

TEXAS STATE BOARD OF PLUMBING EXAMINERS

Preamble For The Adoption Of New Rule Section 363.13 Training Program for Responsible Master Plumber Applicants

INTRODUCTION: The Texas State Board of Plumbing Examiners adopts new rule Section 363.13, without changes to the proposed text as published in the October 28, 2011 issue of the *Texas Register* (36 *TexReg* 7253).

REASONED JUSTIFICATION: The new rule Section 363.13 is adopted in response to amendments made to Sections 1301.002(9-a)(E) and 1301.3576, by House Bill (HB) 2376, 82nd, Regular Legislative Session, which require a Master Plumber to present evidence, satisfactory to the Board, of successful completion of a training program approved or administered by the Board regarding the laws and rules applicable to the operation of a plumbing business in this state, before working as a Responsible Master Plumber.

The new rule reflects an exemption from the requirements provided in HB 2376 for any Responsible Master Plumber who has a Certificate of Insurance on file with the Board on January 1, 2012, that is effective for that date.

The new rule sets forth the criteria for a minimum 24 hour training program to be provided by Course Providers who are approved by the Board to provide Continuing Professional Education, under Board rule Section 365.14. The criteria are general in nature, in order to provide certain flexibility within each subject to the Course Providers. The new rule also allows an approved Course Provider to utilize another government and/or education entity, such as the Small Business Administration, to provide the instruction through the Course Provider.

COMMENTS RECEIVED: Two comments were received regarding the proposed amendments during the comment period. Both comments were opposed to the amendments. The comments were received from Master Plumbers Fallon L. Foster and Howard Bruce Hudeck.

STATUTORY AUTHORITY: The new rule Section 363.13 is adopted under and affects Title 8, Chapter 1301, Texas Occupations Code (“Plumbing License Law” or “Law,”) as amended by HB 2376, the 82nd Legislature regular session, Sections 1301.251, 1301.002(9-a), and 1301.3576. Section 1301.251 requires the Board to adopt and enforce rules necessary to administer the Plumbing License Law. Section 1301.002(9-a) defines a Responsible Master Plumber as a person who has completed a training program as required by Section 1301.3576. Section 1301.3576 requires a Master Plumber to complete a training program applicable to the operation of a plumbing business in this state prior to working as a Responsible Master Plumber. The new rule is also proposed under Texas Government Code Section 2006.002, as amended by the 80th Legislature, HB 3430, which requires an agency to perform an Economic Impact Statement and Regulatory Flexibility Analysis if a proposed rule could have an adverse economic impact on small businesses.

No other statute, article or code is affected by this proposed amendment.

RULE: The language for the proposed new rule follows:

Sec. 363.13. Training Programs for Responsible Master Plumber Applicants.

(a) Before a Master Plumber acts as a Responsible Master Plumber, the Master Plumber must complete a Board approved training program which includes laws and rules applicable to the operation of a plumbing business in this state, as required by Section 1301.3576 of the Plumbing License Law.

(1) The requirements of this section do not apply to a Responsible Master Plumber who, on or before January 1, 2012, provides the Board with a Certificate of Insurance that meets the requirements of this Board Rule Section 367.3; and

(2) that is effective on January 1, 2012.

(b) The training program required under subsection (a) of this section, must be a minimum of 24 hours in length and include instruction in the following subjects applicable to the operation of a plumbing business in this state:

(1) finance;

(2) legal;

(3) local, state and federal rules and regulations;

(4) insurance/bonds, including workman's compensation insurance;

(5) Occupational Safety and Health Administration (OSHA) requirements awareness; and

(6) customer service.

(c) The Board will approve only Course Providers and Course Instructors who are approved to provide and instruct Continuing Professional Education (CPE) courses, under Board Rule Section 365.14, to provide and instruct the classroom training required by this section, except that an approved Course Provider may utilize another government and/or education entity to provide the instruction through the approved Course Provider.

(d) Course Providers and Course Instructors may be approved to provide the classroom training required under this section without submitting a separate application in addition to the application required to be approved to provide and instruct CPE, under Section 365.14 of this title.

(1) Any Course Provider or Course Instructor whose approval to provide or instruct CPE courses under Board Rule Section 365.14 is suspended or revoked for any reason, is not approved to provide or instruct the classroom training required under this section.

(2) Course Providers and Course Instructors shall adhere to the instruction criteria in subsections (a) and (b) of this section, and ensure that only Master Plumbers who receive the specified number of contact hours of instruction (excluding any time spent on breaks from instruction) receive credit for completing the training required by this section.

(3) Course Providers or Course instructors shall provide notice of intent to conduct training required by this section, in the same manner required by Board Rule Section 365.14(b)(10).

(4) Course Instructors shall abide by the same standards of conduct described in Board Rule Section 365.14(c), when providing the training required by this section.

(h) The training required by this section may be provided in increments, as appropriate, and the Course Provider or Course Instructor shall provide a certificate of completion to the Master Plumber for each increment completed.

(1) The certificate of completion shall state:

(A) the names of the Course Provider and Course Instructor;

(B) the name and license number of the Master Plumber;

(C) the specific instruction and number of hours completed; and

(D) the date that the increment of instruction was completed.

(2) The Course Provider shall maintain a record of the information contained on each certificate of completion for at least six years.

(i) Prior to the date that the Master Plumber begins acting as a Responsible Master Plumber, the Master Plumber shall submit to the Board:

(1) a certificate or certificates of completion of the training required by this section; and

(2) a Certificate of Insurance as required by Board Rule Section 367.3.

(j) Providing false certificates of completion or any other false information to the Board may result in disciplinary action, as provided by the Plumbing License Law, Board Rules or other laws of this state.

CERTIFICATION: The Board hereby certifies that the rule amendments have been reviewed by legal counsel and found to be a valid exercise of the Board's authority.

Issued in Austin, Texas, on the 9th day of January, 2012, by:

Lisa G. Hill, Executive Director and
authorized to sign for the Texas State Board of Plumbing Examiners