

BILL ANALYSIS

Senate Research Center
88R4277 SCP-F

H.B. 1363
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Business & Commerce
5/15/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is statutory redundancy with regard to how a real estate inspector's client can be indemnified in the event that the inspector conducts an inspection in a negligent manner. State law requires the Texas Real Estate Commission (TREC) to maintain the real estate inspection recovery fund to satisfy civil court judgments against inspectors, while also requiring inspectors to maintain liability insurance. As a result of this redundancy in the law, liability insurance has become the primary source for consumer indemnification and the real estate inspection recovery fund has remained underutilized. H.B. 1363 would repeal provisions relating to the real estate inspection recovery fund and redirects its funds to the general revenue fund to offset any amount TREC is required to remit to the general revenue fund. This would streamline the process for consumer indemnification and could reduce expenses for inspectors and consumers.

H.B. 1363 amends current law relating to the repeal of the real estate inspection recovery fund.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1101.603(c), Occupations Code, as follows:

(c) Deletes existing text requiring the Texas Real Estate Commission (TREC), notwithstanding any other law, to deposit to the credit of the real estate inspection recovery fund, as determined by TREC, an administrative penalty collected under Subchapter O (Administrative Penalty) for a violation by a person licensed under certain chapters.

SECTION 2. Amends Section 1102.114, Occupations Code, as follows:

Sec. 1102.114. ISSUANCE OF LICENSE. Deletes existing text requiring TREC to issue the appropriate license to an applicant who pays a certain fee.

SECTION 3. Amends Section 1102.402, Occupations Code, as follows:

Sec. 1102.402. New heading: LICENSE INELIGIBILITY FOR CLAIM ON FUND. Provides that a person is not eligible for a license under Chapter 1102 (Real Estate Inspectors) until the person has reimbursed TREC in full for any amount paid on the person's behalf from the real estate inspection recovery fund under former Subchapter H (Real Estate Inspection Recovery Fund), as that subchapter existed on August 31, 2023, or a certain account, plus interest at the legal rate.

Deletes existing text of Subsections (a) and (b).

SECTION 4. Amends Section 1102.403(b), Occupations Code, as follows:

(b) Requires that an administrative penalty collected under Section 1102.403 (Administrative Penalty) for a violation by an inspector be deposited to the credit of the general revenue fund, rather than the real estate inspection recovery fund. Requires that a penalty collected under this section for a violation by a person who is not licensed under certain chapters be deposited to the credit of the real estate recovery trust account or the general revenue fund, rather than the real estate inspection recovery fund, as determined by TREC. Requires that any amounts deposited to the credit of the general revenue fund under this section offset any amount required to be remitted to that fund by TREC.

SECTION 5. Repealer: Section 1101.603(d) (relating to requiring that a certain administrative penalty be deposited to the credit of the trust account or the real estate inspection recovery fund), Occupations Code.

Repealer: Subchapter H (Real Estate Inspection Recovery Fund), Chapter 1102, Occupations Code.

SECTION 6. (a) Defines "commission" and "eligible inspector."

(b) Requires TREC, not later than December 31, 2023, to transfer not less than \$200,000 from the real estate inspection recovery fund to the general revenue fund.

(c) Requires TREC, not later than August 31, 2026, to 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, and to set aside an amount in the fund equal to that liability to be used for the payment of those pending claims.

(d) Requires TREC, if funds remain in the real estate inspection recovery fund after setting aside the amount determined under Subsection (c) of this section, to set aside an additional amount not to exceed \$10 per eligible inspector. Requires TREC to apply the amount set aside as a credit toward the renewal of the license of each eligible inspector whose license expires on or after September 30, 2026, and on or before September 30, 2028, and who renews the license on or before September 30, 2028.

(e) Requires TREC, after paying all claims for payment from the real estate inspection recovery fund and applying any credits under Subsection (d) of this section, to transfer any money remaining in the real estate inspection recovery fund to the general revenue fund.

(f) Requires that any money transferred to the general revenue fund under this section offset any amount required to be remitted to that fund by TREC.

SECTION 7. (a) Makes application of Section 1102.114, Occupations Code, as amended by this Act, prospective.

(b) Provides that the change in law made by this Act to Section 1102.402, Occupations Code, does not affect the authority of TREC to revoke a license, approval, or registration, or probate an order revoking a license under that section as it existed before the effective date of this Act, for a payment made from the real estate inspection recovery fund based on a cause of action that accrues before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) Makes application of Sections 1101.603 and 1102.403, Occupations Code, as amended by this Act, prospective.

(d) Provides that the repeal by this Act of Subchapter H, Chapter 1102, Occupations Code, subject to Subsection (e) of this section, does not affect the validity of a claim for payment from the real estate inspection recovery fund based on a cause of action that accrues before the effective date of this Act. Provides that a claim for payment from the fund based on a cause of action that accrues before the effective date of this Act is

governed by the law in effect on the date the cause of action accrued, and the former law is continued in effect for that purpose.

(e) Requires that a claim for payment from the real estate inspection recovery fund under former Section 1102.355 (Claim for Payment from Fund), Occupations Code, for a cause of action that accrues before the effective date of this Act be filed before March 1, 2026.

SECTION 8. Effective date: September 1, 2023.