

By: Romero, Jr., Bernal

H.B. No. 883

Substitute the following for H.B. No. 883:

By: Lozano

C.S.H.B. No. 883

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of migrant labor housing facilities;  
3 authorizing an increase in the amount of a fee; changing the amount  
4 of a civil penalty.

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

6 SECTION 1. Section 2306.922, Government Code, is amended to  
7 read as follows:

8 Sec. 2306.922. LICENSE REQUIRED. A person may not:

9 (1) establish, maintain, or operate a migrant labor  
10 housing facility without obtaining a license for the facility from  
11 the department; or

12 (2) procure or otherwise provide housing for migrant  
13 agricultural workers without ensuring that the applicable migrant  
14 labor housing facility is licensed under this subchapter.

15 SECTION 2. The heading to Section 2306.923, Government  
16 Code, is amended to read as follows:

17 Sec. 2306.923. LICENSE APPLICATION; FEE [~~APPLICATION~~  
18 ~~INSPECTION~~].

19 SECTION 3. Section 2306.923, Government Code, is amended by  
20 amending Subsection (d) and adding Subsections (e), (f), and (g) to  
21 read as follows:

22 (d) An applicant who seeks to substitute an inspection  
23 conducted by the United States Department of Labor or the Texas  
24 Workforce Commission for a pre-occupation inspection conducted by

1 the department under Section 2306.924 must include with the  
2 application:

3 (1) individualized affirmations regarding the  
4 facility's compliance with each state standard established by this  
5 subchapter; and

6 (2) electronically submitted digital images of the  
7 facility that hold metadata verifying when and where the images  
8 were taken.

9 (e) The department shall prescribe the form and manner of an  
10 application made under this section.

11 (f) The application must be accompanied by a reasonable  
12 [the] license fee established by the board by rule in an amount  
13 sufficient to cover the costs of administering this subchapter,  
14 including costs associated with conducting inspections and  
15 reinspections under this subchapter. The license fee may not  
16 exceed \$75.

17 (g) A fee collected under this section shall be deposited to  
18 the credit of the general revenue fund and may be appropriated to  
19 the department for the administration of this subchapter.

20 SECTION 4. The heading to Section 2306.924, Government  
21 Code, is amended to read as follows:

22 Sec. 2306.924. PRE-OCCUPATION INSPECTION.

23 SECTION 5. Section 2306.925, Government Code, is amended by  
24 amending Subsection (a) and adding Subsection (a-1) to read as  
25 follows:

26 (a) The department may not issue a license for a migrant  
27 labor housing facility that does not meet the reasonable minimum

1 standards of construction, sanitation, equipment, and operation  
2 required by rules adopted under this subchapter.

3       (a-1) If a migrant labor housing facility for which a  
4 license application is made does not meet the [~~reasonable~~] minimum  
5 standards described by Subsection (a) [~~of construction,~~  
6 ~~sanitation, equipment, and operation required by rules adopted~~  
7 ~~under this subchapter~~], the department at the time of inspection  
8 shall give the license applicant in writing the reasons that the  
9 facility does not meet those standards. The applicant may remedy  
10 the deficiency and request the department to reinspect the facility  
11 [~~not later than the 60th day after the date on which the reasons are~~  
12 ~~given~~].

13       SECTION 6. Section [2306.926](#)(b), Government Code, is amended  
14 to read as follows:

15       (b) The license expires on the first anniversary of the date  
16 of issuance. Not later than the 60th day before the date a license  
17 is scheduled to expire, the department shall give notice of the  
18 expiration to the license holder.

19       SECTION 7. Subchapter [LL](#), Chapter [2306](#), Government Code, is  
20 amended by amending Sections [2306.927](#), [2306.928](#), and [2306.929](#) and  
21 adding Section [2306.9281](#) to read as follows:

22       Sec. [2306.927](#). [~~LICENSE~~] POSTING OF LICENSE AND COMPLAINT  
23 INFORMATION. A person who holds a license issued under this  
24 subchapter shall post [~~the license~~] in the licensed migrant labor  
25 housing facility at all times during the maintenance or operation  
26 of the facility a copy of:

27               (1) the license; and

1           (2) information describing in English and Spanish the  
2 complaint procedures provided by Section 2306.929.

3           Sec. 2306.928. INSPECTION OF FACILITIES.     (a) Before  
4 conducting an inspection of a migrant labor housing facility under  
5 this section, an authorized representative of the department must  
6 give or make a reasonable attempt to give notice to the persons who:

7           (1) are the providers of the facility, based on  
8 evidence available to the department; and

9           (2) if applicable, are alleged to be the providers of  
10 the facility in any complaint filed under this chapter.

11           (b) An authorized representative of the department, after  
12 giving or making a reasonable attempt to give notice under  
13 Subsection (a):

14           (1) shall inspect the facility on receipt of a  
15 complaint under Section 2306.929, including a report of an  
16 unlicensed migrant labor housing facility; and

17           (2) [~~to the operator of a migrant labor housing~~  
18 facility,] may otherwise enter and inspect the facility during  
19 reasonable hours and investigate conditions, practices, or other  
20 matters as necessary or appropriate to determine whether a person  
21 has violated this subchapter or a rule adopted under this  
22 subchapter.

