

By: Bernal, Romero, Jr.

H.B. No. 238

Substitute the following for H.B. No. 238:

By: Lozano

C.S.H.B. No. 238

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of migrant labor housing facilities;  
changing the amount of a civil penalty.

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

SECTION 1. Subchapter LL, Chapter 2306, Government Code, is amended by amending Section 2306.933 and adding Sections 2306.934, 2306.935, 2306.936, 2306.937, 2306.938, and 2306.939 to read as follows:

Sec. 2306.933. CIVIL PENALTY. (a) A person who violates this subchapter or a rule adopted under this subchapter is subject to a civil penalty of not less than \$50 for each person occupying the migrant labor housing facility in violation of this subchapter [~~\$200~~] for each day that the violation occurs.

(b) An [~~The county attorney for the county in which the violation occurred, or the attorney general, at the request of the department, shall bring an~~] action [~~in the name of the state~~] to collect a civil [~~the~~] penalty under this section may be brought by:

(1) the department through the contested case hearing process described by Section 2306.930(b);

(2) the county attorney for the county in which the violation occurred, or the attorney general, at the request of the department; or

(3) a migrant agricultural worker if:

(A) a complaint regarding the violation for which

1 the civil penalty is sought has been submitted under Section  
2 2306.934; and

3 (B) at the time the complaint described by  
4 Paragraph (A) is submitted, the worker:

5 (i) lives in the migrant labor housing  
6 facility that is the subject of the complaint; and

7 (ii) is not temporarily in the United  
8 States under an H2-A visa authorized by 8 U.S.C. Section  
9 1101(a)(15)(H)(ii)(a).

10 (c) An action to collect a civil penalty under this section  
11 may not be brought while:

12 (1) a contested case hearing, brought by the  
13 department under Section 2306.930(b) and relating to the same  
14 migrant labor housing facility, is pending;

15 (2) an action for injunctive relief relating to the  
16 same violation is pending under Section 2306.932;

17 (3) an action brought by a county attorney or the  
18 attorney general and relating to the same migrant labor housing  
19 facility is pending; or

20 (4) the operator of the migrant labor housing facility  
21 that is the subject of the action is:

22 (A) waiting for the facility to be inspected  
23 under Section 2306.935(c) to confirm remediation of the violation  
24 that is the subject of the action; or

25 (B) providing housing at a facility under Section  
26 2306.936(d) to which the migrant agricultural workers who occupied  
27 the facility that is the subject of the action have been relocated.

1       (d) A civil penalty under this section begins accruing on  
2 the earlier of:

3           (1) for a violation with a remediation period  
4 described by Section 2306.935, the day that:

5                   (A) the department determines based on  
6 information submitted under Section 2306.935(b) that the operator  
7 has failed to remedy the violation; or

8                   (B) an inspection described by Section  
9 2306.935(c) establishes that the migrant housing facility operator  
10 has failed to remedy the violation; or

11           (2) for a violation with a remediation period  
12 described by Section 2306.936, the 31st day following the date that  
13 notification of the complaint is received from the department,  
14 unless the operator has relocated under Section 2306.936(d) the  
15 migrant agricultural workers who occupied the facility that is the  
16 subject of the complaint.

17       (e) The department by rule shall adopt a penalty schedule  
18 that increases the amount of the penalty assessed against a person  
19 who repeatedly violates this subchapter or rules adopted under this  
20 subchapter.

21       (f) A penalty collected under Subsection (b)(1) or (2) shall  
22 be deposited to the credit of the general revenue fund and may be  
23 appropriated only to the department for the enforcement of this  
24 subchapter.

25       Sec. 2306.934. COMPLAINT; NOTICE; DISMISSAL. (a) The  
26 department by rule shall establish a process for:

27           (1) the submission to the department of a complaint

1 regarding a migrant labor housing facility;

2 (2) determining whether a complaint is unfounded or  
3 does not violate the standards adopted by the department; and

4 (3) the investigation, resolution, or dismissal of a  
5 complaint submitted under Subdivision (1), including confirmation  
6 of remediation through the methods described by Sections 2306.935  
7 and 2306.936.

8 (b) Not later than the fifth day after the date on which the  
9 department receives a complaint, the department shall notify the  
10 operator of the migrant labor housing facility that is the subject  
11 of complaint. Notice under this subsection must include:

12 (1) the date that the complaint was received;

13 (2) the subject matter of the complaint;

14 (3) the name of each person contacted in relation to  
15 the complaint, if any; and

16 (4) the timeline for remedying a complaint that is not  
17 otherwise dismissed by the department.

18 (c) If the department is unable to make contact with an  
19 operator of a migrant labor housing facility for the purpose of  
20 -serving a notification of a complaint, the department shall serve  
21 the notification of the complaint via registered or certified mail,  
22 return receipt requested.

