

By: Nevárez

H.B. No. 4226

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Trades Board of the State of Texas;  
the licensure and regulation of plumbers, electricians, and air  
conditioning and refrigeration contractors; authorizing a fee.

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

SECTION 1. Title 8, Occupations Code, is amended by adding  
Chapter 1306 to read as follows:

CHAPTER 1306. REGULATION AND LICENSING OF PLUMBERS, ELECTRICIANS,  
AND AIR CONDITIONING AND REFRIGERATION CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1306.001. SHORT TITLE. This chapter may be cited as  
the Texas Trades Board Law.

Sec. 1306.002. DEFINITIONS. In this chapter:

(1) "Board" means the Trades Board for the State of  
Texas.

(2) "Executive director" means the executive director  
of the Trades Board for the State of Texas.

Sec. 1306.003. APPLICATION OF SUNSET ACT. The Trades Board  
for the State of Texas is subject to Chapter 325, Government Code  
(Texas Sunset Act). Unless continued in existence as provided by  
that chapter, the board is abolished and this chapter expires  
September 1, 2031.

Sec. 1306.004. NONAPPLICABILITY OF LAW GOVERNING  
CANCELLATION OF CERTAIN TRANSACTIONS. Except as otherwise provided

1 by this section, Chapter 601, Business & Commerce Code, does not  
2 apply to a good or service provided by a license holder under this  
3 chapter if the transaction involving the good or service is  
4 initiated by the consumer. Chapter 601, Business & Commerce Code,  
5 does apply to a transaction that involves a breach of express  
6 warranty or a negligent installation in violation of a building  
7 code applicable to the good or service sold to the consumer.

8 SUBCHAPTER B. TRADES BOARD OF THE STATE OF TEXAS

9 Sec. 1306.10. TRADES BOARD OF THE STATE OF TEXAS. (a) The  
10 Trades Board of the State Of Texas consists of nine members  
11 appointed by the governor with the advice and consent of the senate  
12 as follows:

13 (1) one member who has at least 10 years' practical  
14 experience and is licensed as a master plumber;

15 (2) one member who has at least five years' practical  
16 experience and is licensed as a journeyman plumber;

17 (3) one member who has at least five years' practical  
18 experience and is licensed as a plumbing inspector;

19 (4) one master electrician member;

20 (5) one journeyman electrician;

21 (6) one master sign electrician member;

22 (7) one must be a full-time licensed air conditioning  
23 and refrigeration contractor who holds a Class A license and  
24 practices in a municipality with a population of more than 250,000;

25 (8) one member must be a full-time licensed air  
26 conditioning and refrigeration contractor who holds a Class B  
27 license and practices in a municipality with a population of more

1 than 250,000; and

2 (9) one member who holds a license of any  
3 classification under this chapter, is principally engaged in air  
4 conditioning and refrigeration contracting, and practices in a  
5 municipality with a population of not more than 25,000.

6 (b) Each member of the board must be a United States  
7 citizen.

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

11 Sec. 1306.11. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
12 In this section, "Texas trade association" means a cooperative and  
13 voluntarily joined statewide association of business or  
14 professional competitors in this state designed to assist its  
15 members and its industry or profession in dealing with mutual  
16 business or professional problems and in promoting their common  
17 interest.

18 (b) A person may not be a member of the board and may not be a  
19 board employee employed in a "bona fide executive, administrative,  
20 or professional capacity," as that phrase is used for purposes of  
21 establishing an exemption to the overtime provisions of the federal  
22 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),  
23 and its subsequent amendments, if:

24 (1) the person is an officer, employee, or paid  
25 consultant of a Texas trade association in the field of building  
26 construction; or

27 (2) the person's spouse is an officer, manager, or paid

1 consultant of a Texas trade association in the field of building  
2 construction.

3 (c) A person may not be a member of the board or act as the  
4 general counsel to the board or the agency if the person is required  
5 to register as a lobbyist under Chapter 305, Government Code,  
6 because of the person's activities for compensation on behalf of a  
7 profession related to the operation of the agency.

8 Sec. 1306.12. ISSUANCE OF COMMISSION. On presentation of  
9 the constitutional oath of office and a certificate of appointment,  
10 the secretary of state shall issue a commission to a board member as  
11 evidence of the person's authority to act as a board member.

12 Sec. 1306.13. GROUNDS FOR REMOVAL. (a) It is a ground for  
13 removal from the board that a member:

14 (1) does not have at the time of taking office the  
15 qualifications required by this chapter;

16 (2) does not maintain during service on the board the  
17 qualifications required by this chapter;

18 (3) is ineligible for membership under Section  
19 1306.12;

20 (4) cannot, because of illness or disability,  
21 discharge the member's duties for a substantial part of the member's  
22 term; or

23 (5) is absent from more than half of the regularly  
24 scheduled board meetings that the member is eligible to attend  
25 during a calendar year without an excuse approved by a majority vote  
26 of the board.

