

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 1301.002(10), Occupations Code, is amended to read as follows:

(10) "Tradesman plumber-limited license holder" means a person who:

(A) has:

(i) completed at least 4,000 hours working under the direct supervision of a journeyman or master plumber as a plumber's apprentice; or

(ii) successfully completed a coherent sequence of courses in the plumbing trade that are offered through a career and technology education program, as described by Section 1301.3542;

(B) has passed the required examination;

(C) constructs and installs plumbing for one-family or two-family dwellings under the supervision of a responsible master plumber; and

(D) has fulfilled the other requirements of the board.

SECTION 3. 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 4. The heading to Section 1301.202, Occupations Code, is amended to read as follows:

Sec. 1301.202. CERTAIN PLUMBING EXAMINERS [EXAMINER].

SECTION 5. 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 6. Section 1301.203(b), Occupations Code, is amended to read as follows:

- (b) A field representative may:
- (1) conduct on-site license checks to determine compliance with this chapter;
 - (2) investigate consumer complaints filed under Section 1301.303;
 - (3) assist municipal plumbing inspectors in enforcing this chapter; and
 - (4) ~~[issue citations as provided by Section 1301.502;~~

and

~~[(5)]~~ in the performance of the field representative's other duties under this chapter, check the license, registration, or endorsement of a person regulated by the Texas Department of Licensing and Regulation in accordance with the memorandum of understanding adopted under Section 1301.259 and report any noncompliance to that agency.

SECTION 7. 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 8. Section 1301.258(b), Occupations Code, as added by Chapter 819 (S.B. 282), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

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

SECTION 9. 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 10. 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 11. Section 1301.304(a), Occupations Code, is amended to read as follows:

(a) The board [enforcement committee] or an employee designated by the board [enforcement committee] may investigate an alleged violation of this chapter or a board rule [that is reported to the board].

SECTION 12. 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 13. 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 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 14. Subchapter G, Chapter 1301, Occupations Code, is amended by adding Section 1301.3542 to read as follows:

Sec. 1301.3542. CAREER AND TECHNOLOGY EDUCATION PROGRAM FOR TRADESMAN PLUMBER-LIMITED LICENSE; INSTRUCTORS. (a) Notwithstanding Section 1301.354, a person who successfully completes a coherent sequence of courses in the plumbing trade that are offered through a career and technology education program may apply for and take an examination for a license as a tradesman plumber-limited license holder. The board may not require the person to register as a plumber's apprentice, pay any fee, or comply with Section 1301.354 or any other requirement of this chapter that applies to a person's eligibility to apply for and take the examination.

(b) A student of any age enrolled in a high school or institution of higher education is eligible to take the sequence of courses described by Subsection (a) without registering as a plumber's apprentice, paying any registration fee to the board, or complying with Section 1301.354 or any other requirement of this chapter that applies to enrolling or participating in those courses.

(c) If an applicant described by Subsection (a) successfully passes the examination for a license as a tradesman plumber-limited

license holder, the board shall issue the applicant the license.

(d) The board shall develop the courses described by Subsection (a). If the courses are to be offered at a high school, the courses must be approved by the State Board of Education.

(e) The courses must include an appropriate number of hours of classroom instruction and a practical component. The board may credit on-the-job training toward meeting the requirements under the practical component.

(f) A person may not provide instruction in a career and technology education program described by this section unless the person is licensed under this chapter as a master plumber, journeyman plumber, or plumbing inspector.

(g) A person described by Subsection (f) may provide the instruction in a full-time or part-time capacity as an employee, contractor, or volunteer of a high school or institution of higher education.

(h) The board may adopt rules necessary to implement this section, including procedures to verify a student's successful completion of the sequence of courses described by Subsection (a).

(i) In this section:

(1) "Career and technology education program" means a career and technology education program under Subchapter F, Chapter 29, Education Code, or similar program offered by an institution of higher education.

(2) "Institution of higher education" means an

~~institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code.~~

SECTION 15. 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 16. Subchapter G, Chapter 1301, Occupations Code, is amended by adding Section 1301.3581 to read as follows:

~~Sec. 1301.3581. RECIPROCITY. (a) The board may waive any prerequisite to obtaining a license, registration, or endorsement issued under this chapter for an applicant who holds a similar license, registration, or endorsement issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.~~

~~(b) The board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity if the other state has requirements for a license,~~

registration, or endorsement substantially equivalent to those of this state.

(c) An applicant under this section must:

(1) apply in the same manner and form as any other applicant under this chapter; and

(2) provide the board with documents and other evidence that substantiate the applicant's qualifications.

(d) An applicant for a license, registration, or endorsement issued under this section may not be required to undergo an examination to obtain the license, registration, or endorsement if the applicant has held an equivalent license, registration, or endorsement in another jurisdiction for at least two years. The board may adopt rules for determining whether a license, registration, or endorsement issued by another jurisdiction is equivalent to a license, registration, or endorsement issued under this chapter.

