

OCCUPATIONS CODE

TITLE 7. PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND
HOUSING

SUBTITLE A. PROFESSIONS RELATED TO REAL ESTATE

CHAPTER 1102. REAL ESTATE INSPECTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1102.001. DEFINITIONS. In this chapter:

(1) "Apprentice inspector" means a person who is in training under the direct supervision of a professional inspector or a real estate inspector to become qualified to perform real estate inspections.

(2) "Broker" has the meaning assigned by Section [1101.002](#).

(3) "Commission" means the Texas Real Estate Commission.

(4) "Committee" means the Texas Real Estate Inspector Committee.

(5) "Core real estate inspection course" means an educational course approved by the commission that relates to real estate inspection, including a course on structural items, electrical items, mechanical systems, plumbing systems, roofing, business, law, standards of practice, report writing, appliances, or ethics.

(6) "Inspector" means a person who holds a license under this chapter.

(7) "License" means an apprentice inspector license, real estate inspector license, or professional inspector license.

(8) "Professional inspector" means a person who represents to the public that the person is trained and qualified to perform a real estate inspection and who accepts employment to perform a real estate inspection for a buyer or seller of real property.

(9) "Real estate inspection" means a written or oral opinion as to the condition of the improvements to real property, including structural items, electrical items, mechanical systems,

plumbing systems, or equipment.

(10) "Real estate inspector" means a person who represents to the public that the person is trained and qualified to perform a real estate inspection under the indirect supervision of a professional inspector and who accepts employment to perform a real estate inspection for a buyer or seller of real property.

(11) "Salesperson" has the meaning assigned by Section [1101.002](#).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.002. APPLICABILITY OF CHAPTER. (a) This chapter does not apply to a person who repairs, maintains, or inspects improvements to real property, including an electrician, plumber, carpenter, or person in the business of structural pest control in compliance with Chapter [1951](#), if the person does not represent to the public through personal solicitation or public advertising that the person is in the business of inspecting those improvements.

(b) This chapter does not prevent a person from performing an act the person is authorized to perform under a license or registration issued by this state or a governmental subdivision of this state under a law other than this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.003. RULES; INSPECTION FORMS. The commission by rule shall prescribe standard forms and require inspectors to use the forms to reduce discrepancies and create consistency in preparing reports of real estate inspections.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

SUBCHAPTER B. TEXAS REAL ESTATE INSPECTOR COMMITTEE

Sec. 1102.051. COMMITTEE MEMBERSHIP. (a) The Texas Real Estate Inspector Committee is an advisory committee appointed by the commission.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1411, Sec. 59(5), eff. September 1, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1411, Sec.

59(5), eff. September 1, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1411, Sec. 59(5), eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. 914), Sec. 37, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. 914), Sec. 59(5), eff. September 1, 2007.

Sec. 1102.058. GENERAL POWERS AND DUTIES OF COMMITTEE; RECOMMENDATIONS. (a) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1411, Sec. 59(12), eff. September 1, 2007.

(b) The committee shall recommend:

(1) rules for licensing inspectors in this state, including rules relating to:

- (A) education and experience requirements;
- (B) any qualifying examination;
- (C) continuing education requirements; and
- (D) granting or denying a license application;

(2) the form of any required application or other document;

(3) reasonable fees to implement this chapter, including application fees, examination fees, fees for renewal of a license, and any other fee required by law;

(4) rules relating to standards of practice for real estate inspection;

(5) rules establishing a code of professional conduct and ethics for an inspector; and

(6) any other commission action to provide a high degree of service to and protection of the public in dealing with an inspector.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. 914), Sec. 59(12), eff. September 1, 2007.

