

A BILL TO BE ENTITLED

AN ACT

relating to the registration of homebuilders.

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

SECTION 1. The Occupations Code, is amended by adding Chapter 1203 to read as follows:

CHAPTER 1203. HOMEBUILDERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1203.001. SHORT TITLE. This chapter may be cited as the Homebuilder Registration Act.

Sec. 1203.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Homebuilder Commission.

(2) "Construction defect" has the meaning assigned to that term under Section 27.001, Property Code.

(3) "Home" means:

(A) the real property and improvements and appurtenances for a single-family house, townhome, patio home, zero-lot line home, duplex, triplex, or quadraplex; or

(B) a unit in a multiunit residential structure in which title to the individual units is transferred to the owners.

(4) "Homebuilder" means a person who constructs, contracts to construct, or offers to construct a new home or a new improvement to real property:

(A) for another for a profit or compensation or

1 in the expectation of receiving profit or compensation; or

2 (B) that the homebuilder intends to sell,  
3 transfer, or convey to another for profit or compensation or in the  
4 expectation of receiving a profit or compensation.

5 (5) "Homeowner" means a person who owns, contracts to  
6 own a home, or a subrogee or assignee of a person who owns or  
7 contracts to own a home.

8 (6) "Trade association" means a cooperative and  
9 voluntarily joined association of business or professional  
10 competitors designed to assist its members and their industry or  
11 profession as a whole, in dealing with mutual business or  
12 professional problems, issues, and circumstances and in promoting  
13 the common interest of its members and their industry and  
14 profession as a whole.

15 Sec. 1203.003. APPLICABILITY OF CHAPTER. This chapter does  
16 not apply to:

17 (1) a person who renovates or repairs a home;

18 (2) a governmental entity or public official engaged  
19 in official duties; or

20 (3) a person acting under a court order.

21 Sec. 1203.004. SUNSET PROVISION. The commission is subject  
22 to Chapter 325, Government Code (Texas Sunset Act). Unless  
23 continued in existence as provided by that chapter, the commission  
24 is abolished and this chapter expires September 1, 2009.

25 [Sections 1203.005-1203.020 reserved for expansion]

26 SUBCHAPTER B. COMMISSION

27 Sec. 1203.021. TEXAS HOMEBUILDER COMMISSION; MEMBERSHIP.

1 (a) The Texas Homebuilder Commission consists of nine members  
2 appointed by the governor with the advice and consent of the senate  
3 as follows:

4 (1) two members must be homebuilders with active  
5 registrations under this Chapter;

6 (2) two members must be representatives of the general  
7 public;

8 (3) one member must be a licensed professional  
9 engineer;

10 (4) one member must a licensed architect;

11 (5) one member must be a licensed professional  
12 inspector under Chapter 1102;

13 (6) one member must be a licensed real estate broker  
14 under Chapter 1101; and

15 (7) one member must be certified real estate appraiser  
16 under Chapter 1103.

17 (b) Appointments to the commission shall be made without  
18 regard to the race, color, disability, sex, religion, age, or  
19 national origin of the appointees.

20 Sec. 1203.022. TERMS. (a) Commission members serve  
21 staggered six-year terms with three members terms expiring January  
22 31 of each odd-numbered year. The terms of the two representatives  
23 of the general public must expire in different years. The terms of  
24 the two homebuilders must expire in different years.

25 (b) A member of the commission may not serve more than two  
26 complete terms.

27 Sec. 1203.023. PRESIDING OFFICER. The governor shall

1 designate a member of the commission as the presiding officer of the  
2 commission to serve in that capacity at the pleasure of the  
3 governor. At a regular meeting in February of each year, the  
4 Commission shall elect from its own membership a vice-chairperson  
5 and secretary. A quorum of the commission consists of five members.

6 Sec. 1203.024. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

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

13 (1) the person is an employee or paid consultant of a  
14 Texas trade association in the field of residential construction;  
15 or

16 (2) the person spouse is a manager or paid consultant  
17 of a Texas trade association in the field of residential  
18 construction.

19 (b) A person may not be a member of the commission or act as  
20 the general counsel to the commission if the person is required to  
21 register as a lobbyist under Chapter 305, Government Code, because  
22 of the person activities for compensation on behalf of a profession  
23 related to the operation of the commission.

24 Sec. 1203.025. GROUNDS FOR REMOVAL. (a) It is a ground for  
25 removal from the commission that a member:

26 (1) does not have at the time of taking office the  
27 qualifications required by Section 1203.021;

1           (2) does not maintain during service on the commission  
2 the qualifications required by Section 1203.021;

3           (3) is ineligible for membership under Section  
4 1203.021;

5           (4) cannot because of illness or disability discharge  
6 the member duties for a substantial part of the member term; or

7           (5) is absent from more than half of the regularly  
8 scheduled commission meetings that the member is eligible to attend  
9 during a calendar year without an excuse approved by a majority vote  
10 of the commission.

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

14           (c) If the executive director has knowledge that a potential  
15 ground for removal exists, the executive director shall notify the  
16 presiding officer of the potential ground. The presiding officer  
17 shall then notify the governor and the attorney general that a  
18 potential ground for removal exists. If the potential ground for  
19 removal involves the presiding officer, the executive director  
20 shall notify the next highest ranking officer of the commission,  
21 who shall notify the governor and the attorney general that a  
22 potential ground for removal exists.

23           Sec. 1203.026. TRAINING. (a) A person who is appointed to  
24 and qualifies for office as a member of the commission may not vote,  
25 deliberate, or be counted as a member in attendance at a meeting of  
26 the commission until the person completes a training program that  
27 complies with this section.

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

3                (1) the legislation that created the commission;

4                (2) the programs operated by the commission;

5                (3) the role and functions of the commission;

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

8                (5) the current budget for the commission;

9                (6) the results of the most recent formal audit of the  
10 commission;

11                (7) the requirements of:

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

14                        (B) the open records law, Chapter 552, Government  
15 Code;

16                        (C) the administrative procedure law, Chapter  
17 2001, Government Code;

18                        (D) the general arbitration law, Chapter 171,  
19 Civil Practice and Remedies Code; and

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

22                (8) any applicable ethics policies adopted by the  
23 commission or the Texas Ethics Commission.

