

OCCUPATIONS CODE
TITLE 8. REGULATION OF ENVIRONMENTAL AND INDUSTRIAL TRADES
CHAPTER 1301. PLUMBERS
“THE PLUMBING LICENSE LAW”
SEPTEMBER 1, 2007

NOTE: This publication has been formatted for easy reading and reference and is not the official publication of the Plumbing License Law. For the official publication of the Plumbing License Law (Occupations Code, Title 8, Chapter 1301) please refer to <http://www.statutes.legis.state.tx.us/?link=OC>

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1301.001. SHORT TITLE.

This chapter may be cited as the Plumbing License Law.

Sec. 1301.002. DEFINITIONS.

In this chapter:

- (1) "Board" means the Texas State Board of Plumbing Examiners.
 - (1-a) "Executive director" means the executive director of the Texas State Board of Plumbing Examiners.
- (2) "Drain cleaner" means a person who:
 - (A) has completed at least 4,000 hours working under the supervision of a master plumber as a drain cleaner-restricted registrant;
 - (B) has fulfilled the requirements of and is registered with the board; and
 - (C) installs cleanouts and removes and resets p-traps to eliminate obstructions in building drains and sewers.
- (3) "Drain cleaner-restricted registrant" means a person who:
 - (A) has worked as a plumber's apprentice under the supervision of a master plumber;
 - (B) has fulfilled the requirements of and is registered with the board; and
 - (C) clears obstructions in sewer and drain lines through any code-approved existing opening.
- (4) "Journeyman plumber" means a person licensed under this chapter who:
 - (A) has met the qualifications for registration as a plumber's apprentice or for licensing as a tradesman plumber-limited license holder;
 - (B) has completed at least 8,000 hours working under the supervision of a master plumber;
 - (C) installs, changes, repairs, services, or renovates plumbing or supervises any of those activities; and
 - (D) has passed the required examination and fulfilled the other requirements of the board.
- (5) "Master plumber" means a person licensed under this chapter who:
 - (A) is skilled in the planning and superintending of plumbing and in the practical installation, repair, and servicing of plumbing;
 - (B) secures permits for plumbing work;
 - (C) is knowledgeable about the codes, ordinances, or rules governing the activities described by Paragraphs (A) and (B);
 - (D) performs or supervises plumbing work; and
 - (E) has passed the required examination and fulfilled the other requirements of the board.
- (6) "Plumber's apprentice" means a person other than a master plumber, journeyman plumber, or tradesman plumber-limited license holder who, as the person's principal occupation, learns about and assists in the installation of plumbing, has fulfilled the requirements of and is registered by the board, and works under the supervision of a master plumber and the direct supervision of a licensed plumber.

- (7) "Plumbing" means:
- (A) a fixture, appurtenance, appliance, or piping, including a disposal system, used in or around a building in which a person lives or works or in which persons assemble, to:
 - (i) supply or recirculate water, other liquid, or gas; or
 - (ii) eliminate sewage for a personal or domestic purpose;
 - (B) a fixture, appurtenance, appliance, or piping used outside a building to connect the building to:
 - (i) a supply of water, other liquid, medical gases and vacuum, or other gas on the premises; or
 - (ii) the main in the street or alley or at the curb;
 - (C) a fixture, appurtenance, appliance, or piping, including a drain or waste pipe, used to carry wastewater or sewage from or within a building to:
 - (i) a sewer service lateral at the curb or in the street or alley; or
 - (ii) a disposal or septic terminal that holds private or domestic sewage; or
 - (D) the installation, repair, service, or maintenance of a fixture, appurtenance, appliance, or piping described by Paragraph (A), (B), or (C).
- (8) "Plumbing inspector" means a person who:
- (A) is employed by a political subdivision, or contracts as an independent contractor with a political subdivision, to inspect plumbing in connection with health and safety laws, including ordinances, and plumbing and gas codes; and
 - (B) has passed the required examination and fulfilled the other requirements of the board.
- (9) "Residential utilities installer" means a person who:
- (A) has completed at least 2,000 hours working under the supervision of a master plumber as a plumber's apprentice;
 - (B) has fulfilled the requirements of and is registered with the board; and
 - (C) constructs and installs yard water service piping for one-family or two-family dwellings and building sewers.
- (10) "Tradesman plumber-limited license holder" means a person who:
- (A) has completed at least 4,000 hours working under the direct supervision of a journeyman or master plumber as a plumber's apprentice;
 - (B) has passed the required examination and fulfilled the other requirements of the board;
 - (C) constructs and installs plumbing for one-family or two-family dwellings; and
 - (D) has not met or attempted to meet the qualifications for a journeyman plumber license.
- (11) "Water supply protection specialist" means a person who holds an endorsement issued by the board to engage in the inspection, in connection with health and safety laws, including ordinances, of:
- (A) the plumbing of a public water system distribution facility; or
 - (B) customer-owned plumbing connected to the water distribution lines of a public water system.
- (12) "Water treatment" means a business conducted under contract that requires ability, experience, and skill in analyzing water to determine how to treat influent and effluent water to change or purify the water or to add or remove minerals, chemicals, or bacteria. The term includes:
- (A) installing and servicing fixed or portable water treatment equipment in a public or private water treatment system; or
 - (B) making connections necessary to install a water treatment system.