27 (b) The validity of an action of the board is not affected by

1 the fact that it is taken when a ground for removal of a board member  
2 exists.

3 (c) If the executive director has knowledge that a potential  
4 ground for removal exists, the executive director shall notify the  
5 presiding officer of the board of the potential ground. The  
6 presiding officer shall then notify the governor and the attorney  
7 general that a potential ground for removal exists. If the  
8 potential ground for removal involves the presiding officer, the  
9 executive director shall notify the next highest ranking officer of  
10 the board, who shall then notify the governor and the attorney  
11 general that a potential ground for removal exists.

12 Sec. 1306.14. OFFICERS. (a) The governor shall designate a  
13 member of the board as the presiding officer of the board to serve  
14 in that capacity at the pleasure of the governor.

15 (b) The board shall elect a secretary from its membership.

16 Sec. 1306.15. PER DIEM; REIMBURSEMENT. (a) A board member  
17 may not receive a fixed salary for service on the board.

18 (b) A board member is entitled to receive a per diem as set  
19 by the General Appropriations Act for each day the member engages in  
20 the business of the board.

21 (c) A board member may not receive reimbursement for travel  
22 expenses, including expenses for meals and lodging, other than  
23 transportation expenses. A member is entitled to reimbursement for  
24 transportation expenses as provided by the General Appropriations  
25 Act.

26 Sec. 1306.16. TRAINING. (a) A person who is appointed to  
27 and qualifies for office as a member of the board may not vote,

1 deliberate, or be counted as a member in attendance at a meeting of  
2 the board until the person completes a training program that  
3 complies with this section.

4 (b) The training program must provide the person with  
5 information regarding:

6 (1) this chapter;

7 (2) the programs operated by the agency;

8 (3) the role and functions of the agency;

9 (4) the rules of the agency, with an emphasis on the  
10 rules that relate to disciplinary and investigatory authority;

11 (5) the current budget for the agency;

12 (6) the results of the most recent formal audit of the  
13 agency;

14 (7) the requirements of:

15 (A) the open meetings law, Chapter 551,  
16 Government Code;

17 (B) the public information law, Chapter 552,  
18 Government Code;

19 (C) the administrative procedure law, Chapter  
20 2001, Government Code; and

21 (D) other laws relating to public officials,  
22 including conflict-of-interest laws; and

23 (8) any applicable ethics policies adopted by the  
24 agency or the Texas Ethics Commission.

25 (c) A person appointed to the board is entitled to  
26 reimbursement, as provided by the General Appropriations Act, for  
27 the travel expenses incurred in attending the training program

1 regardless of whether the attendance at the program occurs before  
2 or after the person qualifies for office.

3 SUBCHAPTER C. BOARD POWERS AND DUTIES

4 Sec. 1306.20. GENERAL DUTIES OF BOARD. The board shall:

5 (1) administer this chapter and chapters 1301, 1302,  
6 and 1305 of this code;

7 (2) adopt and enforce rules necessary to administer  
8 this chapter and chapters 1301, 1302, and 1305 of this code; and

9 (3) keep a record of each proceeding conducted before  
10 and action taken by the board.

11 Sec. 1306.21. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
12 BIDDING. (a) The board may not adopt a rule restricting advertising  
13 or competitive bidding by a person licensed under this chapter  
14 except to prohibit false, misleading, or deceptive practices by the  
15 person.

16 (b) The board may not include in its rules to prohibit  
17 false, misleading, or deceptive practices a rule that:

18 (1) restricts the person's use of any medium for  
19 advertising;

20 (2) restricts the person's personal appearance or use  
21 of the person's voice in an advertisement;

22 (3) relates to the size or duration of an  
23 advertisement by the person; or

24 (4) restricts the person's advertisement under a trade  
25 name.

26 Sec. 1306.22. FEES. The board shall set fees in amounts  
27 that are reasonable and necessary to cover the cost of

1 administering this chapter or chapters 1301, 1302, and 1305 of this  
2 code.

3 Sec. 1306.23. ADOPTION OF PLUMBING CODES. (a) The board  
4 shall adopt the following plumbing codes, as those codes existed on  
5 May 31, 2001:

6 (1) the Uniform Plumbing Code, as published by the  
7 International Association of Plumbing and Mechanical Officials;  
8 and

9 (2) the International Plumbing Code, as published by  
10 the International Code Council.

11 (b) The board by rule may adopt later editions of the  
12 plumbing codes listed in Subsection (a).

13 (c) Plumbing installed in an area not otherwise subject to  
14 regulation under this chapter by a person licensed under this  
15 chapter must be installed in accordance with a plumbing code  
16 adopted by the board under Subsection (a) or (b).

