

BILL ANALYSIS

C.S.H.B. 2376
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that there is statutory redundancy with regard to how a real estate inspector's client can be indemnified in the event that the inspector conducts an inspection in a negligent manner. State law requires the Texas Real Estate Commission (TREC) to maintain the real estate inspection recovery fund to satisfy civil court judgments against inspectors, while also requiring inspectors to maintain liability insurance. As a result of this redundancy in the law, the inspector recovery fund has remained underutilized. It has been reported that the TREC has only made eight payments from the fund in the last 10 years and has not made a payment since 2018. Instead, liability insurance has become the primary source for consumer indemnification. C.S.H.B. 2376 seeks to repeal provisions relating to the fund and reallocate its funds to the general revenue fund for use in other areas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2376 repeals Occupations Code provisions establishing the real estate inspection recovery fund and amends the Occupations Code to redirect the deposit of administrative penalties collected for real estate inspector violations to the general revenue fund for purposes of offsetting any amount required to be remitted to the general revenue fund by the Texas Real Estate Commission (TREC). The bill requires a claim for payment from the recovery fund for a cause of action that accrues before the bill's effective date to be filed before March 1, 2024.

C.S.H.B. 2376 requires the TREC to take the following actions:

- transfer not less than \$300,000 from the real estate inspection recovery fund to the general revenue fund not later than December 31, 2021;
- determine the remaining liability of the recovery fund based on any pending claims for payment under that fund not later than August 31, 2024;
- after determining that remaining liability, refund to each inspector licensed as a real estate inspector or professional inspector as of September 1, 2021, who still holds a license as of the date of the refund a portion of the amount in excess of the remaining liability, capped at \$10 per person; and
- after paying all claims for payment from the fund and issuing refunds to the inspectors, transfer any remaining money to the general revenue fund.

Any money transferred to the general revenue fund offsets any amounts required to be remitted to the general revenue fund by the TREC.

C.S.H.B. 2376 repeals the following provisions of the Occupations Code:

- Section 1101.603(d); and
- Subchapter H, Chapter 1102.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2376 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the deadline for the TREC to transfer not less than \$300,000 from the real estate inspection recovery trust fund to the general revenue fund from August 31, 2021, to December 31, 2021.

The substitute includes additional procedural provisions and makes other changes so as to conform to certain bill drafting conventions.