24        (c) A person appointed to the commission is entitled to  
25 reimbursement, as provided by the General Appropriations Act, for  
26 the travel expenses incurred in attending the training program  
27 regardless of whether the attendance at the program occurs before

1 or after the person qualifies for office.

2 Sec. 1203.027. MEETINGS. The commission shall meet at  
3 least quarterly and at other times at the call of the presiding  
4 officer.

5 [Sections 1203.028-1203.060 reserved for expansion]

6 SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER AGENCY PERSONNEL

7 Sec. 1203.061. EXECUTIVE DIRECTOR. The commission shall  
8 employ an executive director as the executive head of the agency.

9 Sec. 1203.062. OTHER PERSONNEL. The commission may employ  
10 other personnel as necessary for the administration of this  
11 chapter.

12 Sec. 1203.063. DIVISION OF RESPONSIBILITIES. The  
13 commission shall develop and implement policies that clearly  
14 separate the policymaking responsibilities of the commission and  
15 the management responsibilities of the executive director and the  
16 staff of the commission.

17 Sec. 1203.064. QUALIFICATIONS AND STANDARDS OF CONDUCT  
18 INFORMATION. The executive director or the executive director  
19 designee shall provide to members of the commission and to  
20 commission employees, as often as necessary, information regarding  
21 the requirements for office or employment under this chapter,  
22 including information regarding a person responsibilities under  
23 applicable laws relating to standards of conduct for state officers  
24 or employees.

25 Sec. 1203.065. CAREER LADDER PROGRAM; PERFORMANCE  
26 EVALUATION. (a) The executive director or the executive director  
27 designee shall develop an intra-agency career ladder program that

1 addresses opportunities for mobility and advancement for employees  
2 within the commission. The program must require intra-agency  
3 posting of all nonentry level positions concurrently with any  
4 public posting.

5 (b) The executive director or the executive director  
6 designee shall develop a system of annual performance evaluations  
7 based on measurable job tasks. All merit pay for commission  
8 employees must be based on the system established under this  
9 subsection.

10 Sec. 1203.066. EQUAL EMPLOYMENT OPPORTUNITY POLICY; ANNUAL  
11 REPORT. (a) The executive director or the executive director  
12 designee shall prepare and maintain a written policy statement that  
13 implements a program of equal employment opportunity to ensure that  
14 all personnel decisions are made without regard to race, color,  
15 disability, sex, religion, age, or national origin.

16 (b) The policy statement must include:

17 (1) personnel policies, including policies relating  
18 to recruitment, evaluation, selection, training, and promotion of  
19 personnel, that show the intent of the commission to avoid the  
20 unlawful employment practices described by Chapter 21, Labor Code;  
21 and

22 (2) an analysis of the extent to which the composition  
23 of the commission personnel is in accordance with state and federal  
24 law and a description of reasonable methods to achieve compliance  
25 with state and federal law.

26 (c) The policy statement must:

27 (1) be updated annually;



1           (2) be reviewed by the state Commission on Human  
2 Rights for compliance with Subsection (b)(1); and

3           (3) be filed with the governor office.

4           (d) The governor office shall deliver a biennial report to  
5 the legislature based on the information received under Subsection  
6 (c)(3). The report may be made separately or as a part of other  
7 biennial reports made to the legislature.

8           Sec. 1203.067. INFORMATION AND TRAINING ON STATE EMPLOYEE  
9 INCENTIVE PROGRAM. The executive director or the executive  
10 director designee shall provide to commission employees  
11 information and training on the benefits and methods of  
12 participation in the state employee incentive program.

13           [Sections 1203.068-1203.080 reserved for expansion]

14                   SUBCHAPTER D. POWERS AND DUTIES

15           Sec. 1203.081. GENERAL POWERS AND DUTIES. The commission  
16 shall:

17                   (1) administer this chapter;

18                   (2) maintain a registry of registrants;

19                   (3) adopt and enforce rules and establish buildings  
20 standards as required by this chapter to fulfill the purposes of  
21 this chapter;

22                   (4) authorize specific employees to conduct hearings  
23 and issue final decisions in contested cases under Sections  
24 1203.127 and 1203.182 and in dispute resolution hearings under  
25 Section 1203.246; and

26                   (5) adopt procedural rules to make final decisions  
27 rendered by specific employees, as hearings officers, under

1 Sections 1203.127 and 1203.182 are appealable to the commission.

2 Sec. 1203.082. FEES. The commission shall adopt fees as  
3 required by this title in amounts that are reasonable and necessary  
4 to provide sufficient revenue to cover the costs of administering  
5 this chapter. The commission shall charge and collect the  
6 following fees:

7 (1) for filing an original application for a  
8 homebuilder registration, not more \$500;

9 (2) for annual renewal of homebuilder registration,  
10 not more than \$500;

11 (3) for filing a request for a change of place of  
12 business or change of name, not more than \$100;

13 (4) for filing a request to replace a lost or destroyed  
14 registration certificate, not more than \$100;

15 (5) for preparing a registration history, not more  
16 than \$50;

17 (6) for filing a request to resolve a dispute under  
18 Subchapter L, not more than \$100; and

19 (7) for filing a request for moral character  
20 determination under Section 1203.123, not more than \$100.

21 Sec. 1203.083. ACCESSIBILITY. (a) The commission shall  
22 comply with federal and state laws related to program and facility  
23 accessibility.

24 (b) The executive director shall prepare and maintain a  
25 written plan that describes how a person who does not speak English  
26 can obtain reasonable access to the commission programs and  
27 services.

1       Sec. 1203.084. ANNUAL REPORT. (a) The commission shall  
2 file annually with the governor and the presiding officer of each  
3 house of the legislature a complete and detailed written report  
4 accounting for all funds received and disbursed by the commission  
5 during the preceding fiscal year.

6       (b) The report must be in the form and reported in the time  
7 provided by the General Appropriations Act.

8       Sec. 1203.085. RULES RESTRICTING ADVERTISING OR  
9 COMPETITIVE BIDDING. (a) The commission may not adopt a rule  
10 restricting advertising or competitive bidding by a homebuilder  
11 except to prohibit a false, misleading, or deceptive practice by  
12 the homebuilder.

