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By: Whitmire

S.B. No. 1196

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas State Board of Plumbing Examiners; authorizing a fee.

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

SECTION 1. Section 1301.002(9-a), Occupations Code, is amended to read as follows:

(9-a) "Responsible master plumber" means a person licensed as a master plumber under this chapter who:

(A) allows the person's master plumber license to be used by one plumbing company for the purpose of offering and performing plumbing work under the person's master plumber license;

(B) is authorized to obtain permits for plumbing work;

(C) assumes responsibility for plumbing work performed under the person's license; and

(D) has submitted a certificate of insurance as required by Section 1301.3576 [~~and~~

~~[(E) has completed a training program required by Section 1301.3576].~~

SECTION 2. Section 1301.003, Occupations Code, is amended to read as follows:

Sec. 1301.003. APPLICATION OF SUNSET ACT. The Texas State Board of Plumbing Examiners 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, 2027 ~~[2019]~~.

SECTION 3. The heading to Section 1301.202, Occupations Code, is amended to read as follows:

Sec. 1301.202. CERTAIN PLUMBING EXAMINERS ~~[EXAMINER]~~.

SECTION 4. Section 1301.202(a), Occupations Code, is amended to read as follows:

(a) If an examination required for the issuance of a license, registration, or endorsement under this chapter contains a practical component, the ~~[The]~~ board shall employ or contract with one or more plumbing examiners to administer that portion of the examination. ~~[A plumbing examiner serves at the will of the board.]~~ A plumbing examiner must:

- (1) hold a license as a plumber issued under this chapter;
- (2) be knowledgeable of this chapter and municipal

ordinances relating to plumbing; and

(3) be qualified by experience and training in plumbing practice.

SECTION 5. Section 1301.203, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The board by rule shall assign priorities and prescribe procedures for conducting checks described by Subsection (b)(1) based on:

(1) the degree of potential harm to public health, safety, or property;

(2) the history of previous violations of this chapter or a rule adopted under this chapter by a person regulated under this chapter; and

(3) any other indication of increased risk to public health, safety, or property, as determined by the board.

SECTION 6. Subchapter E, Chapter 1301, Occupations Code, is amended by adding Section 1301.263 to read as follows:

Sec. 1301.263. EXAMINATION ADMINISTRATION AND CONTENT. (a) The board may adopt, recognize, develop, or contract for an examination required by this chapter, including the administration of the examination.

(b) For each examination required by this chapter, the board shall, to the extent feasible, adopt, recognize, develop, or

contract for an examination that includes components that may be administered:

(1) in writing or online; and

(2) by a person other than a plumbing examiner described by Section 1301.202.

(c) The board shall determine the passing score for an examination required by this chapter.

SECTION 7. Section 1301.303(e), Occupations Code, is amended to read as follows:

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

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

(2) the degree of harm to public health, safety, or property;

(3) the history of previous violations of this chapter by the person who is the subject of the complaint; and

(4) any other indication of increased risk to public health, safety, or property, as determined by the board.

SECTION 8. Subchapter F, Chapter 1301, Occupations Code, is amended by adding Section 1301.305 to read as follows:

Sec. 1301.305. PUBLIC ACCESS TO INFORMATION RELATING TO

DISCIPLINARY ACTIONS. (a) The board shall make available to the public through a toll-free telephone number, Internet website, or other easily accessible medium determined by the board the following information relating to a disciplinary action taken regarding a person regulated under this chapter:

(1) the identity of the person;

(2) the nature of the complaint that was the basis of the disciplinary action; and

(3) the disciplinary action taken by the board.

(b) The board may not include the name of the person who filed the complaint in the information made available under Subsection (a).

(c) The board shall present the information made available under Subsection (a) in an impartial manner using commonly understood language.

(d) The board shall regularly update the information made available under this section.

SECTION 9. Subchapter G, Chapter 1301, Occupations Code, is amended by adding Section 1301.3515 to read as follows:

Sec. 1301.3515. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department

S.B. No. 1196

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 board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The board shall conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The board may:

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

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

SECTION 10. Section 1301.3576, Occupations Code, is amended to read as follows:

Sec. 1301.3576. CERTIFICATE OF INSURANCE [~~AND TRAINING~~] FOR

RESPONSIBLE MASTER PLUMBER. Before a master plumber works as a responsible master plumber, the master plumber must

~~[(1)]~~ provide the board with a certificate of insurance that meets the requirements of Section 1301.552 ~~[; and~~

~~[(2) present evidence satisfactory to the board of successful completion of a training program approved or administered by the board regarding the laws and rules applicable to the operation of a plumbing business in this state].~~

SECTION 11. Subchapter G, Chapter 1301, Occupations Code, is amended by adding Section 1301.360 to read as follows:

Sec. 1301.360. TEMPORARY LICENSE. (a) The board by rule may provide for the issuance of a temporary license to an applicant who:

(1) submits to the board an application on a form prescribed by the board;

(2) meets preliminary qualifications established by board rule; and

(3) pays a fee set by the board.

(b) A temporary license issued under this section expires on the 30th day after the date of issuance and may not be renewed.

(c) A temporary license holder is subject to:

(1) this chapter;

(2) any law applicable to the activity for which the

license is required, including municipal rules, orders, or ordinances; and

(3) any rule of the board applicable to the license.

SECTION 12. Section 1301.401, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

Sec. 1301.401. ANNUAL RENEWAL REQUIRED. (a) A license, ~~or~~ registration, or endorsement under this chapter is valid for one year. On payment of the required fee, a license, registration, or endorsement may be renewed annually.