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, 2015 .

SUBCHAPTER B. EXEMPTIONS

Sec. 1301.051. PLUMBING BY PROPERTY OWNER IN HOMESTEAD.

A property owner is not required to be licensed under this chapter to perform plumbing in the property owner's homestead.

Sec. 1301.052. WORK INSIDE OR OUTSIDE MUNICIPALITIES.

A person is not required to be licensed under this chapter to perform plumbing, other than plumbing performed in conjunction with new construction, on a property that is:

- (1) located in a subdivision or on a tract of land that is not required to be platted under Section 232.0015, Local Government Code; or
- (2) not connected to a public water system and is located outside a municipality, or
- (3) located outside a municipality and connected to a public water system that does not require a license to perform plumbing; or
- (4) inside a municipality with fewer than 5,000 inhabitants, unless an ordinance of the municipality requires the person to be licensed.

Sec. 1301.053. WORK INCIDENTAL TO OTHER PROFESSIONS.

(a) A person is not required to be licensed under this chapter to perform:

- (1) plumbing incidental to and in connection with the business in which the person is employed or engaged if the person:
 - (A) is regularly employed as or acting as a maintenance person or maintenance engineer; and
 - (B) does not engage in plumbing for the public;
- (2) construction, installation, or maintenance on the premises or equipment of a railroad if the person is an employee of the railroad who does not engage in plumbing for the public;
- (3) plumbing if the person is engaged by a public service company to:
 - (A) lay, maintain, or operate its service mains or lines to the point of measurement; and
 - (B) install, change, adjust, repair, remove, or renovate appurtenances, equipment, or appliances;
- (4) appliance installation and service work that involves connecting appliances to existing openings with a code-approved appliance connector if the person performs the work as an appliance dealer or an employee of an appliance dealer; or
- (5) water treatment installations, exchanges, services, or repairs.

(b) Work described by this section is subject to inspection and approval as provided by applicable state law or municipal ordinance.

Sec. 1301.054. IRRIGATORS AND WATER WELL PUMP INSTALLERS.

A person is not required to be licensed under this chapter to perform plumbing if the person holds a:

- (1) certificate of registration as an irrigator issued under Chapter 1903; or
- (2) license as a water well pump installer issued under Chapter 1902.

Sec. 1301.055. LP GAS INSTALLERS.

A person is not required to be licensed under this chapter to perform LPG system installation if the person performs the LPG system installation as an LP gas installer licensed under Subchapter D, Chapter 113, Natural Resources Code.

Sec. 1301.056. LAWN IRRIGATION SYSTEMS.

A person licensed by the board is not required to be licensed by another board or agency to install or work on a lawn irrigation system.

Sec. 1301.057. SELF-HELP PROJECT.

(a) A person is not required to be licensed under this chapter to perform plumbing, limited to the provision of a residential potable water supply or residential sanitary sewer connection, for a project that:

- (1) is in a county a part of which is within 50 miles of an international border; and
- (2) is performed by an organization that:

(A) is certified by the Texas Natural Resource Conservation Commission to provide self-help project assistance; and

(B) provides the board with the following information before the 30th day before the date the project begins:

- (i) the exact location of the project;
- (ii) the intended duration of the project; and
- (iii) other information the board requires.

(b) The board may require under Subsection (a)(2)(B)(iii) that the organization provide a post-construction report signed by a plumbing inspector stating that the plumbing is safe.

(c) The board may provide training to an organization that provides self-help project assistance under this section.

Sec. 1301.058. TESTING OF MEDICAL GAS AND VACUUM PIPING.

A person is not required to be licensed under this chapter to verify medical gas and vacuum piping integrity and content.

SUBCHAPTER C. TEXAS STATE BOARD OF PLUMBING EXAMINERS

Sec. 1301.151. TEXAS STATE BOARD OF PLUMBING EXAMINERS MEMBERSHIP.

(a) The Texas State Board of Plumbing Examiners consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) one member who has at least 10 years' practical experience and is licensed as a master plumber;

(2) one member who has at least five years' practical experience and is licensed as a journeyman plumber;

(3) one member who has at least five years' practical experience and is licensed as a plumbing inspector;

(4) one member who is a plumbing contractor with at least five years' experience;

(5) one member who is a licensed engineer;

(6) two members who are building contractors with at least five years' contracting experience, one of whom is principally engaged in home building and one of whom is principally engaged in commercial building; and

(7) two members who represent the public.

(b) Each member of the board must be a United States citizen.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 1301.152. ELIGIBILITY OF PUBLIC MEMBERS.

A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

- (1) is licensed by an occupational regulatory agency in the building construction industry;
- (2) is employed by or participates in the management of an agency or business entity related to the building construction industry; or
- (3) has, other than as a consumer, a financial interest in a business entity related to the building construction industry.

Sec. 1301.153. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of building construction; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of building construction.

(c) A person may not be a member of the board or act as the general counsel to the board or the agency if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the agency.

Sec. 1301.154. TERMS.

Board members serve staggered six-year terms.

Sec. 1301.155. ISSUANCE OF COMMISSION.

On presentation of the constitutional oath of office and a certificate of appointment, the secretary of state shall issue a commission to a board member as evidence of the person's authority to act as a board member.

Sec. 1301.156. GROUNDS FOR REMOVAL.

(a) It is a ground for removal from the board that a member:

- (1) does not have at the time of taking office the qualifications required by Section 1301.151 or 1301.152;
- (2) does not maintain during service on the board the qualifications required by Section 1301.151 or 1301.152;
- (3) is ineligible for membership under Section 1301.153;
- (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
- (5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1301.157. OFFICERS.

(a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(b) The board shall elect a secretary from its membership.

Sec. 1301.158. PER DIEM; REIMBURSEMENT.

(a) A board member may not receive a fixed salary for service on the board.

(b) A board member is entitled to receive a per diem as set by the General Appropriations Act for each day the member engages in the business of the board.

(c) A board member may not receive reimbursement for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to reimbursement for transportation expenses as provided by the General Appropriations

Sec. 1301.159. TRAINING.

(a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the programs operated by the agency;

(3) the role and functions of the agency;

(4) the rules of the agency, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the agency;

(6) the results of the most recent formal audit of the agency;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the agency or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SUBCHAPTER D. EXECUTIVE DIRECTOR AND OTHER BOARD PERSONNEL

Sec. 1301.201. EXECUTIVE DIRECTOR AND STAFF.

(a) The board shall employ an executive director as the executive head of the agency.

(b) The board may employ personnel as necessary to administer this chapter. The board may determine the compensation and duties of its employees and the terms of their employment.

Sec. 1301.202. PLUMBING EXAMINER.

- (a) The board shall employ one or more plumbing examiners. A plumbing examiner serves at the will of the board.
- (b) A plumbing examiner shall:
 - (1) examine the fitness and qualifications of a person applying to the board for a license as a master plumber, journeyman plumber, tradesman plumber-limited license holder, or plumbing inspector; and
 - (2) promptly certify the result of the examination to the board.

Sec. 1301.203. FIELD REPRESENTATIVE; INSPECTIONS.

- (a) The board may employ a field representative to assist the board in enforcing this chapter and rules adopted under this chapter. A field representative must be:
 - (1) knowledgeable of this chapter and municipal ordinances relating to plumbing; and
 - (2) qualified by experience and training in plumbing practice.
- (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;
 - (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.

Sec. 1301.204. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS.

- (a) The presiding officer of the board or the presiding officer's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of each nonentry level position at least 10 days before the date of any public posting.
- (b) The presiding officer of the board or the presiding officer's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for board employees must be based on the system established under this subsection.

Sec. 1301.205. EQUAL EMPLOYMENT OPPORTUNITY POLICY.

- (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.
- (b) The policy statement must include:
 - (1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the agency to avoid the unlawful employment practices described by Chapter 21, Labor Code; and
 - (2) an analysis of the extent to which the composition of the agency's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.
- (c) The policy statement must:
 - (1) be updated annually;
 - (2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and
 - (3) be filed with the governor's office.

Sec. 1301.206. EMPLOYEE INCENTIVE PROGRAM.

The executive director or the executive director's designee shall provide to agency employees information and training on the benefits and methods of participation in the state employee incentive program.

Sec. 1301.207. STANDARDS OF CONDUCT.

The executive director or the executive director's designee shall provide to members of the board and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 1301.208. SEPARATION OF RESPONSIBILITIES.

The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the agency.

SUBCHAPTER E. BOARD POWERS AND DUTIES

Sec. 1301.251. GENERAL DUTIES OF BOARD.

The board shall:

- (1) administer this chapter;
- (2) adopt and enforce rules necessary to administer this chapter; and
- (3) keep a record of each proceeding conducted before and action taken by the board.

Sec. 1301.252. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.

(a) The board may not adopt a rule restricting advertising or competitive bidding by a person licensed under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The board may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

Sec. 1301.253. FEES.

The board shall set fees in amounts that are reasonable and necessary to cover the cost of administering this chapter.

Sec. 1301.254. SEAL. The board shall have an official seal.

Sec. 1301.255. ADOPTION OF PLUMBING CODES.

(a) The board shall adopt the following plumbing codes, as those codes existed on May 31, 2001:

- (1) the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and
- (2) the International Plumbing Code, as published by the International Code Council.

(b) The board by rule may adopt later editions of the plumbing codes listed in Subsection (a).

(c) Plumbing installed in an area not otherwise subject to regulation under this chapter by a person licensed under this chapter must be installed in accordance with a plumbing code adopted by the board under Subsection (a) or (b).

(d) In adopting a code for the design, installation, and maintenance of a plumbing system under this section, a municipality or an owner of a public water system may amend any provisions of the code to conform to local concerns that do not substantially vary from board rules or other rules of this state.

(e) Plumbing installed in compliance with a code adopted under Subsection (a), (b), or (d) must be inspected by a plumbing inspector. To perform the inspection, the political subdivision may contract with any plumbing inspector or qualified plumbing inspection business, as determined by the political subdivision, that is paid directly by the political subdivision.

Sec. 1301.256. SUBPOENA.

(a) The board may request and, if necessary, compel by subpoena:

(1) the attendance of a witness for examination under oath; and

(2) the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter.

(b) The board, acting through the attorney general, may bring an action to enforce a subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.

(c) Venue for an action brought under Subsection (b) is in a district court in:

(1) Travis County; or

(2) any county in which the board may hold a hearing.

(d) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Sec. 1301.257. NOTICE OF LICENSE ISSUANCE.

The board shall forward the name and address of each person in a municipality who receives a license under this chapter to the authority that enforces regulations relating to plumbing in the municipality.

Sec. 1301.258. ADVISORY COMMITTEES.

The board may appoint advisory committees as it considers necessary. An advisory committee shall serve without compensation or reimbursement and is subject to Section 2110.008, Government Code.

Sec. 1301.258. BOARD COMMITTEES.

(a) The board may create committees to assist the board in exercising its powers and duties.

(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.

(c) The presiding officer may appoint only members of the agency staff to an enforcement committee that reviews complaints and license registration, and endorsement applications submitted by applicants who have a criminal conviction history affected by Chapter 53.

Sec. 1301.259. MEMORANDUM OF UNDERSTANDING.

(a) The board and the Texas Department of Licensing and Regulation shall enter into a memorandum of understanding to improve services and coordinate the functions of each agency.

(b) The memorandum of understanding must:

(1) require each agency to share:

(A) information technology to support the regulation and enforcement of occupational licenses; and

(B) information on regulatory practices for licensed occupations, including policy issues that affect the regulation of licensed occupations, standardization of complaint and enforcement techniques, and model licensing techniques;

(2) authorize enforcement officers from each agency to check licenses, registrations, or endorsements held by persons practicing occupations regulated by the other agency and report noncompliance to that agency; and

(3) state the circumstances when a joint investigation between the board and the Texas Department of Licensing and Regulation is appropriate.

Sec. 1301.260. POLICY ON TECHNOLOGICAL SOLUTIONS.

The board shall develop and implement a policy requiring the executive director and agency employees to research and propose appropriate technological solutions to improve the agency's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the agency on the Internet;

(2) ensure that persons who want to use the agency's services are able to:

(A) interact with the agency through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the agency's planning processes.

Sec. 1301.261. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION.

(a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of agency rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the agency's jurisdiction.

(b) The agency's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the agency.

Sec. 1301.262. PLUMBING INSPECTOR CODE OF CONDUCT.

The board by rule shall establish a code of conduct for licensed plumbing inspectors. The code of conduct shall require a plumbing inspector to enforce this chapter and board rules in a consistent manner across job sites.

SUBCHAPTER F. CONSUMER INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 1301.301. CONSUMER INTEREST INFORMATION.

(a) The board shall prepare information of consumer interest describing the regulatory functions of the board and the procedures by which consumer complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Sec. 1301.3015. PUBLIC PARTICIPATION.

The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the agency.

Sec. 1301.302. CONTRACT INFORMATION.

A written contract for plumbing services to be performed by or under the direction of a plumber licensed under this chapter must contain the name, mailing address, and telephone number of the board.

Sec. 1301.303. COMPLAINTS.

- (a) The board may investigate an alleged violation of this chapter by a person who:
 - (1) is licensed under this chapter; or
 - (2) performs plumbing without holding a license under this chapter.
- (b) The board shall maintain a file on each written complaint filed with the board. The file must include:
 - (1) the name of the person who filed the complaint;
 - (2) the date the complaint is received by the agency;
 - (3) the subject matter of the complaint;
 - (4) the name of any municipality and the county in which the conduct that is the subject of the complaint occurred;
 - (5) the name of each person contacted in relation to the complaint;
 - (6) a summary of the results of the review or investigation of the complaint; and
 - (7) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.
- (c) The agency shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the agency's policies and procedures relating to complaint investigation and resolution.
- (d) The board, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.
- (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.
- (f) The board shall maintain information about complaints, including source, type, and geographical area, to identify and address regulatory problem areas and focus enforcement in those areas.

Sec. 1301.304. INVESTIGATION OF COMPLAINTS.

- (a) The enforcement committee or an employee designated by the enforcement committee may investigate an alleged violation of this chapter or a board rule that is reported to the board.
- (b) The enforcement committee shall determine whether a person has committed the violation and shall recommend appropriate sanctions to the board or, if the enforcement committee determines that the complaint is without merit, dismissal of the complaint.
- (c) The board shall conduct joint investigations with the Texas Department of Licensing and Regulation as circumstances require.

SUBCHAPTER G. LICENSE, ENDORSEMENT, AND REGISTRATION REQUIREMENTS

Sec. 1301.351. LICENSE, ENDORSEMENT, OR REGISTRATION REQUIRED.

- (a) A person may not engage in the business of plumbing unless:
 - (1) the person holds a license or endorsement or is registered under this chapter; or
 - (2) the person's work is supervised and controlled by a person licensed under this chapter.
- (b) A person may not serve as a plumbing inspector unless the person is licensed under this chapter as a plumbing inspector.
- (c) A license holder who is supervising and controlling under Subsection (a) (2) the work of a person engaged in the business of plumbing in the construction of a new one-family or two family dwelling in an unincorporated area of the state must have training and management responsibility for, and shall review and inspect, the person's work. The license holder is not required to provide continuous or uninterrupted on-the-job oversight of the person's work.

Sec. 1301.352. EXAMINATION REQUIRED.

The board shall issue a license or endorsement as a master plumber, journeyman plumber, plumbing inspector, tradesman plumber-limited license holder, medical gas piping installation endorsement holder, or water supply protection specialist to a person who demonstrates the fitness, competence, and qualifications to receive the license or endorsement by passing a uniform, reasonable examination.

Sec. 1301.3521. EXAMINATION FEE REFUND.

- (a) The board shall refund the examination fee paid by an applicant who:
 - (1) provides advance notice of the applicant's inability to take the examination; or
 - (2) is unable to take the examination because of an emergency.
- (b) The board shall adopt rules that establish the required notification period and the emergency situations that warrant a refund.

Sec. 1301.3522. EXAMINATION REVIEW COURSE.

- (a) The board shall develop a review course in English and Spanish to assist license applicants in preparation for each license examination offered by the board. If the board provides the review course, the board may charge a fee to an applicant who applies to take the review course.
- (b) The board may provide the review course training materials to private course providers for a fee determined by the board.

Sec. 1301.353. INSPECTOR CONFLICTS PROHIBITED.

The board may not issue a plumbing inspector license to a person who has a financial or advisory interest in a plumbing company.

Sec. 1301.354. PLUMBER'S APPRENTICE.

- (a) A person who desires to learn the trade of plumbing must register as a plumber's apprentice before assisting a person licensed under this chapter in the trade of plumbing.
- (b) A person who has worked as a plumber's apprentice for a period established by law or board rule may apply for and take an examination for a license as a journeyman plumber or tradesman plumber-limited license holder.

Sec. 1301.3541. APPRENTICE REGISTRATION REQUIREMENTS.

The board by rule may adopt registration requirements for plumber's apprentices, including training and education requirements.

Sec. 1301.355. EXAMINATION RESULTS.

- (a) The board shall notify each examinee of the results of an examination not later than the 30th day after the date the examination is administered.
- (b) If requested in writing by a person who fails an examination, the board shall provide to the person an analysis of the person's performance on the examination.

Sec. 1301.356. ENDORSEMENT: MEDICAL GAS PIPING INSTALLATION.

- (a) A person may not install pipe used solely to transport gas for medical purposes or a vacuum used for medical purposes unless the person:
 - (1) is licensed under this chapter as a master plumber or journeyman plumber; and
 - (2) holds an endorsement issued under this section.
- (b) A person is eligible to receive a medical gas piping installation endorsement if the person performs satisfactorily on a separate examination related to the endorsement.
- (c) An endorsement under this section is valid for three years and may be renewed as provided by board rule.
- (d) An endorsement under this section coincides with rules adopted by the Texas Department of Health.
- (e) A plumbing inspector who meets the requirements of the board may inspect medical gas piping installations.

Sec. 1301.357. ENDORSEMENT: WATER SUPPLY PROTECTION SPECIALIST.

- (a) A person licensed under this chapter may not act as a water supply protection specialist unless the person holds an endorsement issued under this section.
- (b) The board shall issue an endorsement as a water supply protection specialist to a person who:
 - (1) is licensed under this chapter as a master plumber or journeyman plumber;
 - (2) applies to the board on a form prescribed by the board;
 - (3) pays a fee set by the board;
 - (4) presents evidence satisfactory to the board of successful completion of a certification program approved by the board for water supply protection specialists; and
 - (5) passes an examination required by the board.
- (c) An endorsement issued under this section is valid until the third anniversary of the date of issuance and may be renewed on compliance with any requirements prescribed by board rule.
- (d) A person who holds an endorsement under this section may represent to the public that the person is a water supply protection specialist.
- (e) A person is not required to hold a water supply protection specialist endorsement if the person:
 - (1) is employed by:
 - (A) a political subdivision; or
 - (B) an electric utility as defined by Section 31.002, Utilities Code; and
 - (2) acts as a backflow prevention device specialist or water supply protection specialist in the course of the person's employment.

Sec. 1301.3575. REGISTRATION OF CERTAIN PERSONS.

The board shall register a person who complies with this chapter as a drain cleaner, drain cleaner-restricted registrant, residential utilities installer, or plumber's apprentice.

Sec. 1301.3576. CERTIFICATE OF INSURANCE FOR MASTER PLUMBER.

When a person is issued a master plumber's license, the person must provide the board with a certificate of insurance that meets the requirements of Section 1301.552 before the person works as a master plumber.

Sec. 1301.358. OUT-OF-STATE APPLICANTS; PROVISIONAL LICENSE.

(a) The board may waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(b) The board may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:

(1) has been licensed in good standing as a plumber for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the board relating to the practice of plumbing; and

(3) is sponsored by a person licensed by the board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(c) The board may waive the requirement of Subsection (b)(3) for an applicant if the board determines that compliance with that subdivision would be a hardship to the applicant.