23           (c) In addition to the inspection required under Subsection  
24 (b)(1), the department by rule shall:

25           (1) prioritize the inspection of migrant labor housing  
26 facilities during the probable period of use of the facility as  
27 stated under Section 2306.923(c)(3); and

1           (2) establish an annual quota of proactive inspections  
2 of suspected unlicensed or noncompliant migrant labor housing  
3 facilities.

4           (d) The quota established under Subsection (c)(2) may not be  
5 less than 15 percent of the number of migrant labor housing  
6 facilities licensed under this subchapter in the preceding state  
7 fiscal year. An inspection conducted under Subsection (c)(1) may  
8 be used to satisfy the quota established by Subsection (c)(2).

9           (e) During an inspection conducted under Subsection (b)(1),  
10 the inspector shall:

11           (1) conduct interviews with occupants of the facility,  
12 including any person who submitted a complaint requiring the  
13 inspection under Subsection (b)(1);

14           (2) make written notes regarding the inspection at the  
15 time of the inspection or immediately after the inspection; and

16           (3) take photographs of any violations.

17           (f) An interview under Subsection (e)(1) must be conducted:

18           (1) after working hours or on rest days, to the extent  
19 possible; and

20           (2) out of the presence of any person who owns or  
21 establishes or who maintains, operates, or otherwise provides the  
22 migrant labor housing facility or any person who employs the  
23 migrant agricultural workers occupying the facility.

24           Sec. 2306.9281. INSPECTION REPORT. (a) After an  
25 inspection, the inspector shall submit to the department a report  
26 containing:

27           (1) a narrative regarding the alleged violation and

1 the methods used to investigate the alleged violation;

2 (2) a determination of whether the alleged violation,  
3 or any other violation, exists; and

4 (3) evidence supporting the determination made under  
5 Subdivision (2), including any photographs taken under Section  
6 2306.928(e)(3).

7 (b) The department by rule shall establish and require the  
8 use of a standardized inspection report form for conducting  
9 inspections under Section 2306.928.

10 Sec. 2306.929. COMPLAINTS [~~FEF~~]. (a) The department by  
11 rule shall:

12 (1) establish procedures for the submission,  
13 investigation, and resolution of complaints of alleged violations  
14 of this subchapter, including a procedure through which other state  
15 agencies that receive a complaint under Subsection (b)(2) can  
16 report the complaint to the department; and

17 (2) adopt a standardized complaint form.

18 (b) The procedures established under Subsection (a)(1) must  
19 allow the submission of complaints:

20 (1) by a third party; and

21 (2) through the department's Internet website, at any  
22 state agency, by telephone, or in writing.

23 (c) The form adopted under Subsection (a)(2) must allow for  
24 the collection of information regarding:

25 (1) the name, address, and contact information of:

26 (A) the employer;

27 (B) the farm labor contractor; and

- 1                    (C) the migrant labor housing facility provider;  
2                    (2) the address, including a unit number, and location  
3 of the facility and directions to the facility;  
4                    (3) the number of migrant agricultural workers:  
5                    (A) currently occupying the facility; and  
6                    (B) occupying the facility during the peak period  
7 of occupancy;  
8                    (4) the dates the facility has been occupied and the  
9 approximate length of the season for which the facility will be  
10 occupied;  
11                    (5) the type of work performed by the workers  
12 occupying the facility;  
13                    (6) whether the postings required under Section  
14 2306.927 are displayed;  
15                    (7) complaints about the facility; and  
16                    (8) any other information the department considers  
17 necessary.  
18                    (d) The department shall consider a report regarding an  
19 unlicensed migrant labor housing facility to be a complaint under  
20 this section.  
21                    (e) The department shall make available to a person  
22 submitting a complaint information regarding other housing and  
23 transportation resources available to the person.  
24                    (f) Personal identifying information of a person submitting  
25 a complaint under this section is confidential and not subject to  
26 disclosure under Chapter 552.  
27                    (g) If a complaint filed under this section is dismissed or

1 not yet resolved before the 181st day after the date the complaint  
2 was filed, the department shall provide timely written notice of  
3 the dismissal or failure to resolve the complaint to the person  
4 filing the complaint. The notice must be sent by certified mail [~~The~~  
5 ~~board shall set the license fee in an amount not to exceed \$250~~].

6 SECTION 8. The heading to Section 2306.931, Government  
7 Code, is amended to read as follows:

8 Sec. 2306.931. ENFORCEMENT; ADOPTION OF RULES REGARDING  
9 HEALTH AND SAFETY AND LICENSING.

10 SECTION 9. Section 2306.931(e), Government Code, is amended  
11 to read as follows:

12 (e) The board by rule shall adopt minimum standards for  
13 issuing, revoking, or suspending a license issued under this  
14 subchapter, including rules that provide for the immediate  
15 suspension or revocation of a license for certain violations that  
16 constitute threats to the health and safety of persons living in  
17 migrant labor housing facilities.