(c) An endorsement issued under Section 1301.356, 1301.3565, or 1301.357 expires on the date the master plumber or journeyman plumber license of the endorsement holder expires. The board shall adopt rules to provide for the license holder to renew the endorsement in the same transaction as the license if the license holder:

(1) has completed any continuing education requirement established by rule and applicable to the endorsement; and

(2) complies with other requirements prescribed by board rule.

SECTION 13. Sections 1301.404(a), (b), (c), (d), and (e), Occupations Code, are amended to read as follows:

(a) The board by rule shall establish:

(1) minimum curriculum standards for ~~[recognize, approve, and administer]~~ continuing education programs and courses for persons who hold a license ~~[licenses]~~ or endorsement issued ~~[endorsements]~~ under this chapter; and

(2) minimum qualifications for an instructor of the continuing education programs and courses described by Subdivision (1).

(b) A person who holds a license or endorsement under this chapter must complete at least six hours of continuing professional education annually ~~[each year the person holds the license or endorsement]~~ to renew the person's license or endorsement. Three of the six hours must be in the subjects of health protection, energy conservation, and water conservation.

(c) The executive director shall approve:

(1) a program or course that meets the minimum curriculum standards established by the board under Subsection (a); and

(2) an instructor who meets the minimum qualifications established by the board under Subsection (a) ~~[board by rule shall adopt the criteria for the continuing professional education].~~

(d) A person may receive credit for participating in a continuing professional education program or course only if the program or course is approved by the executive director ~~[provided:~~

~~[(1) by an individual, business, or association approved by the board; and~~

~~[(2) according to criteria adopted by the board].~~

(e) A person may complete the continuing professional education requirement of this section through a correspondence course as approved by the executive director ~~[board]~~.

SECTION 14. Section 1301.405, Occupations Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (b) to read as follows:

(a-1) The board by rule shall establish:

(1) minimum curriculum standards for a training program described by Subsection (a) for persons who hold a registration under this chapter; and

(2) minimum qualifications for an instructor of the training program.

(a-2) The executive director shall approve:

(1) a training program that meets the minimum curriculum standards established by the board under Subsection (a-1); and

(2) an instructor who meets the minimum qualifications established by the board under Subsection (a-1).

(b) A person may receive credit for participating in a training program only if the program is ~~[provided:~~

~~[(1) by a person]~~ approved by the executive director
~~[board; and~~

~~[(2) according to criteria adopted by the board].~~

SECTION 15. Subchapter H, Chapter 1301, Occupations Code, is amended by adding Section 1301.4055 to read as follows:

Sec. 1301.4055. PERIOD FOR COMPLETING CONTINUING EDUCATION.
The board shall adopt rules to ensure that each holder of a license, registration, or endorsement has at least 12 months to complete any continuing education required for the renewal of the license, registration, or endorsement.

SECTION 16. Section 1301.452(a), Occupations Code, is amended to read as follows:

(a) A person is subject to disciplinary action under Section 1301.451 if the person violates this chapter, an order issued by the board, or a board rule. A violation of this chapter includes:

(1) attempting to obtain or obtaining a license, endorsement, or registration through ~~[error or]~~ fraud;

(2) wilfully, negligently, or arbitrarily violating a municipal rule or ordinance that regulates sanitation, drainage, or plumbing;

(3) making a misrepresentation of services provided or to be provided;

(4) making a false promise with the intent to induce a

person to contract for a service; ~~[or]~~

(5) employing a person who does not hold a license or endorsement or who is not registered to engage in an activity for which a license, endorsement, or registration is required under this chapter;

(6) performing plumbing without holding the proper license, endorsement, or registration required by this chapter; or

(7) performing plumbing in violation of a plumbing code adopted under Section 1301.255.

SECTION 17. Section 1301.5071, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The procedures established under Subsection (a) must:

(1) identify the types of complaints for which an informal settlement conference may be used; and

(2) require appropriate documentation of each informal settlement conference that is conducted, including the outcome of the conference.

SECTION 18. The following provisions of the Occupations Code are repealed:

- (1) Section 1301.356(c);
- (2) Section 1301.3565(c);
- (3) Section 1301.357(c);
- (4) Section 1301.403(f); and

(5) Section 1301.505.

SECTION 19. (a) Not later than:

(1) September 1, 2023, the Texas State Board of Plumbing Examiners shall obtain criminal history record information using a person's name, date of birth, and other alphanumeric identifiers on each person who:

(A) on September 1, 2021, holds a license issued under Chapter 1301, Occupations Code; and

(B) did not undergo a criminal history record information check based on the person's name or fingerprints on submission of the person's initial license application; and

(2) September 1, 2025, the Texas State Board of Plumbing Examiners shall obtain criminal history record information using a person's fingerprints on each person who:

(A) on September 1, 2021, holds a license issued under Chapter 1301, Occupations Code; and

(B) did not undergo a criminal history record information check based on the person's fingerprints on submission of the person's initial license application.

(b) The Texas State Board of Plumbing Examiners may suspend the license of a person who holds a license under Chapter 1301, Occupations Code, who does not comply with a request by the board to provide information or fingerprints, in a form and manner

S.B. No. 1196
prescribed by the board, that would enable the board to obtain
criminal history record information as required by this section.

SECTION 20. Notwithstanding Section 1301.003, Occupations
Code, it is the intent of the legislature in enacting this Act to
amend Chapter 1301, Occupations Code, as that chapter was continued
in existence by Executive Order No. GA-06.

SECTION 21. As soon as practicable after the effective date
of this Act, the board shall adopt rules necessary to implement
the changes in law made by this Act to Chapter 1301, Occupations
Code.

SECTION 22. The change in law made by this Act to Section
1301.452, Occupations Code, applies only to conduct that occurs on
or after the effective date of this Act. Conduct that occurs
before that date is governed by the law in effect on the date the
conduct occurred, and the former law is continued in effect for
that purpose.

SECTION 23. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2021.