SECTION 17. 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 18. Section 1301.401, Occupations Code, is amended to read as follows:

Sec. 1301.401. ANNUAL RENEWAL REQUIRED; EXCEPTION. (a) A license, ~~or~~ registration, or endorsement under this chapter is valid for one year. Except as provided by Subsection (d), on ~~on~~ payment of the required fee, a license, registration, or endorsement may be renewed annually.

(b) The board by rule may adopt a system under which licenses, endorsements, and registrations expire on various dates during the year.

(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.

(d) A person who is employed by, under contract with, or engaged as a volunteer by a school or institution of higher education to provide instruction in a career and technology education program described by Section 1301.3542 and provides meaningful course instruction in the program, as determined under rules adopted under Section 1301.407, is not required to pay a fee to renew the person's license.

SECTION 19. Section 1301.404, Occupations Code, is amended by amending Subsections (a), (b), (c), (d), and (e) and adding Subsection (g) 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~~].

(g) A person who is employed by, under contract with, or engaged as a volunteer by a school or institution of higher education to provide instruction in a career and technology education program described by Section 1301.3542 and provides meaningful course instruction in the program, as determined under rules adopted under Section 1301.407, may renew the person's

license and any endorsement without complying with Subsection (b) if the person completes the hours of continuing professional education required by that subsection every three years.

SECTION 20. 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 21. 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 22. Subchapter H, Chapter 1301, Occupations Code, is amended by adding Section 1301.407 to read as follows:

Sec. 1301.407. PROCEDURES FOR VERIFYING CERTAIN EXEMPTIONS.

The board, in consultation with the State Board of Education and the Texas Higher Education Coordinating Board, as appropriate, may adopt rules as necessary to verify whether a person qualifies for an exemption from the required renewal fee, as described by Section 1301.401(c), or an exemption from required continuing professional education, as described by Section 1301.404(g), including rules providing for obtaining and evaluating written verification from the applicable school or institution of higher education of the person's provision of meaningful course instruction in a career and technology education program described by Section 1301.3542.

SECTION 23. 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-er]~~ 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 24. Section 1301.502(a), Occupations Code, is amended to read as follows:

(a) A [~~field representative,~~7] water district plumbing inspector[7] or, within the jurisdiction of the municipality, municipal plumbing inspector may issue a citation to a person who engages in conduct described by Section 1301.508.

SECTION 25. 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 26. The heading to Section 1301.703, Occupations Code, is amended to read as follows:

Sec. 1301.703. [REPORT AND] NOTICE OF VIOLATION AND PENALTY.

SECTION 27. Sections 1301.703(a) and (b), Occupations Code, are amended to read as follows:

(a) If the board [enforcement committee] determines that a violation occurred, the board [enforcement committee may issue to the board a report stating:

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

[~~(2) the committee's recommendation on the imposition of the penalty, including a recommendation on the amount of the penalty.~~

[~~(b) Not later than the 14th day after the date the report is issued, the enforcement committee~~] shall give written notice of the violation [report] to the person alleged to have committed the violation.

SECTION 28. Sections 1301.704(a) and (b), Occupations Code, are amended to read as follows:

(a) Not later than the 20th day after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended penalty of the board [enforcement committee]; or

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

(b) If the person accepts the determination and recommended penalty of the board [enforcement committee], the board by order shall approve the determination and impose the recommended penalty.

SECTION 29. Section 1301.705(a), Occupations Code, is amended to read as follows:

(a) If the person requests a hearing, the board [enforcement committee] shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

SECTION 30. Sections 1301.708(a) and (b), Occupations Code, are amended to read as follows:

(a) Within the 30-day period prescribed by Section 1301.707, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

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

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

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

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

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

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the board [enforcement committee] by certified mail.

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

SECTION 31. Section 372.0035(h), Health and Safety Code, is amended to read as follows:

(h) Within [A field representative of the Texas State Board of Plumbing Examiners or, within] the jurisdiction of a municipality, a municipal plumbing inspector may issue a citation to a person who violates this section.

SECTION 32. The following provisions of the Occupations Code are repealed:

- (1) Section 1301.258(c), as added by Chapter 819 (S.B. 282), Acts of the 78th Legislature, Regular Session, 2003;
- (2) Section 1301.304(b);
- (3) Section 1301.356(c);
- (4) Section 1301.3565(c);
- (5) Section 1301.357(c);
- (6) Section 1301.358;
- (7) Section 1301.403(f);

- (8) Section 1301.4522;
- (9) Section 1301.502(b); and
- (10) Section 1301.505.

SECTION 33. (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

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prescribed by the board, that would enable the board to obtain
criminal history record information as required by this section.

SECTION 34. 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 35. 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 36. 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 37. 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.

President of the Senate

Speaker of the House

I certify that H.B. No. 636 was passed by the House on April 14, 2021, by the following vote: Yeas 143, Nays 4, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 636 was passed by the Senate on May 13, 2021, by the following vote: Yeas 28, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor