

By: Hardcastle

H.B. No. 1009

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and acquisition of manufactured housing.

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

SECTION 1. Section 7A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 7A. CERTIFICATION AND EDUCATION PROGRAMS. (a) ~~[(b)]~~
The board shall recognize, prepare, and ~~[or]~~ administer continuing education programs for its license holders. A license holder must participate in the continuing education programs to the extent required by the board to retain the person's license. ~~[The department may recognize, prepare, or administer certification programs for persons regulated under this Act. Participation in the programs is voluntary]~~

(b) For the purposes of this section and other provisions of the Act relating to the licensees of this department, the actions of a licensed employee shall not be attributable to the employer if:

(1) the employer requires its licensed employees to attend a board approved certification and continuing education program;

(2) the employee has actually attended such a program;
and

(3) the employer has not directly or indirectly encouraged the employee to violate provisions of this Act.

(4) the employer has no actual knowledge of any employee actions which violate provisions of this Act. ~~[The board shall recognize, prepare, or administer continuing education programs for its license holders. A license holder must participate in the continuing education programs to the extent required by the board to retain the person's license.]~~ Any licensee directly involved in the sale of manufactured housing must complete 8 hours per calendar year of certification and continuing education programs provided by Subsection (a) that address state laws applicable to all manufactured housing retailer practices, applicable consumer protection regulations and ethical standards. A licensee must complete the certification and continuing education programs required by this subsection or the license is forfeited until completion of the course.

(d) ~~[(c)]~~ Upon application to prepare or administer a certification program or a continuing education program under this section, the board may contract with a private, nonprofit, tax-exempt organization listed in Section 501(c)(3), Internal Revenue Code of 1986, ~~[26 U.S.C. Section 501 (c)(3)]~~ or with an educational institution. The board may charge an application fee to be set by the board in such amount as is necessary to defray the expense of processing the application

(e) ~~[(d)]~~ The department shall issue appropriate certificates to those persons who complete a certification program and ~~[or]~~ who participate in a continuing education program under this section.

SECTION 2. Section 19(1), Texas Manufactured Housing

Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

If a manufactured home is permanently attached ~~[affixed or becomes improvement]~~ to real estate or real property, as defined by Chapter 2306.004(26), Government Code, the manufacturer's certificate or the original document of title may ~~[shall]~~ be surrendered to the department for cancellation. ~~[This requirement does not apply to an owner who is not issued a title under Section 2.001(e) or (f), Property Code.]~~ The legal description or the appropriate tract or parcel number of the real estate must be given to the department when the manufacturer's certificate or original document of title is surrendered. If a notice of attachment is to be filed, a copy of the notice must be submitted with the manufacturer's certificate or the original document of title surrendered for cancellation. The director may require the filing of other information. The department may not cancel a manufacturer's certificate or an original ~~[a]~~ document of title if a lien has been registered or recorded on the manufactured home. If a lien has been registered or recorded, the department shall notify the owner and each lienholder that the title and a description of the lien have been surrendered to the department and that the department may not cancel the title until the lien is released. Permanent attachment to real estate does not affect the validity of a lien recorded or registered with the department before the manufactured home is permanently attached. The rights of a prior lienholder pursuant to a security agreement or the provisions of a credit transaction and the rights of the state pursuant to a tax

lien are preserved. The department shall issue a certificate of attachment to real estate to the person who surrenders the manufacturer's certificate or original document of title. The certificate of attachment must contain the legal description or the appropriate tract or parcel number of the real estate and the identification number of the home, and must certify that the manufacturer's certificate or original document of title has been canceled. Before the issuance of a certificate of attachment, a person or a title insurance company authorized to do business in this state which surrenders the manufacturer's certificate or the original document of title to the department may ~~shall~~ file a notice of ~~improvement~~ attachment in the real property records of the county in which the home is located. The notice must state that the manufacturer's certificate or the original document of title has been surrendered for cancellation and a request has been made for the issuance of a certificate of attachment. The notice must include information sufficient to identify the home and must contain the legal description or the appropriate tract or parcel number of the real property on which the home is located. The notice is valid for all purposes until the certificate of attachment is issued and filed in the real property records of the appropriate county.