Sec. 1102.060. CONSIDERATION OF COMMITTEE RECOMMENDATIONS. The commission shall consider the committee's recommendations relating to qualifications and licensing of inspectors to assure the public of a quality professional inspection system in real estate transactions in this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 1102.101. APPRENTICE INSPECTOR LICENSE REQUIRED. A person may not act or attempt to act as an apprentice inspector in this state for a buyer or seller of real property unless the person:

(1) holds an apprentice inspector license under this chapter; and

(2) is under the direct supervision of a real estate inspector or professional inspector.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.102. REAL ESTATE INSPECTOR LICENSE REQUIRED. A person may not act or attempt to act as a real estate inspector in this state for a buyer or seller of real property unless the person:

(1) holds a real estate inspector license under this chapter; and

(2) is under the indirect supervision of a professional inspector.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.103. PROFESSIONAL INSPECTOR LICENSE REQUIRED. A person may not act as a professional inspector in this state for a buyer or seller of real property unless the person holds a professional inspector license under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.104. SUPERVISION. For the purposes of this chapter, a person performing a real estate inspection or preparing a report of a real estate inspection is under:

(1) direct supervision if the person is instructed and

controlled by a professional inspector or real estate inspector who is:

(A) responsible for the actions of the person;
(B) available if needed to consult with or assist the person; and

(C) physically present at the time and place of the inspection; and

(2) indirect supervision if the person is instructed and controlled by a professional inspector who is:

(A) responsible for the actions of the person;
and

(B) available if needed to consult with or assist the person.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.105. APPLICATION. An applicant for a license under this chapter must file with the commission an application on a form prescribed by the commission.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.1051. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The commission shall require that an applicant for a license or renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the commission, to the commission 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 commission shall refuse to issue a license to or renew the license of a person who does not comply with the requirement of Subsection (a).

(c) The commission shall conduct a criminal history check of each applicant for a license or renewal of a license using information:

(1) provided by the individual under this section; and
(2) made available to the commission by the Department of Public Safety, the Federal Bureau of Investigation, and any

other criminal justice agency under Chapter 411, Government Code.

(d) The commission may:

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. 2911), Sec. 1, eff. September 1, 2013.

Sec. 1102.106. MORAL CHARACTER DETERMINATION. As prescribed by Section 1101.353, the commission shall determine, on request, whether a person's moral character complies with the commission's moral character requirements for licensing under this chapter and may conduct a supplemental moral character determination of the person.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.107. ELIGIBILITY FOR APPRENTICE INSPECTOR LICENSE. To be eligible for an apprentice inspector license, an applicant must:

(1) at the time of application be:

(A) at least 18 years of age;

(B) a citizen of the United States or a lawfully admitted alien; and

(C) a resident of this state;

(2) be sponsored by a professional inspector; and

(3) satisfy the commission as to the applicant's honesty, trustworthiness, and integrity.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.108. ELIGIBILITY FOR REAL ESTATE INSPECTOR LICENSE. (a) To be eligible for a real estate inspector license, an applicant must:

(1) at the time of application have:

(A) held an apprentice inspector license for at

least three months; and

(B) performed at least 25 real estate inspections under direct supervision;

(2) submit evidence satisfactory to the commission of successful completion of at least 90 classroom hours of core real estate inspection courses;

(3) demonstrate competence based on the examination under Subchapter D;

(4) be sponsored by a professional inspector; and

(5) satisfy the commission as to the applicant's honesty, trustworthiness, integrity, and competence.

(b) The commission by rule may specify the length and content of the courses required by Subsection (a)(2).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.109. ELIGIBILITY FOR PROFESSIONAL INSPECTOR LICENSE. To be eligible for a professional inspector license, an applicant must:

(1) at the time of application have:

(A) held a real estate inspector license for at least 12 months; and

(B) performed at least 175 real estate inspections under indirect supervision;

(2) submit evidence satisfactory to the commission of successful completion of at least 40 classroom hours of core real estate inspection courses, in addition to the hours required by Section [1102.108](#);

(3) demonstrate competence based on the examination under Subchapter D; and

(4) satisfy the commission as to the applicant's honesty, trustworthiness, integrity, and competence.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 15, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. [2911](#)), Sec. 2, eff. September 1, 2013.

Sec. 1102.110. ELIGIBILITY OF PREVIOUS LICENSE HOLDERS.

