

OCCUPATIONS CODE

TITLE 12. PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND SAFETY

SUBTITLE B. PRACTICES RELATED TO HEALTH AND SAFETY

CHAPTER 1952. CODE ENFORCEMENT OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1952.001. DEFINITIONS. In this chapter:

(1) "Code enforcement" means the inspection of public or private premises for the purpose of:

(A) identifying environmental hazards, including:

(i) fire or health hazards;
(ii) nuisance violations;
(iii) unsafe building conditions; and
(iv) violations of any fire, health, or building regulation, statute, or ordinance; and

(B) improving and rehabilitating those premises with regard to those hazards.

(2) "Code enforcement officer" means an agent of this state or a political subdivision of this state who engages in code enforcement.

Text of subdivision effective on September 01, 2017

(2-a) "Commission" means the Texas Commission of Licensing and Regulation.

Text of subdivision effective until September 01, 2017

(3) "Department" means the Department of State Health Services.

Text of subdivision effective on September 01, 2017

(3) "Department" means the Texas Department of Licensing and Regulation.

Text of subdivision effective until September 01, 2017

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Text of subdivision effective on September 01, 2017

(4) "Executive director" means the executive director of the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.227, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.254, eff. September 1, 2017.

Sec. 1952.002. EXEMPTION FROM REGISTRATION. A person is not required to be registered under this chapter if the person:

(1) is required to be licensed or registered under another law of this state; and

(2) engages in code enforcement under that license or registration.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1952.003. EMPLOYMENT OF REGISTERED PERSON NOT REQUIRED. This state or a political subdivision of this state may engage in code enforcement without employing a person registered under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of section effective until September 01, 2017

Sec. 1952.051. RULES. The executive commissioner by rule shall:

(1) adopt standards and education requirements consistent with those established under Chapter 654, Government Code, for the registration of:

(A) code enforcement officers; and

(B) code enforcement officers in training; and

(2) prescribe application forms for original and renewal certificates of registration.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.229, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.256, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1952.051. GENERAL POWERS AND DUTIES. (a) The executive director shall administer and enforce this chapter.

(b) The commission by rule shall adopt standards and education requirements consistent with those established under Chapter 654, Government Code, for the registration of:

(1) code enforcement officers; and

(2) code enforcement officers in training.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.229, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.256, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1952.052. FEES. (a) The executive commissioner shall set fees in amounts that are reasonable and necessary to cover the cost of administering this chapter.

(b) The executive commissioner shall set fees for issuing or renewing a certificate of registration in amounts designed to allow the department to recover from the certificate of registration holders all of the department's direct and indirect costs in administering and enforcing this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1079, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.230, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(22), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 1952.053. REGISTER OF APPLICATIONS. (a) The department shall maintain a register of each application for a certificate of registration under this chapter.

Text of subsection effective until September 01, 2017

(b) The register must include:

- (1) the name, residence, date of birth, and social security number of the applicant;
- (2) the name and address of the employer or business of the applicant;
- (3) the date of the application;
- (4) the education and experience qualifications of the applicant;
- (5) the action taken by the department regarding the application and the date of the action;
- (6) the serial number of any certificate of registration issued to the applicant; and
- (7) any other information required by department rule.

Text of subsection effective on September 01, 2017

(b) The register must include:

- (1) the name, residence, date of birth, and social security number of the applicant;
- (2) the name and address of the employer or business of the applicant;
- (3) the date of the application;
- (4) the education and experience qualifications of the applicant;

(5) the action taken by the department regarding the application and the date of the action;

(6) the serial number of any certificate of registration issued to the applicant; and

(7) any other information required by commission rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.231, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.257, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1952.054. RECORD OF PROCEEDINGS. The department shall keep a record of proceedings under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(23), eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1952.055. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.258, eff. September 1, 2017.

SUBCHAPTER C. REGISTRATION REQUIREMENTS

Sec. 1952.101. REGISTRATION REQUIRED. Except as permitted by Section 1952.002, a person may not claim to be a code enforcement officer or use the title "code enforcement officer" unless the person holds a certificate of registration under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Text of section effective until September 01, 2017

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. To be eligible to receive a certificate of registration as a code enforcement officer, a person must:

(1) have at least one year of full-time experience in the field of code enforcement;

(2) pass the examination conducted by the department or the department's designee;

(3) pay the application, examination, and registration fees; and

(4) meet any other requirements prescribed by this chapter or by department rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.232, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.259, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. To be eligible to receive a certificate of registration as a code enforcement officer, a person must:

(1) submit an application in the manner and on the form prescribed by the executive director;

(2) have at least one year of full-time experience in the field of code enforcement;

(3) pass the examination required by the department;

(4) pay the application, examination, and registration fees; and

(5) meet any other requirements prescribed by this chapter or by commission rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.232, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.259,

eff. September 1, 2017.

Sec. 1952.103. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER IN TRAINING.

Text of subsection effective until September 01, 2017

(a) An applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement is entitled to receive a certificate of registration as a code enforcement officer in training on:

(1) passing the examination described by Section [1952.102\(2\)](#); and

(2) paying the required fees.

Text of subsection effective on September 01, 2017

(a) An applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement is entitled to receive a certificate of registration as a code enforcement officer in training on:

(1) passing the examination described by Section [1952.102\(3\)](#);

(2) paying the required fees; and

(3) meeting any other requirement prescribed by this chapter or by commission rule.

(b) A certificate issued under this section expires on the first anniversary of the date of issuance.

(c) A code enforcement officer in training may engage in code enforcement under the supervision of a registered code enforcement officer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.260, eff. September 1, 2017.