SECTION 3. Section 19A(a), (b) and (c), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) are amended to read as follows:

Sec. 19A. (a) A manufactured home that is permanently attached to real property is classified and taxed as real property

1 if the real property to which the home is attached is titled in the
2 name of the consumer under a deed or contract for sale and the
3 consumer has elected to file a notice of attachment with the
4 department. A manufactured home is considered permanently attached
5 to real property if the home is secured to a foundation and
6 connected to a utility, including a utility providing water,
7 electric, natural gas, propane or butane gas, or wastewater
8 services.

9 (b) The closing of a transaction for the acquisition of real
10 property and a manufactured home considered to be real property
11 under this section must occur at the office of a federally insured
12 financial institution, a title company, or any attorney at law. If
13 the real property is purchased under a contract of sale, the
14 contract must be filed in the real property records of the county in
15 which the home is attached ~~[installed]~~.

16 (c) Installation of a manufactured home considered to be
17 real property under this section must occur in a manner that
18 satisfies the lending requirements of the Federal Housing
19 Administration (FHA), Fannie Mae, or Freddie Mac for long-term
20 mortgage loans or for FHA insurance. Additionally, the
21 installation of a new manufactured home must meet, ~~[in addition to~~
22 ~~applicable state standards,~~] the manufacturer's specifications
23 required to validate the manufacturer's warranty.

24 SECTION 4. The Texas Manufactured Housing Standards Act
25 (Article 5221f, Vernon's Texas Civil Statutes), Section 21 is
26 amended to read as follows:

27 Sec. 21. (a) Prior to the completion of a credit

1 application, the retailer or agent must provide to the consumer the
2 following statement that is printed in at least 10-point type and
3 not attached to or combined with any other written material:

4 "When buying a manufactured home, there are a number of
5 important considerations, including price, quality of
6 construction, features, floor plan, and financing alternatives.

7 "The United States Department of Housing and Urban
8 Development (HUD) helps protect consumers through regulation and
9 enforcement of HUD design and construction standards for
10 manufactured homes. Manufactured homes that meet HUD standards are
11 known as 'HUD-code manufactured homes.' The Texas Department of
12 Housing and Community Affairs regulates Texas manufacturers,
13 retailers, brokers, salespersons, installers, and rebuilders of
14 manufactured homes.

15 "If you plan to place a manufactured home on land that you own
16 or will buy, you should consider items such as:

17 "ZONING AND RESTRICTIVE COVENANTS. Municipalities [~~Some~~
18 ~~municipalities~~] or subdivisions may restrict placement of
19 manufactured homes on certain lots, may prohibit the placement of
20 homes within a certain distance from property lines, may require
21 that homes be a certain size, and may impose certain construction
22 requirements. You may need to obtain building permits and
23 homeowner association approval before you place a manufactured home
24 on a certain lot. Contact the local municipality, county, and
25 subdivision manager to find out if you can place the manufactured
26 home of your choice on a certain lot.

27 "WATER. [~~Not all lots have immediate access to water lines.~~

1 ~~You may have to drill a well.]~~ Be sure that your lot has access to
2 water. If you must drill a well, contact several drillers for bids.
3 If water is available through ~~[provided by]~~ a municipality, utility
4 district, water district, or cooperative, you should inquire about
5 the rates you will have to pay and costs to join the water system.

6 "SEWER. If your lot is not serviced by a municipal sewer or
7 utility district, you will ~~[may]~~ have to install an on-site sewer
8 facility (commonly known as a septic system). There are a number of
9 concerns or restrictions that will determine if your lot is
10 adequate to support an on-site sewer facility. Check with the local
11 county or a licensed private installer to determine the
12 requirements that apply to your lot and the cost to install such a
13 system.

14 "HOMEOWNER ASSOCIATION FEES. Many subdivisions have
15 mandatory assessments and fees that lot owners must pay. Check with
16 the manager of the subdivision in which your lot is located to
17 determine if any fees apply to your lot.