(a) Notwithstanding Section [1102.108](#), an applicant is eligible for and has satisfied all requirements for a real estate inspector license if the applicant:

(1) held a real estate inspector license during the 24-month period preceding the date the application is filed;

(2) is sponsored by a professional inspector;

(3) satisfies the commission as to the applicant's honesty, trustworthiness, and integrity; and

(4) submits evidence satisfactory to the commission of successful completion of not less than the number of hours of continuing education courses that would have been required for the applicant to renew the license described by Subdivision (1).

(b) Notwithstanding Section [1102.109](#), an applicant is eligible for and has satisfied all requirements for a professional inspector license if the applicant:

(1) held a professional inspector license during the 24-month period preceding the date the application is filed;

(2) satisfies the commission as to the applicant's honesty, trustworthiness, and integrity; and

(3) submits evidence satisfactory to the commission of successful completion of not less than the number of hours of continuing education courses that would have been required for the applicant to renew the license described by Subdivision (1).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. [2911](#)), Sec. 3, eff. September 1, 2013.

Sec. 1102.111. SUBSTITUTE REQUIREMENTS. (a) The commission by rule shall provide for substitution of relevant experience and additional education in place of:

(1) the number of real estate inspections required for licensing; and

(2) the requirement that an applicant be:

(A) licensed as an apprentice inspector before

being licensed as a real estate inspector; or

(B) licensed as a real estate inspector before being licensed as a professional inspector.

(b) Rules adopted under Subsection (a) may not require an applicant to:

(1) complete more than 320 additional hours of core real estate inspection courses;

(2) complete more than 40 hours of field work, if the applicant completes correspondence or other course provided by alternative means; or

(3) have more than seven years of relevant experience.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 15, Sec. 11, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 297 (H.B. 1530), Sec. 11, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. 2911), Sec. 4, eff. September 1, 2013.

Sec. 1102.112. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. The commission may waive any license requirement for an applicant who holds a license from another state having license requirements substantially equivalent to those of this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.113. ELIGIBILITY AS SPONSOR. A professional inspector may sponsor an apprentice inspector or a real estate inspector only if the professional inspector provides sufficient proof to the commission that the professional inspector has completed at least 200 real estate inspections as a professional inspector.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.114. ISSUANCE OF LICENSE. The commission shall issue the appropriate license to an applicant who:

(1) meets the required qualifications;

(2) pays the fee required by Section 1102.352(a); and

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. 914), Sec. 38, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. 2911), Sec. 5, eff. September 1, 2013.

Sec. 1102.1141. FINANCIAL RESPONSIBILITY REQUIREMENT.

(a) An inspector must maintain financial responsibility in the form of:

(1) a liability insurance policy with a minimum limit of \$100,000 per occurrence and an aggregate annual total of at least \$100,000, and that:

(A) is written by an insurer authorized to engage in the business of insurance in this state, a risk retention group as defined by Chapter 2201, Insurance Code, or an eligible surplus lines insurer, as defined by Section 981.002, Insurance Code; and

(B) specifically provides for professional liability coverage to protect the public against a violation of Subchapter G; or

(2) a bond or other security accepted by the commission.

(b) A bond posted as security under Subsection (a)(2) must:

(1) be issued by a carrier admitted in this state;

(2) be in an amount not less than \$100,000;

(3) be continuous; and

(4) be cancellable by the surety only after the surety has provided at least 90 days' written notice to the commission before the effective date of the cancellation.

(c) Any security provided under this section in a form other than a bond must be convertible to cash by the commission for the benefit of a person who contracts with an inspector in this state, without requiring approval of a court, if the commission determines that the inspector has violated Subchapter G. Any amount remaining

after an inspector's license has expired shall be returned to the inspector not later than the 180th day after the date the license expires.

(d) An inspector who posts a bond or other security under this section must designate an unaffiliated third party to handle the processing of any claim regarding the bond or other security.

Added by Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. 2911), Sec. 6, eff. September 1, 2013.

