

BILL ANALYSIS

Senate Research Center

S.B. 1097
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As Filed

DIGEST

Currently, the Texas Real Estate Advisory Committee serves as an advisory committee to the Texas Real Estate Commission (commission) for the purpose of advising the commission on the regulation of real estate inspectors. This bill creates the Texas Real Estate Inspector Board (board) as an independent subdivision of the Texas Real Estate Commission, and transfers the regulatory authority for real estate inspectors from the commission to the board.

PURPOSE

As proposed, S.B. 1097 creates the Texas Real Estate Inspector Board as an independent subdivision of the Texas Real Estate Commission, and the regulatory authority for real estate inspectors from the commission to the board.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Real Estate Inspector License Board in SECTION 1 (Sections 3, 4, 15, 21(d), and 28, Article 6573a.3, V.T.C.S.) and in SECTION 4 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 11A, V.T.C.S., by adding Article 6573a.3, as follows:

Art. 6573a.3. TEXAS REAL ESTATE INSPECTOR LICENSING BOARD

Sec. 1. SHORT TITLE: Real Estate Inspector License Act.

Sec. 2. DEFINITIONS. Defines "board," "continuing education course," "core inspection course," "direct supervision," "indirect supervision," "inspection," and "inspector."

Sec. 3. POWERS AND DUTIES OF BOARD. Requires the Texas Real Estate Inspector Licensing Board (board) to administer this article. Authorizes the board to adopt certain rules. Sets forth powers and duties of the board.

Sec. 4. TEXAS REAL ESTATE INSPECTOR LICENSING BOARD. Sets forth the constituency, terms, qualifications, and requirements of the board.

Sec. 5. REMOVAL OF MEMBER. Sets forth requirements and procedures for removal of a member of the board.

Sec. 6. CONFLICTS OF INTEREST. Sets forth conflicts of interest of a board member and procedures and requirements for dealing with such conflicts.

Sec. 7. LOBBYIST RESTRICTION. Prohibits a person from being a board member and be registered as a lobbyist.

Sec. 8. PUBLIC PARTICIPATION. Requires the board to develop and implement policies to provide for public participation.

Sec. 9. MEMBER TRAINING. Sets forth requirements for a training program to be taken by members before they assume the member's duties.

Sec. 10. RESPONSIBILITIES OF BOARD AND STAFF. Requires the board to develop and implement policies separating policy-making responsibilities and management responsibilities.

Sec. 11. CAREER LADDER. Requires the board to develop an intra-agency career ladder program.

Sec. 12. PERFORMANCE REVIEW. Requires the board or its designee to develop a system for annual performance evaluations.

Sec. 13. PUBLIC INFORMATION. Requires the board or its designee to provide to members of the board information about qualifications for office and responsibilities.

Sec. 14. EQUAL EMPLOYMENT OPPORTUNITY. Requires the board to prepare and maintain a policy providing for equal employment opportunities. Sets forth requirements of the policy. Requires the governor's office to deliver a biennial report to the legislature on information received under this section. Authorizes the report to be made separately or with other biennial reports.

Sec. 15. PUBLIC INTEREST INFORMATION. Sets forth requirements for disseminating information of the board. Requires the board, by rule, to establish methods for directing complaints to the board. Authorizes the board to provide for notification of certain items.

Sec. 16. INFORMATION ON COMPLAINTS. Requires the board to keep information on complaints. Sets forth items the information is to include.

Sec. 17. NOTIFICATION OF COMPLAINTS. Sets forth requirements for notification of complaints.

Sec. 18. ACCESSIBILITY. Requires the board to comply with laws related to program and facility accessibility. Requires the board to prepare and maintain a plan for non-English speakers to have access to the board's programs and services.

Sec. 19. LICENSE REQUIRED. Requires a person who acts as a professional inspector to hold an appropriate license issued by the board.

Sec. 20. POWER AND DUTIES OF LICENSE HOLDER. Sets forth powers and duties of a license holder.

Sec. 21. ELIGIBILITY; APPLICATION. Sets forth requirements of eligibility and application of an applicant for a license.