13       (b) The commission may not include in rules to prohibit  
14 false, misleading, or deceptive practices by a homebuilder a rule  
15 that:

16               (1) restricts the use of any advertising medium;

17               (2) restricts the homebuilder personal appearance or  
18 use of the homebuilder voice in an advertisement;

19               (3) relates to the size or duration of an  
20 advertisement used by the homebuilder; or

21               (4) restricts the homebuilder advertisement under a  
22 trade name.

23       Sec. 1203.086. SUBPOENA AUTHORITY. (a) The commission may  
24 request and, if necessary, compel by subpoena:

25               (1) the attendance of witnesses for examination under  
26 oath; and

27               (2) the production for inspection and copying of

1 records, documents, and other evidence relevant to an investigation  
2 or other proceeding authorized under this chapter.

3 (b) A subpoena may be issued throughout the state and may be  
4 served by any person designated by the commission.

5 (c) If a person fails to comply with a subpoena issued under  
6 this section, the commission, acting through the attorney general,  
7 may file suit to enforce the subpoena in a district court in Travis  
8 County or in the county in which a hearing conducted by the  
9 commission may be held.

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

12 [Sections 1203.087-1203.100 reserved for expansion]

13 SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND  
14 COMPLAINT PROCEDURES

15 Sec. 1203.101. PUBLIC INTEREST INFORMATION. (a) The  
16 commission shall prepare information of public interest describing  
17 the functions of the commission and the procedures by which  
18 complaints or requests to resolve disputes are filed with and  
19 resolved by the commission.

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

22 Sec. 1203.102. COMPLAINTS AND REQUESTS FOR DISPUTE  
23 RESOLUTION. (a) The commission by rule shall establish methods by  
24 which consumers and service recipients are notified of the name,  
25 mailing address, and telephone number of the commission for the  
26 purpose of directing a complaint or submitting a dispute for  
27 resolution to the commission. The commission may provide for that

1 notice:

2 (1) on each application for a certificate of  
3 registration or written contract for services of a registrant under  
4 this chapter;

5 (2) on a sign prominently displayed in the place of  
6 business of each person registered under this chapter;

7 (3) in a bill for services provided by a registrant  
8 under this chapter; or

9 (4) in conjunction with any notice registrants may be  
10 required to provide to consumers or service recipients under this  
11 chapter or the rules of the commission.

12 (b) The commission shall provide to a person who files with  
13 the commission a complaint relating to a registrant or a request for  
14 dispute resolution under Subchapter L and to the registrant against  
15 whom the complaint or request is filed:

16 (1) an explanation of the remedies that are available  
17 to the person under this chapter; and

18 (2) information about appropriate state or local  
19 agencies or officials with whom the person may file a complaint.

20 Sec. 1203.103. COMPLAINT INFORMATION AND INFORMATION IN  
21 REQUESTS FOR DISPUTE RESOLUTION. (a) The commission shall  
22 maintain an information file about each complaint and request for  
23 dispute resolution filed with the commission that the commission  
24 has authority to resolve.

25 (b) If a written complaint or a request for dispute  
26 resolution is filed with the commission that the commission has  
27 authority to resolve, the commission, at least quarterly and until

1 the matter is resolved, shall notify the parties to the complaint or  
2 dispute of the status of the complaint or dispute.

3 Sec. 1203.104. COMPLAINT INVESTIGATION AND DISPOSITION.

4 (a) The commission shall investigate the actions and pertinent  
5 records of a registrant if:

6 (1) a consumer or service recipient submits a signed,  
7 written complaint; and

8 (2) the complaint and any evidence presented with the  
9 complaint provide reasonable cause for an investigation.

10 (b) The commission shall promptly provide a written notice  
11 to a person registered under this chapter who is the subject of an  
12 investigation.

13 (c) An investigation or other action against a person  
14 licensed under this chapter may not be initiated on the basis of an  
15 anonymous complaint.

16 (d) The commission may authorize a commission employee to  
17 file a signed, written complaint against a registrant under this  
18 chapter and to conduct an investigation if:

19 (1) the registrant is convicted of a criminal offense  
20 that may constitute grounds for the suspension or revocation of the  
21 person's registration; or

22 (2) the registrant fails to honor a check issued to the  
23 commission.

24 Sec. 1203.105. COMPLAINT INVESTIGATION. The commission  
25 shall investigate a signed complaint received by the commission  
26 that relates to an act of a person required to hold a certificate of  
27 registration under this chapter.

1       Sec. 1203.106. PUBLIC PARTICIPATION. (a) The commission  
2 shall develop and implement policies that provide the public with a  
3 reasonable opportunity to appear before the commission and to speak  
4 on any issue under the commission's jurisdiction.

5       (b) The commission shall prepare and maintain a written plan  
6 that describes how a person who does not speak English or who has a  
7 physical, mental, or developmental disability may be provided  
8 reasonable access to the commission's programs.

9       [Sections 1203.107-1203.120 reserved for expansion]

10       SUBCHAPTER F. REGISTRATION REQUIREMENTS

11       Sec. 1203.121. REGISTRATION REQUIRED. (a) Unless a person  
12 holds a certificate of registration issued under this chapter, the  
13 person may not act as a homebuilder.

14       (b) An applicant for a homebuilder registration may not act  
15 as a homebuilder until the person receives the certificate of  
16 registration evidencing that authority.

17       Sec. 1203.122. APPLICATION FOR REGISTRATION. (a) Each  
18 applicant for a homebuilder registration must submit an application  
19 on a form prescribed by the commission.

20       (b) Each applicant for a homebuilder registration must  
21 disclose in the application whether the applicant has:

22               (1) entered a plea of guilty or nolo contendere to a  
23 felony; or

24               (2) been convicted of a felony and the time for appeal  
25 has elapsed or the judgment or conviction has been affirmed on  
26 appeal.

27       (c) The disclosure under Subsection (b) must be provided

1 even if an order has granted community supervision suspending the  
2 imposition of the sentence.

3 (d) The commission may, upon receipt of an application,  
4 conduct a criminal background check of the applicant or any person  
5 responsible for the application. The commission may obtain  
6 criminal history record information maintained by the Department of  
7 Public Safety, the Federal Bureau of Investigation, any court, or  
8 any other local, state, or national governmental agency. Unless  
9 the information is a public record at the time the commission  
10 obtains the information under this subsection, the information is  
11 confidential and the commission may not release or disclose the  
12 information to any person except under order from a court or with  
13 the permission of applicant.