17 (d) In adopting a code for the design, installation, and  
18 maintenance of a plumbing system under this section, a municipality  
19 or an owner of a public water system may amend any provisions of the  
20 code to conform to local concerns that do not substantially vary  
21 from board rules or other rules of this state.

22 (e) Plumbing installed in compliance with a code adopted  
23 under Subsection (a), (b), or (d) must be inspected by a plumbing  
24 inspector. To perform the inspection, the political subdivision  
25 may contract with any plumbing inspector or qualified plumbing  
26 inspection business, as determined by the political subdivision,  
27 that is paid directly by the political subdivision.

1       Sec. 1306.24. GENERAL POWERS AND DUTIES PERTAINING TO  
2 ELECTRICIANS. (a) The executive director or the board, as  
3 appropriate, shall:

4           (1) by rule establish the financial responsibility  
5 requirements for electrical contractors; and

6           (2) after publication of the National Electrical Code  
7 by the National Fire Protection Association every three years,  
8 adopt the revised National Electrical Code as the electrical code  
9 for the state.

10       (b) The executive director or the board, as appropriate,  
11 may:

12           (1) establish reciprocity agreements with other  
13 states that have licensing requirements substantially equivalent  
14 to the requirements of this chapter or chapter 1305 of this code;  
15 and

16           (2) take other action as necessary to administer and  
17 enforce this chapter and chapter 1305 of this code.

18       Sec. 1306.25. RULES. (a) The board shall adopt rules for  
19 the licensing of electricians, sign electricians, electrical sign  
20 contractors, electrical contractors, journeyman industrial  
21 electricians, journeyman linemen, residential appliance  
22 installers, and residential appliance installation contractors as  
23 prescribed by this chapter.

24       (b) The executive director by rule shall prescribe  
25 descriptions of the types of activities that may be performed by  
26 each class of license holder under this chapter.

27       (c) The executive director by rule shall adopt standards of

1 conduct requirements for license holders under this chapter.

2 (d) The board may adopt rules regarding the registration of  
3 apprenticeship training programs and to require registered  
4 programs to report the names of persons enrolled in the programs.

5 Sec. 1306.26. PERSONNEL. The department may employ  
6 personnel necessary to administer and enforce this chapter and  
7 chapters 1301, 1302, 1305 of this code.

8 Sec. 1306.26. SUBPOENA. (a) The board may request and, if  
9 necessary, compel by subpoena:

10 (1) the attendance of a witness for examination under  
11 oath; and

12 (2) the production for inspection and copying of  
13 records, documents, and other evidence relevant to the  
14 investigation of an alleged violation of this chapter.

15 (b) The board, acting through the attorney general, may  
16 bring an action to enforce a subpoena issued under Subsection (a)  
17 against a person who fails to comply with the subpoena.

18 (c) Venue for an action brought under Subsection (b) is in a  
19 district court in:

20 (1) Travis County; or

21 (2) any county in which the board may hold a hearing.

22 (d) The court shall order compliance with the subpoena if  
23 the court finds that good cause exists to issue the subpoena.

24 Sec. 1306.27. ADVISORY COMMITTEES. The board may appoint  
25 advisory committees as it considers necessary. An advisory  
26 committee shall serve without compensation or reimbursement and is  
27 subject to Section 2110.008, Government Code.

1       Sec. 1306.28. BOARD COMMITTEES. (a) The board may create  
2 committees to assist the board in exercising its powers and duties.

3       (b) The presiding officer of the board shall appoint the  
4 members of the committees. Except as provided by Subsection (c),  
5 each committee member must be a member of the board.

6       (c) The presiding officer may appoint only members of the  
7 agency staff to an enforcement committee that reviews complaints  
8 and license registration and reviews endorsement applications  
9 submitted by applicants who have a criminal conviction history  
10 affected by Chapter 53.

11       Sec. 1306.29. MEMORANDUM OF UNDERSTANDING. (a) The board  
12 and the Texas Department of Licensing and Regulation shall enter  
13 into a memorandum of understanding to improve services and  
14 coordinate the functions of each agency.

15       (b) The memorandum of understanding must:

16           (1) require each agency to share:

17                   (A) information technology to support the  
18 regulation and enforcement of occupational licenses; and

19                   (B) information on regulatory practices for  
20 licensed occupations, including policy issues that affect the  
21 regulation of licensed occupations, standardization of complaint  
22 and enforcement techniques, and model licensing techniques;

23           (2) authorize enforcement officers from each agency to  
24 check licenses, registrations, or endorsements held by persons  
25 practicing occupations regulated by the other agency and report  
26 noncompliance to that agency; and

27           (3) state the circumstances when a joint investigation

1 between the board and the Texas Department of Licensing and  
2 Regulation is appropriate.

