By:  Kuempel (Senate Sponsor - Zaffirini) H.B. No. 1363

(In the Senate - Received from the House April 6, 2023; April 27, 2023, read first time and referred to Committee on Business & Commerce; May 19, 2023, reported favorably by the following vote: Yeas 10, Nays 0; May 19, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell                       X

Campbell             X

Creighton            X

Johnson              X

Kolkhorst            X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of the real estate inspection recovery fund.

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

SECTION 1.  Section 1101.603(c), Occupations Code, is amended to read as follows:

(c)  Notwithstanding any other law, the commission shall deposit to the credit of the trust account [~~or the real estate inspection recovery fund, as determined by the commission,~~] an administrative penalty collected under Subchapter O [~~for a violation by a person licensed under this chapter or Chapter 1102~~].

SECTION 2.  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)  [~~pays the fee required by Section 1102.352(a); and~~

[~~(3)~~]  submits proof of financial responsibility as required by Section 1102.1141.

SECTION 3.  Section 1102.402, Occupations Code, is amended to read as follows:

Sec. 1102.402.  LICENSE INELIGIBILITY [~~REVOCATION~~] FOR CLAIM ON FUND. [~~(a) The commission may revoke a license issued under this chapter or a license, approval, or registration issued under Chapter 1101 if the commission makes a payment from the real estate inspection recovery fund to satisfy all or part of a judgment against the person issued the license, approval, or registration.~~

[~~(b)  The commission may probate an order revoking a license.~~

[~~(c)~~]  A person is not eligible for a license under this chapter until the person has reimbursed the commission in full for any amount paid on the person's behalf from the real estate inspection recovery fund under former Subchapter H, as that subchapter existed on August 31, 2023, or the real estate recovery trust account under Subchapter M, Chapter 1101, plus interest at the legal rate.

SECTION 4.  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. 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 general revenue [~~real estate inspection recovery~~] fund, as determined by the commission. Any amounts deposited to the credit of the general revenue fund under this section shall offset any amount required to be remitted to that fund by the commission.

SECTION 5.  The following provisions of the Occupations Code are repealed:

(1)  Section 1101.603(d); and

(2)  Subchapter H, Chapter 1102.

SECTION 6.  (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, 2023.

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

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

(d)  If funds remain in the real estate inspection recovery fund after setting aside the amount determined under Subsection (c) of this section, the commission shall set aside an additional amount not to exceed $10 per eligible inspector. The commission shall 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)  After paying all claims for payment from the real estate inspection recovery fund and applying any credits under Subsection (d) of this section, the commission shall transfer any money remaining in the real estate inspection recovery fund to the general revenue fund.

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

SECTION 7.  (a)  Section 1102.114, Occupations Code, as amended by this Act, applies 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 the effective date of this Act 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)  The change in law made by this Act to Section 1102.402, Occupations Code, does not affect the authority of the Texas Real Estate Commission 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)  Sections 1101.603 and 1102.403, 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)  Subject to Subsection (e) of this section, the repeal by this Act of Subchapter H, Chapter 1102, Occupations Code, 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. 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)  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 the effective date of this Act must be filed before March 1, 2026.

SECTION 8.  This Act takes effect September 1, 2023.

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