14 Sec. 1203.123. MORAL CHARACTER DETERMINATION. (a) If  
15 before applying for a registration under this chapter a person  
16 requests that the commission determine whether the person's moral  
17 character complies with the commission's moral character  
18 requirements for registration under this chapter and pays the fee  
19 prescribed by Section 1203.082, the commission shall make its  
20 determination of the person's moral character.

21 (b) Not later than the 30th day after the date the  
22 commission makes its determination, the commission shall notify the  
23 person of the determination.

24 (c) A person may appeal the commission determination under  
25 this section by following the procedure under Section 1203.127 for  
26 the denial of an application for registration. An appeal hearing  
27 concerning a moral character determination is governed by Section



1 1203.127.

2 (d) If a person applies for a registration after receiving  
3 notice of a determination, the commission may conduct a  
4 supplemental moral character determination of the person. The  
5 supplemental determination may cover only the period after the date  
6 the person requests a moral character determination under this  
7 section.

8 Sec. 1203.124. GENERAL ELIGIBILITY REQUIREMENTS. To be  
9 eligible to receive a registration under this chapter, a person  
10 must:

11 (1) at the time of application:

12 (A) be at least 18 years of age; and

13 (B) be a citizen of the United States or a  
14 lawfully admitted alien; and

15 (2) satisfy the commission as to the applicant's  
16 honesty, trustworthiness, and integrity.

17 Sec. 1203.125. ADDITIONAL GENERAL ELIGIBILITY REQUIREMENTS  
18 FOR BUSINESS ENTITIES. (a) To be eligible to register under this  
19 chapter:

20 (1) a corporation must designate one of its officers  
21 as its agent for purposes of this chapter;

22 (2) a limited liability company must designate one of  
23 its managers as its agent for purposes of this chapter; and

24 (3) a partnership, limited partnership, or limited  
25 liability partnership must designate one of its managing partners  
26 as its agent for purposes of this chapter.

27 (b) A corporation, limited liability company, partnership,

1 limited partnership, or limited liability partnership is not  
2 eligible to be registered under this chapter and may not act as a  
3 homebuilder unless the entity's designated agent, according to the  
4 commission's records, is individually registered as a homebuilder.

5 (c) Except as provided by Subsection (d), a corporation,  
6 limited liability company, partnership, limited partnership, or  
7 limited liability partnership is not eligible to be registered  
8 under this chapter and may not act as a homebuilder if any of its  
9 officers, managers, or partners was or is the subject of an order  
10 from the commission revoking:

11 (1) the individual officer , manager , or partner  
12 registration under this chapter; or

13 (2) the registration of a business entity for whom the  
14 officer, manager, or partner was an officer, manager, or partner  
15 during the time the acts causing the revocation were committed.

16 (d) The commission may waive the application of Subsection  
17 (c) if it is satisfied as to the officer , manager , or partner  
18 honesty, integrity, and trustworthiness.

19 Sec. 1203.126. ISSUANCE OF A CERTIFICATE OF REGISTRATION.

20 (a) The commission shall issue a certificate of registration to an  
21 applicant who meets the requirements for a registration under this  
22 chapter.

23 (b) A certificate of registration remains in effect for the  
24 period prescribed by the commission if the certificate holder  
25 complies with this chapter and pays the appropriate renewal fees.

26 Sec. 1203.127. DENIAL OF REGISTRATION. (a) The commission  
27 shall immediately give written notice to the applicant of the

1 commission's denial of a registration.

2 (b) Before the applicant may appeal a denial of an  
3 application, a denial of an application to renew a certificate of  
4 registration, or a moral character determination, the applicant  
5 must file, not later than the 10th day after the date the applicant  
6 receives the notice, an appeal requesting a time and place for a  
7 hearing before the commission. If the applicant fails to request a  
8 hearing as provided by this subsection, the commission's decision  
9 becomes final and is not subject to judicial review.

10 (c) The commission shall:

11 (1) set a time and place for the hearing not later than  
12 the 30th day after the date the commission receives the appeal; and

13 (2) give notice of the hearing to the applicant before  
14 the 10th day preceding the date of the hearing.

15 (d) The hearing may be continued from time to time with the  
16 consent of the applicant.

17 (e) The hearing shall be before a hearings officer appointed  
18 by the commission. After the hearing, the hearings officer shall  
19 enter an appropriate order, which shall be a final decision.

20 (f) The commission shall adopt procedural rules under which  
21 all decisions rendered by a hearings officer are appealable to the  
22 commission.

23 (g) A hearing under this section is governed by Chapter  
24 2001, Government Code.

25 [Sections 1203.128-1203.140 reserved for expansion]

26 SUBCHAPTER G. RENEWAL OF REGISTRATION CERTIFICATES

27 Sec. 1203.141. EXPIRATION OF CERTIFICATE OF REGISTRATION.

1 (a) The commission may issue or renew a certificate of  
2 registration for a period not to exceed 24 months.

3 (b) The commission by rule may adopt a system under which  
4 certificates of registration expire on various dates during the  
5 year. The commission shall adjust the date for payment of the  
6 renewal fees accordingly.

7 (c) For a year in which the certificate of registration  
8 expiration date is changed, renewal fees payable shall be prorated  
9 on a monthly basis so that each certificate holder pays only that  
10 portion of the fee that is allocable to the number of months during  
11 which the certificate of registration is valid. On renewal of the  
12 certificate of registration on the new expiration date, the total  
13 renewal fee is payable.

14 Sec. 1203.142. INFORMATION REQUIRED FOR RENEWAL. (a) Each  
15 applicant for the renewal of a certificate of registration must  
16 disclose in the renewal application whether the applicant has:

17 (1) entered a plea of guilty or nolo contendere to a  
18 felony; or

19 (2) been convicted of a felony and the time for appeal  
20 has elapsed or the judgment or conviction has been affirmed on  
21 appeal.

22 (b) The disclosure under Subsection (a) must be provided  
23 even if an order has granted community supervision suspending the  
24 imposition of the sentence.