3 Sec. 1306.291. POLICY ON TECHNOLOGICAL SOLUTIONS. The  
4 board shall develop and implement a policy requiring the executive  
5 director and agency employees to research and propose appropriate  
6 technological solutions to improve the agency's ability to perform  
7 its functions. The technological solutions must:

8 (1) ensure that the public is able to easily find  
9 information about the agency on the Internet;

10 (2) ensure that persons who want to use the agency's  
11 services are able to:

12 (A) interact with the agency through the  
13 Internet; and

14 (B) access any service that can be provided  
15 effectively through the Internet; and

16 (3) be cost-effective and developed through the  
17 agency's planning processes.

18 Sec. 1306.292. NEGOTIATED RULEMAKING AND ALTERNATIVE  
19 DISPUTE RESOLUTION. (a) The board shall develop and implement a  
20 policy to encourage the use of:

21 (1) negotiated rulemaking procedures under Chapter  
22 2008, Government Code, for the adoption of agency rules; and

23 (2) appropriate alternative dispute resolution  
24 procedures under Chapter 2009, Government Code, to assist in the  
25 resolution of internal and external disputes under the agency's  
26 jurisdiction.

27 (b) The agency's procedures relating to alternative dispute

1 resolution must conform, to the extent possible, to any model  
2 guidelines issued by the State Office of Administrative Hearings  
3 for the use of alternative dispute resolution by state agencies.

4 (c) The board shall designate a trained person to:

5 (1) coordinate the implementation of the policy  
6 adopted under Subsection (a);

7 (2) serve as a resource for any training needed to  
8 implement the procedures for negotiated rulemaking or alternative  
9 dispute resolution; and

10 (3) collect data concerning the effectiveness of those  
11 procedures, as implemented by the agency.

12 SUBCHAPTER D. CONSUMER INTEREST INFORMATION AND COMPLAINT  
13 PROCEDURES

14 Sec. 1306.301. CONSUMER INTEREST INFORMATION. (a) The  
15 board shall prepare information of consumer interest describing the  
16 regulatory functions of the board and the procedures by which  
17 consumer complaints are filed with and resolved by the board.

18 (b) The board shall make the information available to the  
19 public and appropriate state agencies.

20 Sec. 1306.3015. PUBLIC PARTICIPATION. The board shall  
21 develop and implement policies that provide the public with a  
22 reasonable opportunity to appear before the board and to speak on  
23 any issue under the jurisdiction of the agency.

24 Sec. 1306.303. COMPLAINTS. (a) The board may investigate  
25 an alleged violation of this chapter of chapters 1301, 1302, or 1305  
26 of this code by a person who:

27 (1) is licensed under this chapter or chapters 1301,

1 1302, or 1305 of this code;

2 (2) is the owner of a company or contractor subject to  
3 this chapter or chapters 1301, 1302, or 1305 of this code; or

4 (3) performs plumbing, acts a electrician, or an air  
5 conditioning and refrigeration contractor without holding a  
6 license under this chapter or chapters 1301, 1302, or 1305.

7 (b) The board shall maintain a file on each written  
8 complaint filed with the board. The file must include:

9 (1) the name of the person who filed the complaint;

10 (2) the date the complaint is received by the agency;

11 (3) the subject matter of the complaint;

12 (4) the name of any municipality and the county in  
13 which the conduct that is the subject of the complaint occurred;

14 (5) the name of each person contacted in relation to  
15 the complaint;

16 (6) a summary of the results of the review or  
17 investigation of the complaint; and

18 (7) an explanation of the reason the file was closed,  
19 if the agency closed the file without taking action other than to  
20 investigate the complaint.

21 (c) The agency shall provide to the person filing the  
22 complaint and to each person who is a subject of the complaint a  
23 copy of the agency's policies and procedures relating to complaint  
24 investigation and resolution.

25 (d) The board, at least quarterly and until final  
26 disposition of the complaint, shall notify the person filing the  
27 complaint and each person who is a subject of the complaint of the

1 status of the investigation unless the notice would jeopardize an  
2 undercover investigation.

3 (e) The board by rule shall assign priorities and prescribe  
4 investigative procedures for investigations of complaints based  
5 on:

6 (1) the severity of the conduct alleged in the  
7 complaint; and

8 (2) the degree of harm to public health, safety, or  
9 property.

10 (f) The board shall maintain information about complaints,  
11 including source, type, and geographical area, to identify and  
12 address regulatory problem areas and focus enforcement in those  
13 areas.

14 Sec. 1306.304. INVESTIGATION OF COMPLAINTS. (a) The  
15 enforcement committee or an employee designated by the enforcement  
16 committee may investigate an alleged violation of this chapter,  
17 chapter 1301, 1302, or 1305 of this code or a board rule that is  
18 reported to the board.