18 "TAXES. Your home will be appraised and subject to ad valorem
19 taxes as other single-family residential structures. These taxes
20 must be escrowed with your monthly payment. Upon closing, you will
21 be notified of all provisions pertaining to federal Truth in
22 Lending disclosures. ~~[In Texas, real property is taxed annually~~
23 ~~based on its market value. Attaching a manufactured home to a lot~~
24 ~~improves the lot's value and will increase the taxes assessed on the~~
25 ~~lot. You are liable for the payment of all ad valorem taxes~~
26 ~~assessed against your home by the municipality, county, school~~
27 ~~district, and other tax authorities (utility district, community~~

1 ~~college, etc.). As with other residential structures, the~~
2 ~~applicable tax rate will apply to the market value of the home. You~~
3 ~~should contact the local chief appraiser or the county tax~~
4 ~~assessor-collector for specific tax information. They will need to~~
5 ~~know the price you paid for, and the specific location of, the home.~~
6 ~~If the manufactured home is your principal place of residence, you~~
7 ~~should be able to claim a HOMESTEAD EXEMPTION. You should also make~~
8 ~~certain that the lot or land you are purchasing is not subject to~~
9 ~~any rollback tax liability because of the change in use of the~~
10 ~~property."]~~

11 "INSURANCE. Your lender may require you to obtain insurance.
12 You should get quotes from the agent of your choice to obtain
13 insurance that meets lender requirements and protects your
14 investment."

15 ~~[(b) A retailer may not transfer a title to a manufactured~~
16 ~~home or otherwise sell, assign, or convey a manufactured home to a~~
17 ~~consumer unless the retailer delivers to the consumer a written~~
18 ~~document disclosing:~~

19 ~~the total purchase price of the manufactured home, as~~
20 ~~adjusted for:~~

21 ~~(A) any agreed interest rate and any points or~~
22 ~~fees; and~~

23 ~~(B) the length of time for any loan repayment,~~
24 ~~and~~

25 ~~(2) regardless of whether the real property proposed~~
26 ~~as the site for the manufactured home has been sold through an~~
27 ~~executory contract for conveyance, any responsibility of the~~

1 ~~consumer to:~~

2 ~~(A) pay property taxes associated with the~~
3 ~~manufactured home;~~

4 ~~(B) maintain private roads proximate to the~~
5 ~~manufactured home's location;~~

6 ~~(C) maintain a contract for an on-site sewage~~
7 ~~disposal system;~~

8 ~~(D) obtain property damage insurance; and~~

9 ~~(E) obtain mortgage insurance.~~

10 ~~(c) If the information is available, a person making a loan~~
11 ~~to a consumer to fund acquisition of a manufactured home shall also~~
12 ~~make the disclosures described by Subsection (b) before the~~
13 ~~consumer signs documents relating to the closing of the loan.~~

14 ~~(b) A federally insured financial institution or lender~~
15 ~~approved or authorized by the United States Department of Housing~~
16 ~~and Urban Development as a mortgagee with direct endorsement~~
17 ~~underwriting authority that fully complies with federal Truth in~~
18 ~~Lending disclosures concerning the terms of a manufactured housing~~
19 ~~transaction is exempt from the disclosure provisions of this~~
20 ~~section.~~

21 ~~(c) Failure to comply with the disclosure provisions of this~~
22 ~~section does not affect the validity of a conveyance or transfer of~~
23 ~~title of a manufactured home or otherwise impair a title or lien~~
24 ~~position.]~~

25 SECTION 5. Section 2.001, Property Code, is amended to read
26 as follows:

27 Sec. 2.001. MANUFACTURED HOUSING. (a) Except as provided

by Subsection (b), a manufactured home is personal ~~[real]~~ property.

A manufactured home is real property if:

(1) the home is permanently attached to the real property;

(2) the manufacturer's certificate of origin or the original document of title is surrendered for cancellation and a notice of attachment or a certificate of attachment, as described by the Texas Manufactured Housing Standards Act (Article 5221 f, Vernon's Texas Civil Statutes), is filed in the real property records of the county in which the home is located, or

(3) The owner of a manufactured home has entered into a lease for the real property on which the manufactured home is located and the lease specifically permits the recording of a certificate of attachment.

~~[(b) A manufactured home is personal property if the home is placed:~~

~~(1) on a lot, whether permanently or temporarily, that is not titled in the name of the consumer under a deed or contract for sale; or~~

~~(2) in a manufactured home rental community as defined by Section 232.007, Local Government Code.]~~

(b) In this section, "consumer," "document of title," "first retail sale," "manufactured home," and "mobile home" have the meanings assigned by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes).