(d) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder is eligible to be licensed under Subsection (a); or

(2) the provisional license holder passes the part of the examination under Section 1301.352 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of plumbing in this state and:

(A) the board verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and

(B) the provisional license holder satisfies any other licensing requirements under this chapter.

(e) The board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(f) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

Sec. 1301.359. STATEWIDE VALIDITY OF LICENSE, ENDORSEMENT, OR REGISTRATION; NONTRANSFERABILITY.

(a) A license, endorsement, or registration issued under this chapter is valid throughout this state.

(b) A license, endorsement, or registration issued under this chapter is not assignable or transferable.

**SUBCHAPTER H. LICENSE, ENDORSEMENT, AND REGISTRATION
EXPIRATION AND RENEWAL**

Sec. 1301.401. ANNUAL RENEWAL REQUIRED.

- (a) A license or registration under this chapter is valid for one year. On payment of the required fee, a license 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.

Sec. 1301.402. NOTICE OF LICENSE, ENDORSEMENT, OR REGISTRATION EXPIRATION.

- (a) Not later than the 31st day before the expiration date of a person's license, endorsement, or registration, the board shall send written notice of the impending expiration to the person at the person's last known address according to board records.
- (b) The person shall notify the board not later than the 30th day after the date of receipt of the written notice of any change of name or address.

Sec. 1301.403. PROCEDURE FOR RENEWAL.

- (a) A person who is otherwise eligible to renew a license, endorsement, or registration may renew an unexpired license, endorsement, or registration by paying the required renewal fee to the agency before the expiration date of the license, endorsement, or registration. A person whose license, endorsement, or registration has expired may not engage in activities that require a license, endorsement, or registration until the license, endorsement, or registration has been renewed.
- (b) A person whose license or endorsement has been expired for 90 days or less may renew the license or endorsement by paying to the agency a renewal fee that is equal to 1-1/2 times the normally required renewal fee. A person whose registration has been expired for 90 days or less may renew the registration by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.
- (c) A person whose license or endorsement has been expired for more than 90 days but less than two years may renew the license or endorsement by paying to the agency a renewal fee that is equal to two times the normally required renewal fee. A person whose registration has been expired for more than 90 days but less than two years may renew the registration by paying to the board a renewal fee that is equal to two times the normally required renewal fee.
- (d) A person whose license, endorsement, or registration has been expired for two years or more may not renew the license, endorsement, or registration. The person may obtain a new license, endorsement, or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original license, endorsement, or registration.
- (e) A person who held a license, endorsement, or registration in this state, moved to another state, and is currently holding a license, endorsement, or registration and has been in practice in the other state for the two years preceding the date of application may obtain a new license, endorsement, or registration without reexamination. The person must pay to the agency a fee that is equal to two times the normally required renewal fee for the license, endorsement, or registration.
- (f) Not later than the 30th day before the date a person's license, endorsement, or registration is scheduled to expire, the agency shall send written notice of the impending expiration to the person at the person's last known address according to the records of the agency.

Sec. 1301.404. MANDATORY CONTINUING PROFESSIONAL EDUCATION.

- (a) The board shall recognize, approve, and administer continuing education programs for persons who hold licenses or endorsements under this chapter.
- (b) A person who holds a license or endorsement under this chapter must complete at least six hours of continuing professional education 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 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 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 board.
- (f) The board by rule may exempt certain persons from the requirements of this section if the board determines that the exemption is in the public interest.

SUBCHAPTER I. DISCIPLINARY PROCEDURES

Sec. 1301.451. DISCIPLINARY POWERS OF BOARD.

- (a) The board shall revoke, suspend, or refuse to renew a license, endorsement, or registration or shall reprimand a holder of a license, endorsement, or registration for a violation of this chapter or a rule of the board.
- (b) A person whose license, endorsement, or registration has been revoked may not apply for a new license, endorsement, or registration before the first anniversary of the date of revocation.
- (c) The board may place on probation a person whose license, endorsement, or registration is suspended. If a license, endorsement, or registration suspension is probated, the board may require the person:
 - (1) to report regularly to the agency on matters that are the basis of the probation;
 - (2) to limit practice to the areas prescribed by the board; or
 - (3) to continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.
- (d) The board by rule shall:
 - (1) adopt written guidelines to ensure that probation is administered consistently; and
 - (2) develop a system to track compliance with the probation requirements.

Sec. 1301.452. GROUNDS FOR DISCIPLINARY ACTION.

- (a) A person is subject to disciplinary action under Section 1301.451 if the person violates this chapter or a board rule. A violation of this chapter includes:
 - (1) obtaining a license, endorsement, or registration through error or fraud;
 - (2) willfully, 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; or
 - (4) making a false promise with the intent to induce a person to contract for a service.
- (b) Retesting procedures may be used to determine whether grounds exist for suspension or revocation of a license, endorsement, or registration due to incompetence or a willful violation by a person licensed under this chapter.

Sec. 1301.4521. CONSEQUENCES OF CRIMINAL CONVICTION.