18 SECTION 10. Subchapter LL, Chapter 2306, Government Code,  
19 is amended by amending Section 2306.933 and adding Sections  
20 2306.934, 2306.935, and 2306.936 to read as follows:

21 Sec. 2306.933. CIVIL PENALTY. (a) A person who violates  
22 this subchapter or a rule adopted under this subchapter is subject  
23 to a civil penalty of not less than \$50 for each person occupying  
24 the migrant labor housing facility in violation of this subchapter  
25 [~~\$200~~] for each day that the violation occurs.

26 (b) An [~~The county attorney for the county in which the~~  
27 ~~violation occurred, or the attorney general, at the request of the~~

1 ~~department, shall bring an]~~ action [~~in the name of the state]~~ to  
2 collect a ~~[the]~~ penalty under this section may be brought by:

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

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

8 (3) a migrant agricultural worker who, at the time of  
9 the violation, lived in the migrant labor housing facility that is  
10 the subject of the violation.

11 (c) An action may be brought under Subsection (b)(3) only  
12 if:

13 (1) before the 181st day after the date the complaint  
14 was filed, the department dismisses a complaint filed under Section  
15 2306.929 or does not resolve the complaint; and

16 (2) the complainant receives approval from the  
17 department in the manner provided by Subsection (d).

18 (d) Beginning on the 181st day after a complaint is filed  
19 under Section 2306.929, a complainant whose complaint has not yet  
20 been dismissed or otherwise resolved is entitled to request from  
21 the department a written notice of the complainant's right to file a  
22 civil action. The complainant must request the notice in writing.  
23 The executive director may issue the notice. Failure to issue the  
24 notice of a complainant's right to file a civil action does not  
25 affect the complainant's right under this section to bring a civil  
26 action against the respondent.

27 (e) The department by rule shall adopt a penalty schedule

1 that increases the amount of the penalty assessed against a person  
2 who repeatedly violates this subchapter or rules adopted under this  
3 subchapter.

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

8 Sec. 2306.934. ATTORNEY'S FEES. In an action under this  
9 subchapter, the court may award reasonable attorney's fees to the  
10 prevailing party.

11 Sec. 2306.935. RETALIATION PROHIBITED. A person who owns,  
12 establishes, maintains, operates, procures, makes arrangements  
13 for, or otherwise provides a migrant labor housing facility, a  
14 person who employs a migrant agricultural worker who occupies a  
15 migrant labor housing facility, or a farm labor contractor may not  
16 retaliate against a person for filing a complaint or providing  
17 information in good faith relating to a possible violation of this  
18 subchapter.

19 Sec. 2306.936. OUTREACH AND EDUCATION. (a) The department  
20 shall provide:

21 (1) to migrant agricultural workers in different  
22 regions of the state, educational materials or programs that are  
23 presented in English, Spanish, and other languages as appropriate  
24 and that inform the workers of their rights and remedies under this  
25 subchapter; and

26 (2) to persons who own, establish, maintain, operate,  
27 procure, make arrangements for, or otherwise provide migrant labor

1 housing facilities, educational materials or programs that are  
2 presented in English, Spanish, and other languages as appropriate  
3 and that inform the persons of their obligations under this  
4 subchapter.

5 (b) To better provide the services described by Subsection  
6 (a), the department shall:

7 (1) ensure that, in each region of the state where  
8 migrant labor housing facilities are most common, there are persons  
9 capable of providing the information described by Subsection (a) in  
10 English, Spanish, and other languages as appropriate; and

11 (2) conduct research, including by surveying migrant  
12 agricultural workers, concerning:

13 (A) what types of migrant labor housing  
14 facilities are most common in different regions of the state; and

15 (B) what regions of the state most need  
16 additional or improved migrant labor housing facilities.

17 SECTION 11. Not later than March 1, 2024, the Texas  
18 Department of Housing and Community Affairs shall adopt the rules  
19 necessary to implement Subchapter LL, Chapter 2306, Government  
20 Code, as amended by this Act.

21 SECTION 12. (a) Except as provided by Subsection (b) of  
22 this section, the change in law made by this Act applies only to an  
23 administrative or regulatory action taken on or after the effective  
24 date of this Act. An administrative or regulatory action taken  
25 before the effective date of this Act is governed by the law  
26 applicable to the administrative or regulatory action immediately  
27 before the effective date of this Act, and that law is continued in

1 effect for that purpose.

2 (b) The change in law made by this Act in amending Section  
3 [2306.933](#), Government Code, and adding Section 2306.934, Government  
4 Code, applies only to a violation that occurs on or after the  
5 effective date of this Act. A violation occurs before the effective  
6 date of this Act if any element of the violation occurs before that  
7 date. A violation that occurs before the effective date of this Act  
8 is governed by the law in effect on the date the violation occurred,  
9 and the former law is continued in effect for that purpose.

10 SECTION 13. This Act takes effect January 1, 2024.