Sec. 22. EXAMINATION. Sets forth requirements and procedures of an examination to become a license holder.

Sec. 23. ISSUANCE OF LICENSE. Sets forth requirements and procedures for issuance of a license.

Sec. 24. RECIPROCAL LICENSES. Authorizes the board to waive any prerequisite for a license for an applicant with a valid license from another state which has a reciprocity agreement. Authorizes the board to enter into reciprocity agreements.

Sec. 25. EXPIRATION OF LICENSE; RENEWAL. Provides that a license expires on the fifth anniversary of the date issued. Sets forth requirements for renewing a license.

Sec. 26. LAPSED LICENSE. Sets forth requirements for obtaining a license if the license

has lapsed.

Sec. 27. NOTIFICATION; CHANGE OF ADDRESS. Sets forth requirements for a licensee's change of address.

Sec. 28. INACTIVE LICENSE. Requires the board, by rule, to adopt terms and conditions reactivate an inactive status license.

Sec. 29. FEES. Sets forth the fees charged by the board.

Sec. 30. CONTINUING EDUCATION STANDARDS. Sets forth requirements for continuing education by a licensee.

Sec. 31. PROHIBITED ACTS. Sets forth prohibited acts of inspectors.

Sec. 32. OFFENSE. Provides that an offense for engaging in the business of inspections without a license is a Class B misdemeanor.

Sec. 33. DISCIPLINARY ACTIONS. Authorizes the board to issue certain disciplinary actions. Sets forth requirements and procedures for disciplinary actions conducted by the board.

Sec. 34. DISCIPLINARY ACTIONS. Sets forth requirements and procedures for disciplinary actions conducted by the board.

Sec. 35. EXEMPTIONS. Sets forth exemptions of this article to certain persons.

Sec. 36. INSPECTION RECOVERY FUND. Requires the board to establish an inspection fund. Sets forth uses of the fund.

Sec. 37. LIMITATIONS ON CLAIMS AGAINST FUND. Sets forth the statute of limitations on claims against the inspection recovery fund. Sets forth notice requirement and waiver of right to recover from the inspection recovery fund.

Sec. 38. PREREQUISITES FOR CLAIMS AGAINST FUND. Sets forth prerequisites and procedures for recovering against the inspection recovery fund.

Sec. 39. LIMITATIONS ON PAYMENT FROM FUND. Provides that payments from the inspection recovery fund are subject to certain limitations. Entitles a person receiving payment from the inspection recovery fund to receive attorney's fees.

Sec. 40. CONSUMER NOTIFICATION. Sets forth notice requirements regarding giving notice on the availability of the inspection recovery fund for reimbursing certain persons.

Sec. 41. OPERATION OF FUND; NECESSARY BALANCES. Provides that Section 403.095, Government Code, does not apply to the inspection recovery fund. Sets forth required balances to be kept by the fund.

Sec. 42. RECOMMENDATIONS BY INTERESTED PARTIES. Require the board to consider recommendations relating to qualifications and licensing of inspectors.

Sec. 43. ADVERTISING. Sets forth requirements for advertising rules.

SECTION 2. Repealer: Section 23, Article 6573a, V.T.C.S. (Real estate inspectors).

SECTION 3. Sets forth appointments, terms, and requirements for initial members of the board.

SECTION 4. (a) Provides that unobligated and unexpended balance of the appropriations made to the Texas Real Estate Commission for the regulation of real estate inspectors for the fiscal year

ending August 31, 1997, is transferred to the Texas Real Estate Inspector Licensing Board.

(b) Provides for the transfer of certain records from the Texas Real Estate Commission to the Texas Real Estate Inspector Licensing Board.

(c) Abolishes the Texas Real Estate Inspector Committee on the effective date of this Act.

(d) Sets forth procedures for issuance of certain licenses.

(e) Authorizes the Texas Real Estate Inspector Licensing Board to adopt emergency rules.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: July 1, 1997.

SECTION 8. Emergency clause.