19 (b) The enforcement committee shall determine whether a  
20 person has committed the violation and shall recommend appropriate  
21 sanctions to the board or, if the enforcement committee determines  
22 that the complaint is without merit, dismissal of the complaint.

23 (c) The board shall conduct joint investigations with the  
24 Texas Department of Licensing and Regulation as circumstances  
25 require.

26 (d) Unless a threat to health or safety exists, the board  
27 may choose to not investigate a complaint in which the person filing

1 the complaint and the person who is the subject of the complaint are  
2 engaged in litigation related to the subject matter of the  
3 complaint until the outcome of the litigation is finally determined  
4 if the board determines the complaint process is being abused.

5 SUBCHAPTER E. ADMINISTRATIVE PENALTY

6 Sec. 1306.401. IMPOSITION OF PENALTY. The board may impose  
7 an administrative penalty on a person who violates this chapter,  
8 chapter 1301, 1302, or 1305 of this code or a rule or order adopted  
9 under this chapter.

10 Sec. 1306.402. AMOUNT OF PENALTY. (a) The amount of an  
11 administrative penalty may not exceed \$5,000 for each violation.  
12 Each day a violation continues or occurs is a separate violation for  
13 purposes of imposing a penalty.

14 (b) The amount of the penalty shall be based on:

15 (1) the seriousness of the violation, including:

16 (A) the nature, circumstance, extent, and  
17 gravity of any prohibited act; and

18 (B) the hazard or potential hazard created to the  
19 health, safety, or economic welfare of the public;

20 (2) the economic harm to property or the environment  
21 caused by the violation;

22 (3) the history of previous violations;

23 (4) the amount necessary to deter a future violation;

24 (5) efforts made to correct the violation; and

25 (6) any other matter that justice may require.

26 (c) The board by rule or through procedures adopted by the  
27 board and published in the Texas Register shall develop a

1 standardized penalty schedule based on the criteria listed in  
2 Subsection (b).

3 Sec. 1306.403. REPORT AND NOTICE OF VIOLATION AND PENALTY.

4 (a) If the enforcement committee determines that a violation  
5 occurred, the enforcement committee may issue to the board a report  
6 stating:

7 (1) the facts on which the determination is based; and

8 (2) the committee's recommendation on the imposition  
9 of the penalty, including a recommendation on the amount of the  
10 penalty.

11 (b) Not later than the 14th day after the date the report is  
12 issued, the enforcement committee shall give written notice of the  
13 report to the person.

14 (c) The notice must:

15 (1) include a brief summary of the alleged violation;

16 (2) state the amount of the recommended penalty; and

17 (3) inform the person of the person's right to a  
18 hearing on the occurrence of the violation, the amount of the  
19 penalty, or both.

20 Sec. 1306.404. PENALTY TO BE PAID OR HEARING REQUESTED. (a)

21 Not later than the 20th day after the date the person receives the  
22 notice, the person in writing may:

23 (1) accept the determination and recommended penalty  
24 of the enforcement committee; or

25 (2) make a request for a hearing on the occurrence of  
26 the violation, the amount of the penalty, or both.

27 (b) If the person accepts the determination and recommended

1 penalty of the enforcement committee, the board by order shall  
2 approve the determination and impose the recommended penalty.

3 (c) Failure to request a hearing or accept the determination  
4 and recommended penalty within the time provided by this section  
5 waives the right to a hearing under this chapter.

6 (d) If the board determines without a hearing that the  
7 person committed a violation and a penalty is to be imposed, the  
8 board shall:

9 (1) provide written notice to the person of the board's  
10 findings; and

11 (2) enter an order requiring the person to pay the  
12 recommended penalty.

13 Sec. 1306.405. HEARING. (a) If the person requests a  
14 hearing, the enforcement committee shall set a hearing and give  
15 written notice of the hearing to the person. An administrative law  
16 judge of the State Office of Administrative Hearings shall hold the  
17 hearing.

18 (b) The administrative law judge shall make findings of fact  
19 and conclusions of law and promptly issue to the board a proposal  
20 for a decision about the occurrence of the violation and the amount  
21 of a proposed penalty.

22 Sec. 1306.406. DECISION BY BOARD. (a) Based on the  
23 findings of fact, conclusions of law, and proposal for a decision,  
24 the board by order may:

25 (1) find that a violation occurred and impose a  
26 penalty; or

27 (2) find that a violation did not occur.

1       (b) The notice of the board's order given to the person must  
2 include a statement of the right of the person to judicial review of  
3 the order.