25 Sec. 1203.143. ADDITIONAL RENEWAL REQUIREMENTS FOR  
26 BUSINESS ENTITIES. (a) To renew a certificate of registration  
27 under this chapter:

1           (1) a corporation must designate one of its officers  
2 as its agent for purposes of this chapter;

3           (2) a limited liability company must designate one of  
4 its managers as its agent for purposes of this chapter; and

5           (3) a partnership, limited partnership, or limited  
6 liability partnership must designate one of its managing partners  
7 as its agent for purposes of this chapter.

8           (b) A corporation, limited liability company, partnership,  
9 limited partnership, or limited liability partnership may not act  
10 as a homebuilder unless the entity's designated agent, according to  
11 the commission's records, is individually registered as a  
12 homebuilder under this chapter.

13           (c) Except as provided by Subsection (d), a corporation,  
14 limited liability company, partnership, limited partnership, or  
15 limited liability partnership may not act as a homebuilder if any of  
16 the officers, managers, or partners was or is the subject of an  
17 order from the commission revoking:

18           (1) the individual officer , manager , or partner  
19 registration under this chapter; or

20           (2) the registration of a business entity for which  
21 the officer, manager, or partner was an officer, manager, or  
22 partner during the time the acts causing the revocation were  
23 committed.

24           (d) The commission may waive the application of Subsection  
25 (c) if it is satisfied as to the officer , manager , or partner  
26 honesty, integrity, and trustworthiness.

27           Sec. 1203.144. DENIAL OF RENEWAL. (a) If the commission

1 denies the renewal of an applicant for renewal, the commission  
2 shall immediately give written notice to the applicant of the  
3 denial.

4 (b) The applicant may appeal the denial by following the  
5 procedures under Section 1203.127.

6 (c) An appeal hearing under this section is governed by Sec.  
7 1203.127.

8 [Sections 1203.145-1203.160 reserved for expansion]

9 SUBCHAPTER H. PRACTICES BY CERTIFICATE HOLDERS

10 Sec. 1203.161. FIXED OFFICE REQUIRED; CHANGE OF ADDRESS;  
11 OFFICE LOCATIONS. (a) A homebuilder shall maintain a fixed office  
12 in this state. The address of the principal place of business for  
13 the homebuilder shall be designated on the certificate of  
14 registration.

15 (b) Not later than the 10th day after the date a homebuilder  
16 moves from the address designated on the certificate of  
17 registration, the homebuilder shall submit an application,  
18 accompanied by the appropriate fee, for a certificate of  
19 registration that designates the new location of the homebuilder  
20 principal place of business. The commission shall issue a  
21 certificate of registration that designates the new location if the  
22 new location complies with the requirements of this section.

23 (c) A homebuilder who maintains more than one place of  
24 business in this state shall notify the commission in writing of  
25 each additional office location maintained by the homebuilder not  
26 later than the 10th day after the homebuilder opens the additional  
27 location.

1       Sec. 1203.162. REQUIRED NOTICES AND PROVISIONS IN A  
2 HOMEBUILDER CONTRACT. (a) When homebuilder enters into a contract  
3 to sell to a homeowner real estate on which the homebuilder  
4 constructed a new home, the homebuilder shall include in the  
5 written contract:

6           (1) a written notice that the homeowner should:

7                   (A) have the abstract covering the real estate  
8 that is the subject of the contract examined by an attorney chosen  
9 by the homeowner; or

10                   (B) be provided with or obtain a title insurance  
11 policy;

12           (2) the written notice required by Section 27.007,  
13 Property Code; and

14           (3) a provision that entitles the homeowner, at the  
15 homeowner election, to submit a dispute related to a construction  
16 defect to the commission for resolution under Subchapter L before  
17 the dispute is submitted to litigation or arbitration as the  
18 contract may require.

19       (b) When a homebuilder enters into a contract or agreement  
20 with a homeowner to construct a new home or new improvements to an  
21 existing home on the homeowner real estate, the homebuilder shall  
22 include in the written contract the notice described under  
23 Subsection (a)(2) and the provision described under Subsection  
24 (a)(3).

25           [Sections 1203.163-1203.180 reserved for expansion]

26       SUBCHAPTER I. PROHIBITED PRACTICES AND DISCIPLINARY PROCEEDINGS

27       Sec. 1203.181. GROUNDS FOR SUSPENSION OR REVOCATION OF

1 CERTIFICATE OF REGISTRATION. (a) The commission may suspend or  
2 revoke a certificate of registration issued under this chapter if  
3 the certificate holder:

4 (1) enters a plea of guilty or nolo contendere to or is  
5 convicted of a felony, and the time for appeal has elapsed or the  
6 judgment or conviction has been affirmed on appeal, without regard  
7 to an order granting community supervision that suspends the  
8 imposition of the sentence;

9 (2) procures or attempts to procure a certificate of  
10 registration under this chapter for the certificate holder or  
11 another by fraud, misrepresentation, or deceit or by making a  
12 material misstatement of fact in an application for a certificate  
13 of registration;

14 (3) engages in an intentional misrepresentation or  
15 fraud when selling, buying, trading, or leasing real property;

16 (4) fails to honor, within a reasonable time, a check  
17 issued to the commission after the commission has sent by certified  
18 mail a request for payment to the certificate holder's last known  
19 business address according to commission records;

20 (5) fails to provide, within a reasonable time,  
21 information requested by the commission that relates to a formal or  
22 informal complaint to the commission that would indicate a  
23 violation of this chapter;

24 (6) fails to surrender to the owner, without just  
25 cause, a document or instrument to a dispute that is requested by  
26 the owner and that is in the certificate holder's possession;

27 (7) fails to pay or otherwise comply with a final award



1 issued against the homebuilder under Subchapter L; or

2 (8) disregards or violates this chapter.