23 (d) If the department determines that a complaint is  
24 unfounded or does not violate the standards adopted by rule, the  
25 department may dismiss the complaint and shall include a statement  
26 of the reason for the dismissal in the record of the complaint. The  
27 department shall provide timely notice of any dismissal of the

1 complaint, including the explanation for the dismissal, to the  
2 operator of the migrant labor housing facility that is the subject  
3 of the complaint.

4 Sec. 2306.935. REMEDIATION OF COMPLAINT IN GENERAL. (a)  
5 Subject to Section 2306.936, not later than the seventh day after  
6 the date that notice is received under Section 2306.934, the  
7 operator of a migrant labor housing facility shall remedy the  
8 complaint.

9 (b) The department by rule shall establish a procedure by  
10 which the operator of a migrant labor housing facility may submit  
11 proof of remediation of a complaint through visual evidence and a  
12 sworn affidavit.

13 (c) For an operator of a migrant labor housing facility who  
14 submits proof of remediation in the manner provided by Subsection  
15 (b), the department shall have the facility inspected as soon as  
16 possible following the seventh day after the date that notice is  
17 received under Section 2306.934, to ensure remediation of the  
18 complaint.

19 Sec. 2306.936. REMEDIATION OF COMPLAINT REGARDING CERTAIN  
20 VIOLATIONS. (a) This section applies only to a complaint that  
21 alleges a violation that the department determines poses an  
22 imminent hazard or threat to the health and safety of the occupants  
23 of the facility, including violations of rules adopted by the  
24 department concerning sanitation.

25 (b) Subject to Subsection (d), not later than the 30th day  
26 after the date that notice is received under Section 2306.934, the  
27 operator of a migrant labor housing facility that is the subject of

1 a complaint described by Subsection (a) shall remedy the complaint.

2 (c) The department may refer a complaint described by  
3 Subsection (a) to a local authority for immediate inspection of the  
4 migrant labor housing facility.

5 (d) The department by rule shall establish a procedure for  
6 requiring the owner of a migrant labor housing facility to relocate  
7 or provide for the relocation to another housing facility of the  
8 occupants of a facility that is the subject of a complaint under  
9 Subsection (a) if the remediation of that complaint is projected to  
10 take longer than a period of 30 days. A housing facility to which a  
11 person is relocated under this subsection:

12 (1) must meet the occupancy standards adopted under  
13 this subchapter;

14 (2) must be located in the same vicinity as the vacated  
15 facility; and

16 (3) may not require a rent payment from a displaced  
17 migrant agricultural worker that exceeds the rent charged for the  
18 vacated facility.

19 (e) Subsection (d) does not apply to a migrant agricultural  
20 worker who is temporarily in the United States under an H2-A visa  
21 authorized under 8 U.S.C. Section 1101(a)(15)(H)(ii)(a).

22 Sec. 2306.937. RETALIATION PROHIBITED. A person who owns,  
23 establishes, maintains, operates, or otherwise provides a migrant  
24 labor housing facility, a person who employs a migrant agricultural  
25 worker who occupies a migrant labor housing facility, or a farm  
26 labor contractor may not retaliate against a person for filing a  
27 complaint or providing information in good faith relating to a

1 possible violation of this subchapter.

2 Sec. 2306.938. ATTORNEY'S FEES. The court in a suit brought  
3 under this subchapter may award reasonable attorney's fees to the  
4 prevailing party.

5 Sec. 2306.939. INTERAGENCY COOPERATION. (a) The  
6 department shall identify other state agencies that may interact  
7 with occupants of migrant housing facilities to assist the  
8 department in identifying and locating unlicensed migrant labor  
9 housing facilities.

10 (b) Information provided to the department under this  
11 section:

12 (1) may be used only for the purposes of identifying  
13 and locating unlicensed migrant labor housing facilities;

14 (2) must be free of identification information  
15 relating to individual migrant agricultural workers; and

16 (3) is confidential and not subject to disclosure  
17 under Chapter 552.

18 SECTION 2. Not later than March 1, 2024, the Texas  
19 Department of Housing and Community Affairs shall adopt the rules  
20 necessary to implement Subchapter LL, Chapter 2306, Government  
21 Code, as amended by this Act.

22 SECTION 3. The change in law made by this Act in amending  
23 Section 2306.933, Government Code, and adding Sections 2306.934,  
24 2306.935, 2306.936, 2306.938, and 2306.939, Government Code,  
25 applies only to a violation that occurs on or after the effective  
26 date of this Act. A violation that occurs before the effective date  
27 of this Act is governed by the law in effect on the date the

1 violation occurred, and the former law is continued in effect for  
2 that purpose. For purposes of this section, a violation occurs  
3 before the effective date of this Act if any element of the  
4 violation occurs before that date.

5 SECTION 4. This Act takes effect September 1, 2023.