4       Sec. 1306.407. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

5       (a) Not later than the 30th day after the date the board's order  
6 becomes final, the person shall:

7               (1) pay the penalty; or

8               (2) file a petition for judicial review contesting the  
9 occurrence of the violation, the amount of the penalty, or both.

10       (b) Failure by the person to pay the penalty is grounds for  
11 the board to refuse to renew the person's license or registration  
12 and to refuse to issue a new license or registration to the person.

13       Sec. 1306.408. STAY OF ENFORCEMENT OF PENALTY. (a) Within  
14 the 30-day period prescribed by Section 1306.707, a person who  
15 files a petition for judicial review may:

16               (1) stay enforcement of the penalty by:

17                       (A) paying the penalty to the court for placement  
18 in an escrow account; or

19                       (B) giving the court a supersedeas bond approved  
20 by the court that:

21                               (i) is for the amount of the penalty; and

22                               (ii) is effective until all judicial review  
23 of the board's order is final; or

24               (2) request the court to stay enforcement of the  
25 penalty by:

26                       (A) filing with the court a sworn affidavit of  
27 the person stating that the person is financially unable to pay the

1 penalty and is financially unable to give the supersedeas bond; and

2 (B) sending a copy of the affidavit to the  
3 enforcement committee by certified mail.

4 (b) If the enforcement committee receives a copy of an  
5 affidavit under Subsection (a)(2), the executive director may file  
6 with the court, not later than the fifth day after the date the copy  
7 is received, a contest to the affidavit.

8 (c) The court shall hold a hearing on the facts alleged in  
9 the affidavit as soon as practicable and shall stay the enforcement  
10 of the penalty on finding that the alleged facts are true. The  
11 person who files an affidavit has the burden of proving that the  
12 person is financially unable to pay the penalty and to give a  
13 supersedeas bond.

14 Sec. 1306.409. DECISION BY COURT. (a) If the court  
15 sustains the finding that a violation occurred, the court may  
16 uphold or reduce the amount of the penalty and order the person to  
17 pay the full or reduced amount of the penalty.

18 (b) If the court does not sustain the finding that a  
19 violation occurred, the court shall order that a penalty is not  
20 owed.

21 Sec. 1306.410. REMITTANCE OF PENALTY AND INTEREST. (a) If  
22 the person paid the penalty and if the amount of the penalty is  
23 reduced or the penalty is not upheld by the court, the court shall  
24 order, when the court's judgment becomes final, that the  
25 appropriate amount plus accrued interest be remitted to the person.

26 (b) The interest accrues at the rate charged on loans to  
27 depository institutions by the New York Federal Reserve Bank.

1       (c) The interest shall be paid for the period beginning on  
2 the date the penalty is paid and ending on the date the penalty is  
3 remitted.

4       Sec. 1306.411. RELEASE OF BOND. (a) If the person gave a  
5 supersedeas bond and the penalty is not upheld by the court, the  
6 court shall order, when the court's judgment becomes final, the  
7 release of the bond.

8       (b) If the person gave a supersedeas bond and the amount of  
9 the penalty is reduced, the court shall order the release of the  
10 bond after the person pays the reduced amount.

11       Sec. 1306.412. COLLECTION OF PENALTY. (a) If the person  
12 does not pay the penalty and the enforcement of the penalty is not  
13 stayed, the penalty may be collected.

14       (b) The attorney general may sue to collect the penalty.

15       Sec. 1306.413. ADMINISTRATIVE PROCEDURE. A proceeding to  
16 impose the penalty is considered to be a contested case under  
17 Chapter 2001, Government Code.

18       SUBCHAPTER F . EXECUTIVE DIRECTOR AND OTHER BOARD PERSONNEL

19       Sec. 1306.501. EXECUTIVE DIRECTOR AND STAFF. (a) The board  
20 shall employ an executive director as the executive head of the  
21 agency.

22       (b) The board may employ personnel as necessary to  
23 administer this chapter, chapter 1301, 1302 or 1305 of this code.  
24 The board may determine the compensation and duties of its  
25 employees and the terms of their employment.

26       Sec. 1306.502. CAREER LADDER PROGRAM; PERFORMANCE  
27 EVALUATIONS. (a) The presiding officer of the board or the

1 presiding officer's designee shall develop an intra-agency career  
2 ladder program. The program must require intra-agency posting of  
3 each nonentry level position at least 10 days before the date of any  
4 public posting.

5 (b) The presiding officer of the board or the presiding  
6 officer's designee shall develop a system of annual performance  
7 evaluations based on measurable job tasks. All merit pay for board  
8 employees must be based on the system established under this  
9 subsection.

10 Sec. 1306.503. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)  
11 The executive director or the executive director's designee shall  
12 prepare and maintain a written policy statement that implements a  
13 program of equal employment opportunity to ensure that all  
14 personnel decisions are made without regard to race, color,  
15 disability, sex, religion, age, or national origin.