3 (b) The commission may suspend or revoke a certificate of  
4 registration issued under this chapter if the certificate holder,  
5 while acting as a homebuilder:

6 (1) makes a material misrepresentation to a homeowner  
7 concerning a significant defect, including a latent structural  
8 defect, known to the homebuilder that would be a significant factor  
9 to a reasonable and prudent homeowner in making a decision to  
10 purchase the home or accept construction by the homebuilder as  
11 substantially complete;

12 (2) fails to disclose to a homeowner a defect  
13 described by Subdivision (1) that is known to the homebuilder;

14 (3) makes a false promise that is likely to influence a  
15 person to enter into an agreement when the homebuilder is unable or  
16 does not intend to keep the promise;

17 (4) pursues a continued and flagrant course of  
18 misrepresentation or makes false promises through advertising, or  
19 otherwise;

20 (5) fails within a reasonable time to properly account  
21 for or remit money that is received by the homebuilder and that  
22 belongs to another person;

23 (6) commingles money that belongs to another person  
24 with the homebuilder own money;

25 (7) solicits, sells, or offers for sale a home by means  
26 of a lottery;

27 (8) solicits, sells, or offers for sale a home by means

1 of a deceptive practice;

2 (9) guarantees or authorizes or permits a person to  
3 guarantee that future profits will result from a resale of a home;

4 (10) negotiates or attempts to negotiate the sale,  
5 exchange, or lease of real property with an owner, landlord, buyer,  
6 or tenant with knowledge that that person is a exclusively  
7 represented by an attorney or broker in connection with the  
8 transaction;

9 (11) publishes or causes to be published any  
10 advertisement that is false or misleads or is likely to deceive the  
11 public;

12 (12) withholds from or inserts into a statement of  
13 account or invoice a statement that the homebuilder knows makes the  
14 statement of account or invoice inaccurate in a material way;

15 (13) publishes or circulates an unjustified or  
16 unwarranted threat of a legal proceeding or other action;

17 (14) aids, abets, or conspires with another person to  
18 circumvent this chapter;

19 (15) fails or refuses to provide, on request, a copy of  
20 a document relating to a transaction to a person who signed the  
21 document;

22 (16) fails to include in a contract for the sale of a  
23 home to a homeowner or a contract for construction of a new home or  
24 new improvements the notices required under Section 1203.162;

25 (17) fails to deposit, within a reasonable time, money  
26 the certificate holder receives as earnest money:

27 (A) in trust with a title company authorized to

1 do business in this state; or

2 (B) in a custodial, trust, or escrow account  
3 maintained for that purpose in a banking institution authorized to  
4 do business in this state;

5 (18) conditions the sale of a home on the homeowner  
6 using a title company that the homebuilder selects if the homeowner  
7 pays for the title policy;

8 (19) conditions the sale of a home on the buyer using a  
9 lender that the homebuilder selects;

10 (20) discriminates against a homeowner or prospective  
11 homeowner on the basis of race, color, religion, sex, national  
12 origin, or ancestry, including directing a homeowner or prospective  
13 homeowner interested in equivalent properties to a different area  
14 based on the race, color, religion, sex, national origin, or  
15 ancestry of the homeowner or prospective homeowner; or

16 (21) disregards or violates this chapter.

17 Sec. 1203.182. ADDITIONAL DISCIPLINARY AUTHORITY OF  
18 COMMISSION. (a) If a certificate holder violates this chapter or  
19 a commission rule, the commission may, in addition to any other  
20 authority under this chapter:

21 (1) suspend or revoke a certificate of registration;

22 (2) place on probation a person whose certificate of  
23 registration has been suspended;

24 (3) reprimand a certificate holder; or

25 (4) assess an administrative penalty that complies  
26 with Subchapter J against a certificate holder, alone or in  
27 addition to a suspension, probation, or reprimand.

1       (b) The commission may probate a suspension, revocation, or  
2 cancellation of a certificate of registration under reasonable  
3 terms determined by the commission.

4       Sec. 1203.183. HEARING. (a) If the commission proposes to  
5 take any disciplinary action described in Section 1203.182 against  
6 a certificate holder, the certificate holder is entitled to a  
7 hearing before the a hearings officer appointed by the commission.

8       (b) The commission shall adopt procedural rules by which all  
9 decisions to take disciplinary action against certificate holder  
10 are appealable to the commission.

11       (c) The commission shall prescribe the time and place of the  
12 hearing.

13       (d) A hearing under this section is governed by the  
14 contested case procedures under Chapter 2001, Government Code.

15       Sec. 1203.184. APPEAL. (a) A person aggrieved by a  
16 ruling, order, or decision of the commission is entitled to appeal  
17 to a district court in the county in which the administrative  
18 hearing was held.

19       (b) An appeal is governed by the procedures under Chapter  
20 2001, Government Code.

21       [Sections 1203.185-1203.200 reserved for expansion]

22               SUBCHAPTER J. ADMINISTRATIVE PENALTY

23       Sec. 1203.201. IMPOSITION OF ADMINISTRATIVE PENALTY. In  
24 contested cases involving disciplinary action, the commission, as  
25 part of the order, may impose an administrative penalty on a  
26 certificate holder who violates this chapter or a rule adopted or  
27 order issued by the commission under this chapter.

1       Sec. 1203.202. AMOUNT OF PENALTY. (a) The amount of an  
2 administrative penalty may not exceed \$5,000 for each violation.

3       (b) In determining the amount of the penalty, the hearings  
4 officer or commission shall consider:

5           (1) the seriousness of the violation, including the  
6 nature, circumstances, extent, and gravity of the prohibited acts;

7           (2) the history of previous violations;

8           (3) the amount necessary to deter a future violation;

9           (4) efforts to correct the violation; and

10          (5) any other matter that justice may require.

11       Sec. 1203.203. PAYMENT OF ADMINISTRATIVE PENALTY. Not  
12 later than the time specified in the commission's order, which may  
13 not be sooner than 30 days after the order becomes final, the person  
14 shall pay the administrative penalty.

15       Sec. 1203.204. COLLECTION OF PENALTY. If the person does  
16 not pay the administrative penalty and the enforcement of the  
17 penalty is not stayed, the commission may:

18           (1) refer the matter to the attorney general for  
19 collection of the penalty; or

20           (2) enforce any part of the order that specifies  
21 disciplinary action to be taken against the certificate holder if  
22 the certificate holder fails to pay the administrative penalty  
23 within the time required.

24       [Sections 1203.205-1203.220 reserved for expansion]

25       SUBCHAPTER K. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

26       Sec. 1203.221. INJUNCTIVE ACTION BROUGHT BY COMMISSION.

27       (a) In addition to any other action authorized by law, the

1 commission may bring an action in its name to enjoin a violation of  
2 this chapter or a commission rule.