(c) This section does not affect or change the classification of a manufactured home as personal or real property

1 if the manufactured home was permanently affixed to real property
2 before January 1, 2002.

3 (e) Except as provided by subsection (b), the ~~[The]~~ Texas
4 Department of Housing and Community Affairs shall ~~[may not]~~ issue a
5 document of title for a new and untitled manufactured home at the
6 first retail sale of the home or for a titled manufactured home that
7 is being resold when ~~[if]~~ the home is to be permanently installed by
8 a retailer directly on real property titled in the name of the
9 consumer under a deed or contract for sale. In a real property
10 transaction, ~~[Before installation,]~~ the consumer must provide the
11 retailer with a legible copy of the deed containing a legal
12 description of the real property. The retailer is not required to
13 determine the validity of the legal description of the real
14 property. A federally insured financial institution, title company
15 or attorney at law conducting the closing of a real property
16 transaction under Section 19A, Texas Manufactured Housing
17 Standards Act (Article 5221f, Vernon's Texas Civil Statutes), or
18 the retailer or retailer's agent shall file in the public land
19 records for the county in which the real property is located a
20 notice of installation not later than the 30th working day after the
21 date the installation is completed and shall forward the
22 manufacturer's certificate of origin or document of title and a
23 copy of the notice of installation to the Texas Department of
24 Housing and Community Affairs. In a real property transaction a
25 ~~[The]~~ notice of installation serves as a completed cancellation
26 application.

27 ~~[(f) For a manufactured home that is being resold by a~~

~~financial institution or a retailer and that is to be permanently installed directly on real property titled in the name of the consumer under a deed or contract for sale, a title company or attorney at law conducting the closing of a transaction under Section 19A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), or the retailer or retailer's agent shall file in the public land records for the county in which the real property is located a notice of installation not later than the 30th working day after the date the installation is completed and shall forward the document of title and a copy of the notice of installation of the Texas Department of Housing and Community Affairs. The notice of installation serves as a completed cancellation application.]~~

(f) [(g)] A notice of installation filed under this section must~~[+]~~ be in accordance with department rules.

~~[(1) be notarized,
be on a form prescribed by the Texas Department of Housing and Community Affairs,~~

~~contain a description of the manufactured home, including, as applicable, the home's make, model, dimensions, federal label number, state seal number, and identification or serial number,~~

~~include a verification of the installation of the manufactured home as prescribed by Section 19A(c), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes),~~

~~include the wind zone designation of the county in~~

1 ~~which the manufactured home was installed, if known, and~~

2 ~~be signed by:~~

3 ~~(C) the retailer, for a manufactured home~~
4 ~~described by Subsection (e), or~~

5 ~~(D) the installer, for a manufactured home~~
6 ~~described by Subsection (f).~~

7 ~~(h) Subsections (e), (f), and (g) do not apply to a mobile~~
8 ~~home.]~~

9 (h) ~~[(i)]~~ This section does not require a retailer or
10 retailer's agent to obtain a license under the Texas Real Estate
11 License Act, (Article 6573a, Vernon's Texas Civil Statutes).

12 SECTION 6. Section 347.254 of the Finance Code is amended to
13 read as follows:

14 Sec. 347.254. PAYMENT OF TAXES THROUGH THE CREDITOR. A
15 creditor shall ~~may~~ require a consumer to pay ad valorem taxes on
16 the manufactured home through the creditor. The creditor may:

17 (1) include in the credit transaction an amount equal
18 to a reasonable estimate of the tax for the first year; or

19 (2) require that the consumer pay on each installment
20 due date an amount equal to one-twelfth of the reasonable estimate
21 of the first year. (V.A.C.S. Art. 5069-6A.12(1)(part).)

22 SECTION 7. Section 32.014, (a), Tax Code, is amended to read
23 as follows:

24 Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. If the
25 ownership of the real property on which a manufactured home is
26 affixed and the manufactured home are the same, and the owner has
27 been issued a certificate of attachment by the department, the

1 manufactured home shall be appraised and taxed as an improvement to
2 the real property, and the tax lien attaches to the real property on
3 which the manufactured home is located regardless of the
4 classification of the manufactured home under the Property Code.

5 SECTION 8. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2003.