16 (b) The policy statement must include:

17 (1) personnel policies, including policies relating  
18 to recruitment, evaluation, selection, training, and promotion of  
19 personnel, that show the intent of the agency to avoid the unlawful  
20 employment practices described by Chapter 21, Labor Code; and

21 (2) an analysis of the extent to which the composition  
22 of the agency's personnel is in accordance with state and federal  
23 law and a description of reasonable methods to achieve compliance  
24 with state and federal law.

25 (c) The policy statement must:

26 (1) be updated annually;

27 (2) be reviewed by the state Commission on Human

1 Rights for compliance with Subsection (b)(1); and  
2 (3) be filed with the governor's office.

3 Sec. 1306.504. STANDARDS OF CONDUCT. The executive  
4 director or the executive director's designee shall provide to  
5 members of the board and to agency employees, as often as necessary,  
6 information regarding the requirements for office or employment  
7 under this chapter, including information regarding a person's  
8 responsibilities under applicable laws relating to standards of  
9 conduct for state officers or employees.

10 Sec. 1306.505. SEPARATION OF RESPONSIBILITIES. The board  
11 shall develop and implement policies that clearly separate the  
12 policy-making responsibilities of the board and the management  
13 responsibilities of the executive director and the staff of the  
14 agency.

15 SECTION 2. Sections 1301.002(1) and (1-b), Occupations  
16 Code, is amended to read as follows:

17 1301.002. DEFINITIONS. In this chapter:

18 (1) "Board" means the [~~Texas State Board of Plumbing~~  
19 ~~Examiners~~] Trades Board for the State of Texas.

20 (1-b) "Executive director" means the executive director  
21 of the [~~Texas State Board of Plumbing Examiners~~] Trades Board for  
22 the State of Texas.

23 SECTION 3. Section 1301.003, Occupations Code, is repealed.

24 SECTION 4. Subchapters C and E of Chapter 1301, Occupations  
25 Code, are repealed.

26 SECTION 5. Section 1301.201, Occupations Code, is repealed.

27 SECTION 6. Sections 1301.204, 1301.205, 1301.207, 1301.208

1 Occupations Code, are repealed.

2 SECTION 7. Sections 1302.002(1), Occupations Code, is  
3 amended to read as follows:

4 Sec. 1302.002. DEFINITIONS. In this chapter:

5 (1) "[~~Advisory b~~]Board" means the [~~air conditioning~~  
6 ~~and refrigeration contractors advisory board~~] Trades Board for the  
7 State of Texas.

8 SECTION 8. Sections 1302.101, Occupations Code, is amended  
9 to read as follows:

10 Sec. 1302.101. GENERAL POWERS AND DUTIES. (a) The  
11 [~~commission~~] board shall adopt rules for the practice of air  
12 conditioning and refrigeration contracting that are at least as  
13 strict as the standards provided by:

- 14 (1) the Uniform Mechanical Code; and  
15 (2) the International Mechanical Code.

16 (b) The executive director shall prescribe the design of an  
17 original and a renewal license.

18 (c) The [~~commission~~] board shall maintain a record of the  
19 commission's proceedings under this chapter.

20 (d) The executive director may authorize disbursements  
21 necessary to implement this chapter, including disbursements for  
22 office expenses, equipment costs, and other necessary facilities.

23 (e) The department or board may examine any criminal  
24 conviction, guilty plea, or deferred adjudication of an applicant  
25 for issuance or renewal of a license, including by obtaining any  
26 criminal history record information permitted by law.

27 SECTION 9. Sections 1302.1011, Occupations Code, is amended

1 to read as follows:

2           Sec. 1302.1011. RULES. The [~~commission~~] board shall adopt  
3 rules:

4           (1) providing for the licensing, certification, and  
5 registration of persons under this chapter, including requirements  
6 for the issuance and renewal of a contractor license, a technician  
7 certification, and a technician registration;

8           (2) establishing fees necessary for the  
9 administration of this chapter, including fees for issuance and  
10 renewal of a contractor license, a technician certification, and a  
11 technician registration; and

12           (3) implementing the requirements of this chapter as  
13 applicable to persons, entities, and activities regulated under  
14 this chapter.

15           SECTION 10. Subsection 1302.102 (a), Occupations Code, is  
16 amended to read as follows:

17           Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The  
18 [~~commission~~] board by rule shall set insurance requirements for a  
19 license holder under this chapter.

20           SECTION 11. Sections [1302.103](#), Occupations Code, is amended  
21 to read as follows:

22           Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE.  
23 The [~~commission~~] board, with the advice of the advisory board,  
24 shall adopt rules relating to the use, display, and advertisement  
25 of a license.

