

By: Taylor

S.B. No. 1296

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of real estate inspectors.

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

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

Sec. 1102.1051. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The commission shall require that an applicant for a license or renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the commission, to the commission or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

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

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

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

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

(d) The commission may:

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

4 (2) authorize the Department of Public Safety to
5 collect from each applicant the costs incurred by the department in
6 conducting the criminal history check.

7 SECTION 2. Section 1102.109, Occupations Code, is amended
8 to read as follows:

9 Sec. 1102.109. ELIGIBILITY FOR PROFESSIONAL INSPECTOR
10 LICENSE. To be eligible for a professional inspector license, an
11 applicant must:

12 (1) at the time of application have:

13 (A) held a real estate inspector license for at
14 least 12 months; and

15 (B) performed at least 175 real estate
16 inspections under indirect supervision;

17 (2) submit evidence satisfactory to the commission of
18 successful completion of at least 40 [~~30~~] classroom hours of core
19 real estate inspection courses, in addition to the hours required
20 by Section 1102.108 [~~, and at least eight classroom hours related to~~
21 ~~the study of standards of practice, legal issues, or ethics related~~
22 ~~to the practice of real estate inspecting]~~;

23 (3) demonstrate competence based on the examination
24 under Subchapter D; and

25 (4) satisfy the commission as to the applicant's
26 honesty, trustworthiness, integrity, and competence.

27 SECTION 3. Section 1102.110, Occupations Code, is amended

1 to read as follows:

2 Sec. 1102.110. ELIGIBILITY OF PREVIOUS LICENSE HOLDERS.

3 (a) Notwithstanding Section 1102.108, an applicant is eligible for
4 and has satisfied all requirements for a real estate inspector
5 license if the applicant:

6 (1) held a real estate inspector license during the
7 24-month period preceding the date the application is filed;

8 (2) is sponsored by a professional inspector; ~~and~~

9 (3) provides evidence that the applicant has completed
10 any continuing education that would have been required for timely
11 renewal of the previous license; and

12 (4) satisfies the commission as to the applicant's
13 honesty, trustworthiness, and integrity.

14 (b) Notwithstanding Section 1102.109, an applicant is
15 eligible for and has satisfied all requirements for a professional
16 inspector license if the applicant:

17 (1) held a professional inspector license during the
18 24-month period preceding the date the application is filed; ~~and~~

19 (2) provides evidence that the applicant has completed
20 any continuing education that would have been required for timely
21 renewal of the previous license; and

22 (3) satisfies the commission as to the applicant's
23 honesty, trustworthiness, and integrity.

24 SECTION 4. Section 1102.111(b), Occupations Code, is
25 amended to read as follows:

26 (b) Rules adopted under Subsection (a) may not require an
27 applicant to:

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

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

4 SECTION 5. Section 1102.114, Occupations Code, is amended
5 to read as follows:

6 Sec. 1102.114. ISSUANCE OF LICENSE. The commission shall
7 issue the appropriate license to an applicant who:

8 (1) meets the required qualifications; and

9 (2) has submitted proof of financial responsibility
10 with the commission by:

11 (A) providing a certificate of insurance
12 verifying coverage as required by Section 1102.1141; or

13 (B) filing a bond, or other security accepted by
14 the commission, that meets the requirements of Section
15 1102.1142 [~~pays the fee required by Section 1102.352(a); and~~

16 [~~(3) offers proof that the applicant carries liability~~
17 ~~insurance with a minimum limit of \$100,000 per occurrence to~~
18 ~~protect the public against a violation of Subchapter G].~~

19 SECTION 6. Subchapter C, Chapter 1102, Occupations Code, is
20 amended by adding Section 1102.1141 to read as follows:

21 Sec. 1102.1141. INSURANCE COVERAGE. Insurance obtained by
22 an applicant or inspector to meet the financial responsibility
23 requirement of Section 1102.114 must:

24 (1) be written by an insurer authorized to engage in
25 the business of insurance in this state, a risk retention group as
26 defined by Chapter 2201, Insurance Code, or an eligible surplus
27 lines insurer, as defined by Section 981.002, Insurance Code;

1 (2) specifically provide for professional liability
2 insurance to protect the public against a violation of Subchapter
3 G; and

4 (3) provide coverage with a minimum limit of \$100,000
5 per occurrence, and a total annual aggregate of not less than
6 \$100,000.