Sec. 1952.104. RECIPROCAL REGISTRATION. On proper application, the department shall issue a certificate of registration to a license holder or registrant of another state that has requirements for the licensing or registration of a code

enforcement officer that are at least equivalent to those of this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Text of section effective until September 01, 2017

Sec. 1952.105. RENEWAL OR REINSTATEMENT OF CERTIFICATE.

(a) A certificate of registration issued under this chapter expires on the second anniversary of the date of issuance and may be renewed biennially on payment of the required renewal fee and on completion of the continuing education requirements prescribed by department rule.

(b) The department may reinstate as provided by department rule a certificate of registration that was revoked for failure to pay the renewal fee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.452(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.233, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.261, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(24), eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1952.105. TERM OF CERTIFICATE; RENEWAL. (a) A certificate of registration issued under this chapter expires on the second anniversary of the date of issuance and may be renewed biennially on payment of the required renewal fee and on completion of the continuing education requirements prescribed by commission rule.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838, Sec. 1.298(24), eff. September 1, 2017.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.452(a), eff.

Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.233, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.261, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.262, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(24), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1952.1051. CONTINUING EDUCATION. The executive commissioner by rule shall prescribe continuing education requirements for code enforcement officers and code enforcement officers in training that:

(1) establish the number of hours of continuing education required for renewal of a certificate of registration;

(2) establish an approved curriculum that includes material regarding changes in applicable law; and

(3) provide that the approved curriculum may be taught by suitable public agencies and by private entities approved by the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.453(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.234, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.263, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1952.1051. CONTINUING EDUCATION. The commission by rule shall prescribe continuing education requirements for code enforcement officers and code enforcement officers in training that:

(1) establish the number of hours of continuing education required for renewal of a certificate of registration;

(2) establish an approved curriculum that includes material regarding changes in applicable law; and

(3) provide that the approved curriculum may be taught by suitable public agencies and by private entities approved by the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.453(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.234, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.263, eff. September 1, 2017.

Sec. 1952.106. STATEWIDE VALIDITY OF CERTIFICATE; NONTRANSFERABILITY. (a) A certificate of registration issued under this chapter is valid throughout this state.

(b) A certificate of registration issued under this chapter is not assignable or transferable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER D. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

Text of section effective until September 01, 2017

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The department may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for:

(1) unprofessional conduct;

(2) fraud, deceit, or negligence; or

(3) misconduct in the practice of code enforcement or a related profession.

(b) The department shall suspend or revoke a certificate of registration issued under this chapter if the department determines

that the certificate holder:

(1) engaged in fraud or deceit in obtaining a certificate; or

(2) is grossly negligent, incompetent, or guilty of misconduct in the practice of code enforcement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.264, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for:

(1) unprofessional conduct;

(2) fraud, deceit, or negligence; or

(3) misconduct in the practice of code enforcement or a related profession.

(b) The commission or executive director shall suspend or revoke a certificate of registration issued under this chapter if the commission or executive director determines that the certificate holder:

(1) engaged in fraud or deceit in obtaining a certificate; or

(2) is grossly negligent, incompetent, or guilty of misconduct in the practice of code enforcement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.264, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1952.152. PROCEDURE. The denial, suspension, or

revocation of a certificate of registration under this chapter is governed by:

- (1) department rules for a contested case hearing; and
- (2) Chapter [2001](#), Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.235, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(25), eff. September 1, 2017.

SUBCHAPTER E. PENALTIES

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. [4007](#), 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 1952.201. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section [1952.101](#).

(b) An offense under this section is a Class C misdemeanor.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER F. ADMINISTRATIVE PENALTY

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. [4007](#), 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.251. IMPOSITION OF ADMINISTRATIVE PENALTY. The department may impose an administrative penalty on a person registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(26), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. [4007](#), 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 1952.252. AMOUNT OF ADMINISTRATIVE PENALTY.

Text of subsection effective until September 01, 2017

(a) The amount of the administrative penalty may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

Text of subsection effective on September 01, 2017

(a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(b) The amount shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the economic harm caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.265, eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. [4007](#), 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.253. NOTICE OF VIOLATION AND PENALTY. If the

department determines that a violation occurred, the department shall give written notice of the violation to the person. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the administrative penalty recommended by the department; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.236, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(27), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.254. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Within 10 days after the date the person receives the notice, the person in writing may:

- (1) accept the determination and recommended administrative penalty of the department; 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 department, the department by order shall approve the determination and impose the recommended penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.237, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(28), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.255. HEARING. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the department shall set a hearing and give written notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the department a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.238, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(29), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.256. DECISION BY DEPARTMENT. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the department by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the department's order given to the person must include a statement of the right of the person to judicial

review of the order.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(30), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Within 30 days after the date the department's order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), 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 department'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) giving a copy of the affidavit to the department by certified mail.

(c) If the department receives a copy of an affidavit under Subsection (b)(2), the department may file with the court, within five days after the date the copy is received, a contest to the

affidavit.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.239, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(31), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.258. COLLECTION OF PENALTY. (a) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(32), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.259. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order

the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(33), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 4007, 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.260. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the administrative penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(d) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(e) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(34), eff. September 1, 2017.

This section was amended by the 85th Legislature. Pending

publication of the current statutes, see H.B. [4007](#), 85th Legislature, Regular Session, for amendments affecting this section.

Text of section effective until September 01, 2017

Sec. 1952.261. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is a contested case under Chapter [2001](#), Government Code.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(35), eff. September 1, 2017.