3 (b) To obtain an injunction under this section, the  
4 commission is not required to allege or prove that:

5 (1) an adequate remedy at law does not exist; or

6 (2) substantial or irreparable damage would result  
7 from the continued violation.

8 Sec. 1203.222. ADDITIONAL INJUNCTIVE AUTHORITY. (a) In  
9 addition to any other action authorized by law, the commission,  
10 acting through the attorney general, may bring an action to abate a  
11 violation or enjoin a violation or potential violation of this  
12 chapter or a commission rule if the commission determines that a  
13 person has violated or is about to violate this chapter.

14 (b) The action shall be brought in the name of the state in  
15 the district court in the county in which:

16 (1) the violation occurred or is about to occur; or

17 (2) the defendant resides.

18 (c) An injunctive action may be brought to abate or  
19 temporarily or permanently enjoin an act or to enforce this  
20 chapter.

21 (d) The commission is not required to give a bond in an  
22 action under Subsection (a), and court costs may not be recovered  
23 from the commission.

24 (e) If the commission determines that a person has violated  
25 or is about to violate this chapter, the attorney general or the  
26 county attorney or district attorney in the county in which the  
27 violation has occurred or is about to occur or in the county of the

1 defendant's residence may bring an action in the name of the state  
2 in the district court of the county to abate or temporarily or  
3 permanently enjoin the violation or to enforce this chapter. The  
4 plaintiff in an action under this subsection is not required to give  
5 a bond, and court costs may not be recovered from the plaintiff.

6 Sec. 1203.223. CIVIL PENALTY FOR CERTAIN VIOLATIONS BY A  
7 CERTIFICATE HOLDER. (a) In addition to injunctive relief under  
8 Sections 1203.221 and 1203.222, a person who receives a profit or  
9 other consideration as a result of acting as a homebuilder without  
10 holding a certificate of registration under this chapter is liable  
11 to the state for a civil penalty of not less than the amount of money  
12 received or more than three times the amount of money received.

13 (b) The commission may recover the civil penalty, court  
14 costs, and reasonable attorney's fees on behalf of the state.

15 (c) The commission is not required to give a bond in an  
16 action under this section, and court costs may not be recovered from  
17 the commission.

18 Sec. 1203.224. PRIVATE CAUSE OF ACTION FOR CERTAIN  
19 VIOLATIONS BY CERTIFICATE HOLDER. (a) A person who receives a  
20 profit or other consideration as a result of acting as a homebuilder  
21 without holding a certificate of registration under this chapter is  
22 liable to an aggrieved person for a penalty of not less than the  
23 amount of money received or more than three times the amount of  
24 money received.

25 (b) The aggrieved person may file suit to recover a penalty  
26 under this section.

27 Sec. 1203.225. APPEAL BOND EXEMPTION. The commission is

1 not required to give an appeal bond in an action to enforce this  
2 chapter.

3 Sec. 1203.226. GENERAL CRIMINAL PENALTY. (a) A person  
4 commits an offense if the person willfully violates or fails to  
5 comply with this chapter or a commission order.

6 (b) An offense under this section is a Class A misdemeanor.

7 Sec. 1203.227. CRIMINAL PENALTY FOR CERTAIN VIOLATIONS BY  
8 CERTIFICATE HOLDER. (a) A person commits an offense if the person  
9 engages in an activity for which a certificate of registration is  
10 required under this chapter without holding a certificate.

11 (b) Except as provided by Subsection (c), (d), or (e), an  
12 offense under this section is a misdemeanor punishable by:

13 (1) a fine of not less than \$100 or more than \$500;

14 (2) confinement in the county jail for not more than  
15 one year; or

16 (3) both the fine and confinement.

17 (c) An offense under this section by a person other than an  
18 individual is punishable by a fine of not less than \$1,000 or more  
19 than \$2,000.

20 (d) A second or subsequent offense under this section by an  
21 individual is punishable by:

22 (1) a fine of not less than \$500 or more than \$1,000;

23 (2) confinement for not more than two years; or

24 (3) both the fine and confinement.

25 (e) A second or subsequent offense under this section by a  
26 person other than an individual is punishable by a fine of not less  
27 than \$2,000 or more than \$5,000.



1 [Sections 1203.228-1203.240 reserved for expansion]

2 SUBCHAPTER L. VOLUNTARY INSPECTION AND DISPUTE

3 RESOLUTION PROCESS

4 Sec. 1203.241. APPLICABILITY OF SUBCHAPTER. (a) This  
5 subchapter applies only to disputes between homebuilders and  
6 homeowners to which Chapter 27, Property Code, applies if the  
7 homeowner files a written request with the commission to resolve  
8 the dispute under this subchapter.

9 (b) Notwithstanding any provision in a contract or  
10 agreement between a homebuilder and a homeowner to the contrary, a  
11 homeowner may submit a dispute, to which this subchapter applies,  
12 to the commission for resolution under this subchapter.

13 (c) This subchapter applies only to the part of a dispute  
14 and only to causes of action that seek reimbursement of actual  
15 damages caused by a construction defect.

16 (d) This subchapter does not apply to construction defects  
17 that are not brought within two years after the homeowner knew or  
18 should have reasonably known of the construction defect and that  
19 are not brought within 10 years after the home or improvement was  
20 constructed.

21 Sec. 1203.242. EFFECT OF COMMISSION FINAL RESOLUTION AND  
22 DETERMINATIONS. The commission resolution of the dispute and  
23 determination of the existence of construction defect under this  
24 subchapter is binding and dispositive and is, for all purposes, an  
25 enforceable arbitration award under Chapter 171, Civil Practice and  
26 Remedies Code.

27 Sec. 1203.243. PREREQUISITE TO FILING REQUEST. Before

1 filing a request under this subchapter, the homeowner must:

2 (1) not later than 30 days before filing the request  
3 have notified the homebuilder in writing of the alleged  
4 construction defect; and

5 (2) offered the homebuilder and the homebuilder  
6 experts reasonable opportunity and access to inspect the alleged  
7 construction defect.