7 SECTION 7. Subchapter C, Chapter 1102, Occupations Code, is
8 amended by adding Section 1102.1142 to read as follows:

9 Sec. 1102.1142. BOND OR OTHER SECURITY. (a) A bond, or
10 other security accepted by the commission, submitted by an
11 applicant or inspector to meet the financial responsibility
12 requirement Section 1102.114 must be:

13 (1) issued by a carrier admitted in this state in an
14 amount not less than \$100,000; and

15 (2) continuous.

16 (b) A surety may not cancel a bond or other security issued
17 under Subsection (a) unless the surety provides at least 90 days
18 written notice of cancellation to the commission.

19 (c) Any security provided under this section in a form other
20 than a bond must be convertible to cash by the commission for the
21 benefit of persons who contract with an inspector in this state,
22 without resort to the courts, if the commission determines that the
23 inspector has violated Subchapter G. Any amount remaining after the
24 inspector's license has expired must be returned to the inspector
25 not later than the sixth month after the date the license expires.

26 (d) An applicant or inspector who files a bond or other
27 security under this section must designate a third party not

1 affiliated with the applicant or inspector to handle the processing
2 of claims regarding that bond or other security.

3 SECTION 8. Section 1102.118, Occupations Code, is amended
4 to read as follows:

5 Sec. 1102.118. CONTACT INFORMATION [~~CHANGE OF ADDRESS~~]. (a)
6 An applicant or inspector shall provide the commission a current
7 mailing address and telephone number, and an e-mail address if
8 available.

9 (b) Not later than the 30th day after the date an inspector
10 changes the inspector's address, e-mail address, or telephone
11 number [~~place of business~~], the inspector shall notify the
12 commission and pay any [~~the~~] required fee.

13 SECTION 9. Section 1102.153, Occupations Code, is amended
14 to read as follows:

15 Sec. 1102.153. DEADLINE FOR COMPLETION. A license
16 applicant who does not satisfy the examination requirement within
17 12 [~~six~~] months after the date the application is filed must submit
18 a new application and pay another examination fee to be eligible for
19 examination.

20 SECTION 10. Section 1102.155(b), Occupations Code, is
21 amended to read as follows:

22 (b) An applicant who fails the examination three
23 consecutive times [~~in connection with the same application~~] may not
24 apply for reexamination or submit a new license application unless
25 the applicant submits evidence satisfactory to the commission that
26 the applicant has taken additional education, as prescribed by the
27 commission, after the date the applicant last took the examination

1 ~~[before six months after the date of the third failed examination].~~

2 SECTION 11. Section 1102.202, Occupations Code, is amended
3 to read as follows:

4 Sec. 1102.202. NOTICE OF LICENSE EXPIRATION. Not later
5 than the 31st day before the expiration date of a person's license,
6 the commission shall notify ~~[send to]~~ the person ~~[at the person's~~
7 ~~last known address according to the commission's records written~~
8 ~~notice]~~ of the license expiration.

9 SECTION 12. Section 1102.203, Occupations Code, is amended
10 to read as follows:

11 Sec. 1102.203. RENEWAL OF LICENSE. (a) A person may renew
12 an unexpired license by paying the required renewal fee to the
13 commission before the expiration date of the license and providing
14 proof of financial responsibility ~~[professional liability~~
15 ~~insurance]~~ as required by Section 1102.114.

16 (b) A person whose license has been expired for 90 days or
17 less may renew the license by paying to the commission a fee equal
18 to 1-1/2 times the required renewal fee. If a license has been
19 expired for more than 90 days but less than six months, the person
20 may renew the license by paying to the commission a fee equal to two
21 times the required renewal fee.