Sec. 1102.115. DENIAL OF LICENSE. The provisions of Section 1101.364 governing the commission's denial of a license under that chapter apply to the commission's denial of a license under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.116. PROBATIONARY LICENSE. The commission may issue a probationary license under this chapter as prescribed by Section 1101.365.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.117. INACTIVE LICENSE. The commission by rule may adopt terms by which:

(1) an inspector may apply for, renew, or place a license on inactive status; and

(2) an inactive inspector may return to active status.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.118. CONTACT INFORMATION. (a) An inspector shall provide the commission with a current mailing address, telephone number, and, if available, e-mail address.

(b) Not later than the 30th day after the date of a change in the mailing address, telephone number, or e-mail address of an inspector, the inspector shall notify the commission of the change and pay any required fee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. 2911), Sec. 7, eff.

September 1, 2013.

SUBCHAPTER D. LICENSE EXAMINATION

Sec. 1102.151. CONTENT OF EXAMINATION. (a) A license examination must evaluate competence in the subject matter of each required core real estate inspection course.

(b) The commission shall:

(1) prescribe each license examination; and

(2) prepare or contract for the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.152. OFFERING OF EXAMINATION. The commission shall offer each license examination at least once every two months in Austin.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.153. DEADLINE FOR COMPLETION. A license applicant who does not satisfy the examination requirement before the first anniversary of the date the application is filed must submit a new application and pay another examination fee to be eligible for examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. [2911](#)), Sec. 8, eff. September 1, 2013.

Sec. 1102.154. EXAMINATION RESULTS. (a) Not later than the 30th day after the date an examination is administered, the commission shall notify each examinee of the results of the examination. If an examination is graded or reviewed by a national testing service, the commission shall notify each examinee of the results of the examination not later than the 14th day after the date the commission receives the results from the testing service.

(b) If the notice of the results of an examination graded or reviewed by a national testing service will not be given before the 91st day after the examination date, the commission shall notify

each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails an examination, the commission shall provide to the person an analysis of the person's performance on the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.155. REEXAMINATION. (a) An applicant who fails the examination may apply for reexamination by filing a request with the commission and paying another examination fee.

(b) An applicant who fails the examination three consecutive times may not apply for reexamination or submit a new license application unless after the date of the third failed examination the applicant completes additional educational requirements as prescribed by the commission and submits evidence satisfactory to the commission of successful completion of those requirements.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. [2911](#)), Sec. 9, eff. September 1, 2013.

SUBCHAPTER E. LICENSE RENEWAL

Sec. 1102.201. LICENSE TERM AND EXPIRATION. (a) The commission may issue or renew a license for a period not to exceed 24 months.

(b) A renewal fee for a license under this chapter may not exceed, calculated on an annual basis, the amount of the fee established under Section [1102.251](#).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 15, Sec. 12, eff. Sept. 1, 2003.

Sec. 1102.202. NOTICE OF LICENSE EXPIRATION. Not later than the 31st day before the expiration date of a person's license, the commission shall provide notice of the expiration to the person.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. [2911](#)), Sec. 10, eff. September 1, 2013.

Sec. 1102.203. RENEWAL OF LICENSE; INFORMATION REQUIRED.

(a) A person may renew an unexpired license by paying the required renewal fee to the commission before the expiration date of the license and providing proof of financial responsibility as required by Section [1102.1141](#).

(a-1) A person whose license has been expired for 90 days or less may renew the license by paying to the commission a fee equal to 1-1/2 times the required renewal fee. If a license has been expired for more than 90 days but less than six months, the person may renew the license by paying to the commission a fee equal to two times the required renewal fee.

(b) If the person's license has been expired for six months or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination, if required, and complying with the requirements and procedures for obtaining an original license.

(c) Each applicant for renewal of a license must disclose to the commission whether the applicant has:

(1) entered a plea of guilty or nolo contendere to a felony; or

(2) been convicted of a felony and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal.

(d) The disclosure under Subsection (c) must be provided even if an order has granted community supervision suspending the imposition of the sentence.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.163(a), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. [914](#)), Sec. 39, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. [2911](#)), Sec. 11, eff. September 1, 2013.

