governed by the law in effect on the date the
5-22 administrative penalty was collected, and the former law is
5-23 continued in effect for that purpose.

5-24 (d) A claim for payment from the real estate inspection
5-25 recovery fund under former Section 1102.355, Occupations Code, for
5-26 a cause of action that accrues before September 1, 2013, must be
5-27 filed before September 1, 2017.

5-28 SECTION 18. This Act takes effect September 1, 2013.

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