22 (c) If the person's license has been expired for six months
23 or longer ~~[expires]~~, the person may not renew the license. The
24 person may obtain a new license by submitting to reexamination, if
25 required, and complying with the requirements and procedures for
26 obtaining an original license.

27 (d) Each applicant for the renewal of a license must

1 disclose in the license application whether the applicant has:

2 (1) entered a plea of guilty or nolo contendere to a
3 felony; or

4 (2) been convicted of a felony and the time for appeal
5 has elapsed or the judgment or conviction has been affirmed on
6 appeal.

7 (e) The disclosure under Subsection (d) must be provided
8 even if an order has granted community supervision suspending the
9 imposition of the sentence.

10 SECTION 13. Section 1102.402(c), Occupations Code, is
11 amended to read as follows:

12 (c) A person for whom a payment has been made from the Real
13 Estate Inspection Recovery Fund or Real Estate Recovery Trust
14 Account is not eligible for a license until the person has repaid in
15 full the amount paid from the fund or the trust account on the
16 person's account, plus interest at the legal rate.

17 SECTION 14. Section 1102.403(b), Occupations Code, is
18 amended to read as follows:

19 (b) An administrative penalty collected under this section
20 [~~for a violation by an inspector~~] shall be deposited to the credit
21 of the general revenue [~~real estate inspection recovery~~] fund and
22 shall offset any amounts due from the commission to the general
23 revenue fund. [~~A penalty collected under this section for a~~
24 ~~violation by a person who is not licensed under this chapter or~~
25 ~~Chapter 1101 shall be deposited to the credit of the real estate~~
26 ~~recovery trust account or the real estate inspection recovery fund,~~
27 ~~as determined by the commission.~~]

1 SECTION 15. The following provisions of Chapter 1102,
2 Occupations Code, are repealed:

- 3 (1) Section 1102.252;
- 4 (2) Section 1102.253; and
- 5 (3) Subchapter H.

6 SECTION 16. (a) In this section:

7 (1) "Commission" means the Texas Real Estate
8 Commission.

9 (2) "Eligible inspector" means a person who holds a
10 real estate or professional inspector license under Chapter 1102,
11 Occupation Code, as of September 1, 2013.

12 (b) Not later than August 31, 2015, the commission shall
13 transfer not less than \$300,000 from the real estate inspection
14 recovery fund to the general revenue fund.

15 (c) Not later than August 31, 2017, the commission shall
16 determine the remaining liability of the real estate inspection
17 recovery fund based on any pending claim for payment under former
18 Subchapter H, Chapter 1102, Occupations Code.

19 (d) The commission shall refund to each eligible inspector
20 who also holds a license as of the date of the refund any amount in
21 excess of the remaining liability of the real estate inspection
22 recovery fund at a rate not to exceed \$100.

23 (e) Once all refunds to the inspectors are paid and all
24 claims for payment from the real estate inspection recovery fund
25 are paid, the commission shall transfer any remaining money to the
26 general revenue fund.

27 (f) Any money transferred to the general revenue fund under

1 this section offsets any amounts due from the commission to the
2 general revenue fund.

3 SECTION 17. (a) The changes in law made by this Act apply
4 only to an application for a license submitted to the Texas Real
5 Estate Commission on or after September 1, 2013. An application for
6 a license submitted before that date is governed by the law in
7 effect on the date the application was submitted, and the former law
8 is continued in effect for that purpose.

9 (b) The changes in law made by this Act apply only to a claim
10 for payment from the real estate inspection recovery fund based on a
11 cause of action that accrues on or after the effective date of this
12 Act. A claim for payment based on a cause of action that accrues
13 before the effective date of this Act is governed by the law in
14 effect when the cause of action accrued, and the former law is
15 continued in effect for that purpose.

16 (c) A claim for payment from the real estate inspection
17 recovery fund under former Section 1102.355, Occupations Code, for
18 a cause of action that accrues before September 1, 2013, must be
19 filed before September 1, 2017.

20 SECTION 18. This Act takes effect September 1, 2013.