Sec. 1102.205. CONTINUING EDUCATION REQUIREMENTS. (a) The commission shall approve, recognize, prepare, or administer a continuing education program for inspectors.

(b) As a prerequisite for renewal of a real estate inspector license, professional inspector license, or apprentice inspector license, the inspector must participate in the continuing education program and submit evidence satisfactory to the commission of successful completion of at least 16 classroom hours of core real estate inspection courses or continuing education courses for each year of the license period preceding the renewal.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.164(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 825 (S.B. [810](#)), Sec. 12, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. [914](#)), Sec. 40, eff. September 1, 2007.

SUBCHAPTER F. LICENSE FEES

Sec. 1102.251. FEES. The commission shall charge and collect reasonable and necessary fees to cover the cost of administering this chapter for:

- (1) filing an original application for an apprentice inspector license;
- (2) filing an original application for a real estate inspector license;
- (3) filing an original application for a professional inspector license;
- (4) renewal of an apprentice inspector license;
- (5) renewal of a real estate inspector license;
- (6) renewal of a professional inspector license;
- (7) a license examination;

(8) a request to change a place of business or to replace a lost or destroyed license; and

(9) filing a request for issuance of a license because of a change of name, return to active status, or change in sponsoring professional inspector.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.165(a), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. 914), Sec. 41, eff. September 1, 2007.

SUBCHAPTER G. PROHIBITED ACTS

Sec. 1102.301. NEGLIGENCE OR INCOMPETENCE. An inspector may not perform a real estate inspection in a negligent or incompetent manner.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.302. AGREEMENT FOR SPECIFIC REPORT; DISHONESTY. An inspector may not:

(1) accept an assignment for real estate inspection if the employment or a fee is contingent on the reporting of:

(A) a specific, predetermined condition of the improvements to real property; or

(B) specific findings other than those that the inspector knows to be true when the assignment is accepted; or

(2) act in a manner or engage in a practice that:

(A) is dishonest or fraudulent; or

(B) involves deceit or misrepresentation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.303. ACTING IN CONFLICTING CAPACITIES. An inspector may not act in a transaction in the dual capacity of inspector and:

(1) undisclosed principal; or

(2) broker or salesperson.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.304. REPAIRS AND MAINTENANCE. An inspector may not perform or agree to perform repairs or maintenance in connection with a real estate inspection under an earnest money contract, lease, or exchange of real property.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.305. VIOLATION OF LAW. An inspector may not violate this chapter or a rule adopted by the commission.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

SUBCHAPTER H. REAL ESTATE INSPECTION RECOVERY FUND

Sec. 1102.351. REAL ESTATE INSPECTION RECOVERY FUND. The commission shall maintain a real estate inspection recovery fund to reimburse aggrieved persons who suffer actual damages from an inspector's act in violation of Subchapter G. The inspector must have held a license at the time the act was committed.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.352. PAYMENTS INTO FUND. (a) In addition to any other fees required by this chapter, a person who passes a license examination must pay a fee not to exceed \$200. The commission shall deposit the fee to the credit of the fund before issuing the license.

(b) If the balance in the fund at any time is less than \$300,000, each inspector at the next license renewal must pay, in addition to the renewal fee, a fee that is equal to the lesser of \$75 or a pro rata share of the amount necessary to obtain a balance in the fund of \$450,000. The commission shall deposit the additional fee to the credit of the fund.

(c) To ensure the availability of a sufficient amount to pay anticipated claims on the fund, the commission by rule may provide for the collection of assessments at different times and under conditions other than those specified by this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.166(a), eff. Sept. 1, 2003.

Sec. 1102.353. MANAGEMENT OF FUND. (a) The commission shall hold money credited to the fund in trust to carry out the purpose of the fund.

(b) Money credited to the fund may be invested in the same manner as money of the Employees Retirement System of Texas, except that an investment may not be made that would impair the liquidity necessary to make payments from the fund as required by this subchapter.