26           SECTION 12. Subchapter E, Chapter [1302](#) Occupations Code, is  
27 repealed.

1 SECTION 13. Section 1302.261, Occupations Code, is amended  
2 to read as follows:

3 Sec. 1302.261. TEMPORARY LICENSE. The [~~commission~~] board  
4 by rule may provide for the issuance of a temporary air conditioning  
5 and refrigeration contracting license to an applicant who:

6 (1) submits to the executive director an application  
7 on a form prescribed by the executive director; and

8 (2) pays the required fees.

9 SECTION 14. Subsection 1302.506(b), Occupations Code, is  
10 amended to read as follows:

11 (b) The [~~commission~~] board shall adopt rules providing for  
12 the issuance of a temporary registration under this section,  
13 including the qualifications and fee required for the registration.

14 SECTION 15. Section 1305.002 (1), Occupations Code, is  
15 amended to read as follows:

16 Sec. 1305.002. DEFINITIONS. In this chapter:

17 (1) "[~~Advisory b~~]Board" means the [~~Electrical Safety~~  
18 ~~and Licensing Advisory Board~~] Trades Board for the State of Texas.

19 SECTION 16. Subchapters B, Chapter 1302 Occupations Code,  
20 is repealed.

21 SECTION 17. Section 1305.101, Occupations Code, is amended  
22 to read as follows:

23 Sec. 1305.101. GENERAL POWERS AND DUTIES. (a) The  
24 executive director or [~~commission~~] board, as appropriate, shall:

25 (1) by rule establish the financial responsibility  
26 requirements for electrical contractors; and

27 (2) after publication of the National Electrical Code

1 by the National Fire Protection Association every three years,  
2 adopt the revised National Electrical Code as the electrical code  
3 for the state.

4 (b) The executive director or [~~commissioner~~] board, as  
5 appropriate, may:

6 (1) establish reciprocity agreements with other  
7 states that have licensing requirements substantially equivalent  
8 to the requirements of this chapter; and

9 (2) take other action as necessary to administer and  
10 enforce this chapter.

11 SECTION 18. Section 1305.102, Occupations Code, is amended  
12 to read as follows:

13 Sec. 1305.102. RULES. (a) The [~~commission~~] board shall  
14 adopt rules for the licensing of electricians, sign electricians,  
15 electrical sign contractors, electrical contractors, journeyman  
16 industrial electricians, journeyman linemen, residential appliance  
17 installers, and residential appliance installation contractors as  
18 prescribed by this chapter.

19 (b) The executive director by rule shall prescribe  
20 descriptions of the types of activities that may be performed by  
21 each class of license holder under this chapter.

22 (c) The executive director by rule shall adopt standards of  
23 conduct requirements for license holders under this chapter.

24 (d) The [~~commission~~] board may adopt rules regarding the  
25 registration of apprenticeship training programs and to require  
26 registered programs to report the names of persons enrolled in the  
27 programs.

1 SECTION 19. Section 1305.103, Occupations Code, is amended  
2 to read as follows:

3 Sec. 1305.103. FEES. The [~~commission~~]board shall establish  
4 and collect reasonable and necessary fees in amounts sufficient to  
5 cover the costs of administering this chapter.

6 SECTION 20. Subsection 1305.161(d), Occupations Code, is  
7 amended to read as follows:

8 (d) The [~~commission~~]board by rule shall set the fee,  
9 establish the qualifications, and provide for the issuance of a  
10 temporary apprentice license under this section.

11 SECTION 21. Section 1305.1615, Occupations Code, is amended  
12 to read as follows:

13 Sec. 1305.1615. EMERGENCY ELECTRICIAN LICENSE. (a) The  
14 [~~commission~~]board by rule shall establish criteria and procedures  
15 for the issuance of an emergency electrician license following a  
16 disaster, as that term is defined by Section 418.004, Government  
17 Code, to a person licensed as an electrician in another state of the  
18 United States.

19 (b) An emergency license issued under this section expires  
20 on the 90th day after the date of issuance.

21 (c) The [~~commission~~]board, with the advice of the advisory  
22 board, may adopt rules that provide for the extension of an  
23 emergency license issued under this section.

24 SECTION 22. Subsection 1305.1615(c), Occupations Code, is  
25 amended to read as follows:

26 (c) The [~~commission~~]board shall adopt rules necessary to  
27 implement this section.

1           SECTION 23. Not later than March 1, 2020, the Trades Board  
2 of Texas shall adopt rules as required by this Act.

3           SECTION 24. The Texas Department of Licensing and  
4 Regulation shall assist the Trades Board for the State of Texas for  
5 one year after the effective date of this Act. The Trades Board of  
6 the State of Texas may hold its meetings at the present location of  
7 the Texas State Board of Plumbing Examiners.

8           SECTION 25. This Act takes effect September 1, 2019.