

BILL ANALYSIS

H.B. 1363
By: Kuempel
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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 fund has remained underutilized. H.B. 1363 repeals provisions relating to the fund and redirects its funds to the general revenue fund to offset any amount TREC is required to remit to the general revenue fund.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1363 repeals Occupations Code provisions establishing the real estate inspection recovery fund and amends the Occupations Code to redirect the deposit of administrative penalties collected for real estate inspector violations to the general revenue fund for purposes of offsetting any amount required to be remitted to the general revenue fund by the Texas Real Estate Commission (TREC). The bill's provisions apply only to an administrative penalty that is collected on or after the bill's effective date.

H.B. 1363 requires TREC to take the following actions:

- transfer not less than \$200,000 from the real estate inspection recovery fund to the general revenue fund not later than December 31, 2023;
- determine the remaining liability of the recovery fund based on any pending claims for payment and set aside an amount in the fund equal to that liability to be used for the payment of pending claims not later than August 31, 2026;
- if funds remain in the recovery fund after setting aside the determined amount:
 - set aside an additional amount, capped at \$10 per eligible inspector; and
 - apply that amount as a credit toward the license renewal of each eligible inspector who holds a license as of September 1, 2023, and meets specified requirements; and
- after paying all claims for payment from the recovery fund and applying any credits, transfer any remaining money to the general revenue fund.

Any money transferred to the general revenue fund offsets any amounts required to be remitted to the general revenue fund by TREC.

H.B. 1363 expressly does not affect the authority of TREC to revoke a license, approval, or registration, or probate an order revoking a license for a payment made from the recovery fund based on a cause of action that accrues before the bill's effective date. The bill expressly does not affect the validity of a claim for payment from the recovery fund based on a cause of action that accrues before the bill's effective date and requires such a claim to be filed before March 1, 2026.

H.B. 1363 repeals the following provisions of the Occupations Code:

- Section 1101.603(d); and
- Subchapter H, Chapter 1102.

EFFECTIVE DATE

September 1, 2023.