(c) Interest from the investments shall be deposited to the credit of the fund.

(d) If the balance in the fund on December 31 of a year is more than \$600,000, the commission shall transfer the amount in excess of \$600,000 to the credit of the general revenue fund.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.354. DEADLINE FOR ACTION; NOTICE TO COMMISSION.

(a) An action for a judgment that may result in an order for payment from the fund may not be brought after the second anniversary of the date the cause of action accrues.

(b) When an aggrieved person brings an action for a judgment that may result in an order for payment from the fund, the inspector against whom the action is brought shall notify the commission in writing of the action.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.355. CLAIM FOR PAYMENT FROM FUND. (a) An aggrieved person who obtains a court judgment against an inspector for a violation of Subchapter G may, after final judgment is entered, execution returned nulla bona, and a judgment lien perfected, file a verified claim in the court that entered the judgment.

(b) After the 20th day after the date the aggrieved person gives written notice to the commission and judgment debtor, the person may apply to the court that entered the judgment for an order

for payment from the fund of the amount unpaid on the judgment. The court shall proceed promptly on the application.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.356. ISSUES AT HEARING. At the hearing on the application for payment from the fund, the aggrieved person must show:

(1) that the judgment is based on facts allowing recovery under this subchapter;

(2) that the person is not:

(A) the spouse of the judgment debtor or the personal representative of the spouse; or

(B) an inspector;

(3) that, according to the best information available, the judgment debtor does not have sufficient attachable assets in this or another state to satisfy the judgment;

(4) the amount that may be realized from the sale of assets liable to be sold or applied to satisfy the judgment; and

(5) the balance remaining due on the judgment after application of the amount under Subdivision (4).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.166(b), eff. Sept. 1, 2003.

Sec. 1102.357. COMMISSION RESPONSE. (a) On receipt of notice under Section [1102.355](#), the commission may notify the attorney general of the commission's desire to enter an appearance, file a response, appear at the hearing, defend the action, or take any other action the commission considers appropriate.

(b) The commission and the attorney general may act under Subsection (a) only to:

(1) protect the fund from spurious or unjust claims;

or

(2) ensure compliance with the requirements for recovery under this subchapter.

(c) The commission may relitigate in the hearing any material and relevant issue that was determined in the action that

resulted in the judgment in favor of the aggrieved person.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.358. COURT ORDER FOR PAYMENT. The court shall order the commission to pay from the fund the amount the court finds payable on the claim under this subchapter if at the hearing the court is satisfied:

(1) of the truth of each matter the aggrieved person is required by Section 1102.356 to show; and

(2) that the aggrieved person has satisfied each requirement of Sections 1102.355 and 1102.356.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.359. PAYMENT LIMITS; ATTORNEY'S FEES. (a) Payments from the fund for claims, including attorney's fees, interest, and court costs, arising out of a single transaction may not exceed a total of \$12,500, regardless of the number of claimants.

(b) Payments from the fund for claims based on judgments against a single inspector may not exceed a total of \$30,000 until the inspector has reimbursed the fund for all amounts paid.

(c) If the court finds that the total amount of claims against an inspector exceeds the limitations contained in this section, the court shall proportionally reduce the amount payable on each claim.

(d) A person receiving payment from the fund is entitled to reasonable attorney's fees in the amount determined by the court, subject to the limitation prescribed by this section.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.166(c), eff. Sept. 1, 2003.

Sec. 1102.360. APPLICATION OF JUDGMENT RECOVERY. An aggrieved person who receives a recovery on a judgment against a single defendant before receiving a payment from the fund must apply the recovery first to actual damages.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.361. SUBROGATION. (a) The commission is subrogated to all rights of a judgment creditor to the extent of an amount paid from the fund, and the judgment creditor shall assign to the commission all right, title, and interest in the judgment up to that amount.

(b) The commission has priority for repayment from any subsequent recovery on the judgment.