- (a) The board shall adopt rules in compliance with the guidelines authorized by Chapter 53 relating to criminal convictions.
- (b) The board shall adopt a method to review the agency's compliance with Chapter 53 and the rules adopted under this section.

Sec. 1301.4522. REVIEW OF APPLICATION.

- (a) The enforcement committee may approve, without board approval, the application for a license, endorsement, or registration of a person who has a criminal conviction if the enforcement committee finds that the criminal conviction does not directly relate to the duties and responsibilities of the business of plumbing in accordance with the rules adopted by the board under Section 1301.4521.
- (b) If the enforcement committee determines that a person is ineligible for a license, endorsement, or registration based on the person's criminal conviction, the person may request a hearing before an administrative law judge of the State Office of Administrative Hearings to review the enforcement committee's determination.
- (c) After receipt of the administrative law judge's proposed findings of fact and conclusions of law, the board shall determine the applicant's eligibility. The board shall provide an applicant who is denied a license a written statement containing the reasons for the board's action.
- (d) An applicant who has a criminal conviction may appear before the board or the enforcement committee to present information relating to the applicant's criminal conviction.

Sec. 1301.453. HEARING.

A person is entitled to a hearing before the board if the board proposes to:

- (1) deny the person's application for a license, endorsement, or registration; or
- (2) suspend or revoke the person's license, endorsement, or registration.

Sec. 1301.454. ADMINISTRATIVE PROCEDURE.

A proceeding under this subchapter is a contested case for purposes of Chapter 2001, Government Code.

SUBCHAPTER J. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1301.501. BACKFLOW PREVENTION.

- (a) A person may not sell, donate, or transfer a water closet plumbing fixture or other equipment that uses water if the fixture or equipment:
 - (1) does not comply with a state-approved plumbing code; and
 - (2) may permit the backflow of a nonpotable substance into a potable water supply.
- (b) The board shall adopt rules under this section that include a list describing the types of plumbing to which this section applies.

Sec. 1301.502. CITATION.

- (a) A field representative, water district plumbing inspector, 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.
- (b) The board shall adopt guidelines relating to the circumstances when a field representative may issue a citation. The guidelines must encourage the use of other enforcement measures, including imposition of administrative penalties, before the issuance of a citation.

Sec. 1301.503. ENFORCEMENT BY PLUMBING INSPECTOR.

Each plumbing inspector shall enforce this chapter.

Sec. 1301.504. INJUNCTION.

- (a) In addition to any other action authorized by law, the board may bring an action in the board's name to enjoin a person from violating this chapter or a board rule.
- (b) To sustain an action under this section, the board is not required to allege or prove that:
 - (1) an adequate remedy at law does not exist; or
 - (2) substantial or irreparable damage would result from the continued violation.
- (c) Any party to an action under this section may appeal.

Sec. 1301.5045. CEASE AND DESIST ORDER.

- (a) If it appears to the board that a person is violating this chapter or a rule adopted under this chapter, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.
- (b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter N.

Sec. 1301.505. REPRESENTATION BY ATTORNEY GENERAL.

The attorney general shall represent the board in an action to enforce this chapter.

Sec. 1301.506. APPEAL BOND NOT REQUIRED.

The board is not required to post an appeal bond in an action arising under this chapter.

Sec. 1301.507. CIVIL PENALTY.

A person who violates this chapter or a rule, permit, or order of the board is subject to a civil penalty of not less than \$50 or more than \$1,000 for each act of violation and for each day of violation after notice is provided to the person.

Sec. 1301.5071. INFORMAL SETTLEMENT CONFERENCE; RESTITUTION.

- (a) The board by rule shall establish procedures under which an informal settlement conference is conducted to resolve a complaint against a person licensed under this chapter.
- (b) Subject to Subsection (c), the board may order a person licensed under this chapter to pay restitution to a person as provided in an agreement resulting from an informal settlement conference instead of or in addition to assessing an administrative penalty under Subchapter N.
- (c) The amount of restitution ordered as provided by an agreement resulting from an informal settlement conference may not exceed the amount the person paid to the license holder for a service regulated by this chapter. The board may not require payment of other damages or estimate harm in a restitution order.

Sec. 1301.508. CRIMINAL PENALTY.

- (a) A person commits an offense if the person:
 - (1) violates this chapter or a rule adopted under this chapter;
 - (2) does not hold a license or endorsement or is not registered under this chapter and engages in an activity for which a license, endorsement, or registration is required; or
 - (3) employs 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.
- (b) An offense under this section is a Class C misdemeanor.

SUBCHAPTER K. REGULATION BY CERTAIN POLITICAL SUBDIVISIONS

Sec. 1301.551. MUNICIPAL PLUMBING ORDINANCES AND PERMITS.

(a) A municipality with more than 5,000 inhabitants shall regulate by ordinance or bylaw the material, construction, alteration, and inspection of any pipe, faucet, tank, valve, water heater, or other fixture by or through which a supply of water, gas, or sewage is used or carried.

(b) Any other municipality may regulate by ordinance or bylaw the matters described by Subsection (a).

