

House Bill 2911
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(e) If the commission requires the use of a designated facility to obtain the set of fingerprints required to be submitted to the

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

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

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commission under this section, an applicant described by Subsection (a) who does not reside within a 25-mile radius of a designated facility may obtain the set of fingerprints from a local law enforcement office.

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

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

(1) at the time of application have:

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

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

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

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

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

SECTION 3. Section 1102.110, Occupations Code, is amended to read as follows:

Sec. 1102.110. ELIGIBILITY OF PREVIOUS LICENSE HOLDERS. (a) Notwithstanding Section 1102.108, an applicant is eligible for and has satisfied all requirements for a real estate inspector license if the applicant:

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(1) held a real estate inspector license during the 24-month period preceding the date the application is filed;
(2) is sponsored by a professional inspector; ~~and~~
(3) satisfies the commission as to the applicant's honesty, trustworthiness, and integrity; and
(4) submits evidence satisfactory to the commission of successful completion of not less than the number of hours of continuing education courses that would have been required for the applicant to renew the license described by Subdivision (1).

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

(1) held a professional inspector license during the 24-month period preceding the date the application is filed; ~~and~~
(2) satisfies the commission as to the applicant's honesty, trustworthiness, and integrity; and
(3) submits evidence satisfactory to the commission of successful completion of not less than the number of hours of continuing education courses that would have been required for the applicant to renew the license described by Subdivision (1).

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

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

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

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

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

(1) complete more than 320 additional [~~classroom~~] hours of core real estate inspection courses; ~~or~~ FA1(1)

(2) complete more than 40 hours of field work, if the applicant completes correspondence or other course provided by alternative means; or

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

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

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

- (1) meets the required qualifications; and
 - (2) submits ~~[pays the fee required by Section 1102.352(a); and~~
- ~~[(3)—offers] proof of financial responsibility as required by Section 1102.1141 [that the applicant carries liability insurance with a minimum limit of \$100,000 per occurrence to protect the public against a violation of Subchapter G].~~

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

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

- (1) a liability insurance policy with a minimum limit of \$100,000 per occurrence and an aggregate annual total of at least \$100,000, and that:
 - (A) is written by an insurer authorized to engage in the business of insurance in this state, a risk retention group as defined by Chapter 2201, Insurance Code, or an eligible surplus lines insurer, as defined by Section 981.002, Insurance Code; and
 - (B) specifically provides for professional liability coverage to protect the public against a violation of Subchapter G; or
- (2) a bond or other security accepted by the commission.

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~~(3)~~ have more than seven years of relevant experience.
[FA1(2)]

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

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

- (1) meets the required qualifications;
- (2) ~~pays the fee required by Section 1102.352(a); and~~
- (3) submits [offers] proof of financial responsibility as required by Section 1102.1141 [that the applicant carries liability insurance with a minimum limit of \$100,000 per occurrence to protect the public against a violation of Subchapter G]. [FA1(3)]

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- (b) A bond posted as security under Subsection (a)(2) must:
(1) be issued by a carrier admitted in this state;
(2) be in an amount not less than \$100,000;
(3) be continuous; and
(4) be cancellable by the surety only after the surety has provided at least 90 days' written notice to the commission before the effective date of the cancellation.
- (c) Any security provided under this section in a form other than a bond must be convertible to cash by the commission for the benefit of a person who contracts with an inspector in this state, without requiring approval of a court, if the commission determines that the inspector has violated Subchapter G. Any amount remaining after an inspector's license has expired shall be returned to the inspector not later than the 180th day after the date the license expires.
- (d) An inspector who posts a bond or other security under this section must designate an unaffiliated third party to handle the processing of any claim regarding the bond or other security.

SECTION 7. Section 1102.118, Occupations Code, is amended to read as follows:

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

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

SECTION 8. Section 1102.153, Occupations Code, is

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amended to read as follows:

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

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

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

SECTION 10. Section 1102.202, Occupations Code, is amended to read as follows:

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

SECTION 11. Section 1102.203, Occupations Code, is amended to read as follows:

Sec. 1102.203. RENEWAL OF LICENSE; INFORMATION REQUIRED. (a) A person may renew an unexpired license by paying the required renewal fee to the commission before

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SECTION 10. Same as House version.

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the expiration date of the license and providing proof of financial responsibility [~~liability insurance~~] as required by Section 1102.1141 [~~1102.114(3)~~].

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

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

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

- (1) entered a plea of guilty or nolo contendere to a felony; or
- (2) been convicted of a felony and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal.

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

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

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

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

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

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

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

SECTION 15. The following laws are repealed:

- (1) Sections 1102.252 and 1102.253, Occupations Code; and
- (2) Subchapter H, Chapter 1102, Occupations Code.

SECTION 16. (a) In this section:

- (1) "Commission" means the Texas Real Estate Commission.
 - (2) "Eligible inspector" means a person who holds a real estate inspector license or professional inspector license under Chapter 1102, Occupations Code, as of September 1, 2013.
- (b) Not later than August 31, 2015, the commission shall transfer not less than \$300,000 from the real estate inspection recovery fund to the general revenue fund.

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SECTION 13. **No equivalent provision.** [Deleted by FA1(4)]

SECTION 14. **No equivalent provision.** [Deleted by FA1(5)]

SECTION __. **No equivalent provision.** [FA1(6)]

SECTION 16. **No equivalent provision.** [Deleted by FA1(7)]

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

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

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

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

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

(b) Sections 1102.203 and 1102.402, Occupations Code, as amended by this Act, and Sections 1102.1051 and 1102.1141, Occupations Code, as added by this Act, apply only to the

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

(b) Sections 1102.203 and 1102.402, Occupations Code, as amended by this Act, and Sections 1102.1051 and 1102.1141, Occupations Code, as added by this Act, apply only to the

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renewal of an inspector license that expires on or after the effective date of this Act. A license that expires before that date is governed by the law in effect on the date the license expires, and the former law is continued in effect for that purpose.

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

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

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

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renewal of an inspector license that expires on or after the effective date of this Act. A license that expires before that date is governed by the law in effect on the date the license expires, and the former law is continued in effect for that purpose.

(c) [Deleted by FA1(8)]

(d) [Deleted by FA1(8)]

SECTION 18. Same as House version.

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