(c) The commission shall deposit any amount recovered on the judgment to the credit of the fund.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.362. EFFECT ON DISCIPLINARY PROCEEDINGS. (a) This subchapter does not limit the commission's authority to take disciplinary action against an inspector for a violation of this chapter or a commission rule.

(b) An inspector's repayment of all amounts owed to the fund does not affect another disciplinary proceeding brought under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.363. WAIVER OF RIGHTS. An aggrieved person who does not comply with this subchapter waives the person's rights under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.364. NOTICE TO CONSUMERS AND SERVICE RECIPIENTS. (a) Each inspector shall provide notice to consumers and service recipients of the availability of payment from the fund for aggrieved persons:

(1) on a written contract for the inspector's services;

(2) on a brochure that the inspector distributes;

(3) on a sign prominently displayed in the inspector's place of business;

(4) in a bill or receipt for the inspector's services;

or

(5) in a prominent display on the Internet website of a person regulated under this chapter.

(b) The notice must include:

(1) the commission's name, mailing address, and telephone number; and

(2) any other information required by commission rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 15, Sec. 13, eff. Sept. 1, 2003.

SUBCHAPTER I. DISCIPLINARY PROCEEDINGS, PENALTIES, AND
ENFORCEMENT PROVISIONS

Sec. 1102.401. DISCIPLINARY POWERS OF COMMISSION. (a) The commission may investigate an action of an inspector and, after notice and hearing as provided by Section [1101.657](#), reprimand the inspector, place the inspector's license on probation, or suspend or revoke the inspector's license for a violation of this chapter or a commission rule.

(b) An inspector whose license is revoked under this section may not apply to the commission for a new license until after the first anniversary of the date of the revocation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.402. LICENSE 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 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 or the real estate recovery trust account under Subchapter M, Chapter [1101](#), plus interest at the legal rate.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 297 (H.B. 1530), Sec. 12, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 698 (H.B. 2911), Sec. 12, eff. September 1, 2013.

Sec. 1102.403. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty as provided by Subchapter O, Chapter 1101, on a person who violates this chapter or a rule adopted or order issued by the commission under this chapter or Chapter 1101.

(b) An administrative penalty collected under this section for a violation by an inspector shall be deposited to the credit of the 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 real estate inspection recovery fund, as determined by the commission.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.160(g), eff. Sept. 1, 2003.

Sec. 1102.404. INJUNCTIVE RELIEF. The commission, the attorney general, a county attorney, or a district attorney, as applicable, may bring an action to enforce this chapter or to abate or enjoin a violation of this chapter or a rule adopted under this chapter as prescribed by Sections 1101.751 and 1101.752.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.405. APPEAL BOND EXEMPTION. The commission is not required to give an appeal bond in an action to enforce this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.406. GENERAL CRIMINAL PENALTY. (a) A person commits an offense if the person wilfully violates or fails to comply with this chapter or a commission order.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1102.407. CRIMINAL PENALTY FOR PRACTICING WITHOUT LICENSE. (a) A person commits an offense if the person does not hold a license under this chapter and knowingly engages in the business of real estate inspecting, including performing an inspection while the person's license is revoked or suspended.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.167(a), eff. Sept. 1, 2003.

Sec. 1102.408. TEMPORARY SUSPENSION. (a) The presiding officer of the commission shall appoint a disciplinary panel consisting of three commission members to determine whether a person's license to practice under this chapter should be temporarily suspended.

(b) If the disciplinary panel determines from the information presented to the panel that a person licensed to practice under this chapter would, by the person's continued practice, constitute a continuing threat to the public welfare, the panel shall temporarily suspend the license of that person.

(c) A license may be suspended under this section without notice or hearing on the complaint if:

(1) institution of proceedings for a hearing before the commission is initiated simultaneously with the temporary suspension; and

(2) a hearing is held under Chapter 2001, Government Code, and this chapter as soon as possible.

(d) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening the panel at one location is inconvenient for any member of the panel.

Added by Acts 2007, 80th Leg., R.S., Ch. 1411 (S.B. 914), Sec. 43, eff. September 1, 2007.