(c) A municipality that adopts an ordinance or bylaw under this section shall provide by ordinance or bylaw that a person must obtain a permit before the person performs plumbing, other than the repairing of leaks. The municipality may prescribe the terms on which the permit is issued.

(d) A plumbing inspection in a municipality that adopts an ordinance or bylaw under this section must be performed by a plumbing inspector.

Sec. 1301.552. CERTIFICATE OF INSURANCE FOR PLUMBING PERMIT IN POLITICAL SUBDIVISION.

A political subdivision that requires a master plumber to have a bond before issuing a permit to the master plumber shall accept either a bond or a certificate of insurance. The certificate of insurance must:

- (1) be written by a company licensed to do business in this state;
- (2) provide for commercial general liability insurance for the master plumber for a claim for property damage or bodily injury, regardless of whether the claim arises from negligence or on a contract; and
- (3) provide coverage of not less than \$300,000 for all claims arising in a one-year period.

Sec. 1301.553. PLUMBING INSPECTIONS IN MUNICIPALITY THAT OVERLAPS MUNICIPAL UTILITY DISTRICT.

(a) If the boundaries of a municipality and a municipal utility district overlap, only the affected municipality may perform a plumbing inspection and collect a permit fee.

(b) The standard used in the plumbing inspection may not be less restrictive than the standard used by the municipal utility district.

SUBCHAPTER M. INTERAGENCY COOPERATION AND REGULATION

Sec. 1301.651. DEFINITION.

In this subchapter, "local workforce development board" means a board created under Subchapter F, Chapter 2308, Government Code.

Sec. 1301.652. PUBLIC EDUCATION EFFORT.

(a) The board and the Texas Workforce Commission shall, through the local workforce development boards, coordinate efforts to educate the public about the plumbing profession and the resources available to employers for the recruitment and training of plumbers, including providing:

- (1) each local workforce development board with:
 - (A) information about the licensing requirements for the plumbing profession; and
 - (B) available statistical data regarding plumbing; and
- (2) a link to each agency's Internet site and to the Internet sites of other local workforce development boards.

- (b) The board may, during public and industry awareness seminars, raise awareness of the career ladder in the plumbing industry and the opportunities that plumbing apprenticeships offer.
- (c) This section applies to the extent that the plumbing profession is designated as an occupation in demand by a local workforce development board.

SUBCHAPTER N. ADMINISTRATIVE PENALTY

Sec. 1301.701. IMPOSITION OF PENALTY.

The board may impose an administrative penalty on a person who violates this chapter or a rule or order adopted under this chapter.

Sec. 1301.702. AMOUNT OF PENALTY.

- (a) The amount of an administrative penalty may not exceed \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
- (b) The amount of the penalty shall be based on:
 - (1) the seriousness of the violation, including:
 - (A) the nature, circumstance, extent, and gravity of any prohibited act; and
 - (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;
 - (2) the economic harm to property or the environment caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter a future violation;
 - (5) efforts made to correct the violation; and
 - (6) any other matter that justice may require.
- (c) The board by rule or through procedures adopted by the board and published in the Texas Register shall develop a standardized penalty schedule based on the criteria listed in Subsection (b).

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

- (a) If the enforcement committee determines that a violation occurred, the 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 report to the person.
- (c) The notice must:
 - (1) include a brief summary of the alleged violation;
 - (2) state the amount of the recommended penalty; 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.

Sec. 1301.704. PENALTY TO BE PAID OR HEARING REQUESTED.

- (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 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 enforcement committee, the board by order shall approve the determination and impose the recommended penalty.

Sec. 1301.705. HEARING.

(a) If the person requests a hearing or fails to respond in a timely manner to the notice, the 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.

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

Sec. 1301.706. DECISION BY BOARD.

(a) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may:

- (1) find that a violation occurred and impose a penalty; or
- (2) find that a violation did not occur.

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

Sec. 1301.707. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

Not later than the 30th day after the date the board's order becomes final, the person shall:

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

Sec. 1301.708. STAY OF ENFORCEMENT OF PENALTY.

(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 enforcement committee by certified mail.

(b) If the 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.

(c) 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.

Sec. 1301.709. DECISION BY COURT.

- (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the 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.

Sec. 1301.710. REMITTANCE OF PENALTY AND INTEREST.

- (a) If the person paid the 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.

Sec. 1301.711. RELEASE OF BOND.

- (a) 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.
- (b) 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.

Sec. 1301.712. COLLECTION OF PENALTY.

- (a) If the person does not pay the 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.

Sec. 1301.713. ADMINISTRATIVE PROCEDURE.

A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

CHANGE MADE BY THE 80TH LEGISLATURE

HB 1850:

AN ACT

relating to an inspection performed by a plumbing inspector or qualified plumbing inspection business for a political subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1301.255(e), Occupations Code, is amended to read as follows:

(e) Plumbing installed in compliance with a code adopted under Subsection (a), (b), or (d) must be inspected by a plumbing inspector. To perform the inspection, the political subdivision may contract with any plumbing inspector or qualified plumbing inspection business, as determined by the political subdivision, that is paid directly by the political subdivision.

SECTION 2. This Act takes effect September 1, 2007.