8 Sec. 1203.244. INFORMATION REQUIRED TO BE SUBMITTED WITH  
9 WRITTEN REQUEST. A homeowner who submits a request to the  
10 commission for dispute resolution under this subchapter must pay  
11 the commission the fee authorized under Section 1203.082(6) and in  
12 the request must:

13 (1) specify in reasonable detail each alleged  
14 construction defect that is a subject of the request;

15 (2) state the amount of any known out-of-pocket  
16 expenses and fees for experts, inspectors, consultants, and  
17 attorneys incurred, as of the date of filing, by the homeowner in  
18 connection with each alleged construction defect;

19 (3) include any evidence that depicts the nature and  
20 cause of each alleged construction defect and the nature and extent  
21 of repairs that the homeowner believes is reasonably necessary to  
22 remedy the construction defect, including inspection reports,  
23 photographs, videotapes, and other relevant information;

24 (4) disclose the name, address, and phone number of  
25 any person who has, on behalf of the requestor, inspected the home  
26 in connection with the construction defect alleged in the request;

27 (5) include a copy of the written notice required

1 under Section 1203.243 and the homebuilder response, if any; and

2 (6) state the amount that the homeowner seeks to  
3 recover from the homebuilder as of the date of filing.

4 Sec. 1203.245. NOTICE TO REQUESTOR AND TO HOMEBUILDER.

5 (a) Not later than the 15th day after the commission receives the  
6 request under Section 1203.244, the commission shall provide the  
7 person who filed the request with a copy of the commission  
8 procedures relating to the investigation and resolution of the  
9 dispute.

10 (b) Not later than the 15th day after the commission  
11 receives a request under Section 1203.244, the commission shall  
12 send to the homebuilder:

13 (1) a copy of the request;

14 (2) a copy of all the information submitted with the  
15 request; and

16 (3) a copy of the commission procedures relating to  
17 the investigation and resolution of the dispute.

18 Sec. 1203.246. STATE INSPECTORS. (a) The commission shall  
19 employ or contract with state inspectors to inspect the alleged  
20 construction defect in the request.

21 (b) The commission shall employ or contract with only  
22 trained and qualified inspectors and, by rule, shall set criteria  
23 that state inspectors must satisfy to be employed by the commission  
24 and to remain employed by the commission as a state inspector.

25 (c) After receiving the request, the commission shall send a  
26 state inspector to inspect the home and interview the homebuilder  
27 and homeowner.

1       (d) The state inspector shall complete a written report and  
2 written recommendations concerning any necessary repairs to the  
3 alleged construction defect. The state inspector shall, upon  
4 completion, provide a copy the report to the homeowner and  
5 homebuilder.

6       Sec. 1203.247. DISPUTE RESOLUTION HEARING. (a) If after  
7 the 30th day after the state inspector has sent a copy of the report  
8 to the homeowner and homebuilder as required by Section 1203.246(d)  
9 the parties to the dispute have not otherwise resolved the dispute,  
10 the commission shall set an arbitration hearing and give notice of  
11 the hearing to the parties to the dispute.

12       (b) A hearings officer designated by the commission shall  
13 conduct the hearing. The state inspector that inspected the  
14 alleged construction defect shall, at the request of either the  
15 homeowner or homebuilder, be present to testify at the hearing. The  
16 state inspector report shall be admissible as evidence regardless  
17 of whether the state inspector is called to testify at the hearing.  
18 The hearings officer shall make findings of fact and conclusions  
19 and issue an award.

20       (c) A proceeding under this section is an arbitration  
21 hearing governed by Chapter 171, Civil Practice and Remedies Code  
22 and by the rules the commission adopts under Section 1203.249.

23       (d) The commission shall prescribe the time and place of the  
24 hearing.

25       Sec. 1203.248. THE AWARD. (a) The hearings officer may  
26 award only:

27       (1) reimbursement of actual damages caused by the

1 construction defect;

2 (2) reimbursement of reasonable out-of-pocket  
3 expenses;

4 (3) interest on the out-of-pocket expenses awarded at  
5 the rate of 10 percent per annum from the date the homeowner  
6 incurred the expense; and

7 (4) reasonable attorney fees.

8 (b) Actual damages under Subdivision (1) of Subsection (a)  
9 are to be measured by one of the following methods:

10 (1) the cost to repair the construction defect;

11 (2) the decrease in the market value of the home caused  
12 by the construction defect; or

13 (3) both methods under Subdivisions (1) and (2) if a  
14 decrease in market value is evident after the construction defect  
15 is repaired.

16 (c) Out-of-pocket expenses under Subdivision (2) of  
17 Subsection (a) include, but are not limited to:

18 (1) fees paid to experts, inspectors, and consultants  
19 reasonably necessary to evaluate the construction defect;

20 (2) reasonable attorney's fees paid by the homeowner;

21 and

22 (3) other reasonable expenses or repairs necessary to  
23 mitigate damage caused by the construction defect.

24 Sec. 1203.249. RULES OF ARBITRATION. The commission shall  
25 adopt rules of procedure that are:

26 (1) necessary for the implementation of the intent and  
27 purposes of this subchapter; and

1           (2) consistent with Chapter 171, Civil Practice and  
2 Remedies Code.

3           Sec. 1203.250. EFFECT OF AWARD ON OTHER CAUSES OF ACTION.  
4 An award under this subchapter is dispositive of all claims for the  
5 types of damages the commission is authorized to award under this  
6 chapter and is binding on the homeowner and homebuilder as an  
7 arbitration award. Neither the award nor this subchapter dispose  
8 of claim or cause for damage that is not awardable under this  
9 subchapter.

10           [Sections 1203.251-1203.260 reserved for expansion]

11                   SUBCHAPTER M. BUILDING STANDARDS

12           Sec. 1203.261. BUILDING STANDARDS. (a) For the purposes  
13 of evaluating evidence and resolving disputes under Subchapter L,  
14 the commission by rule shall adopt building standards for  
15 residential construction that comply with this section.

16           (b) The building standards must substantially comply with  
17 the standards contained in the version of the International  
18 Residential code for One- and Two-Family Dwelling published by the  
19 International Code Council that is applicable under Subsection (c).

20           (c) The International Residential Code for One- and  
21 Two-Family Dwellings that applies to residential construction for  
22 the purposes of the building standards under this section is:

23                   (1) for residential construction located in a  
24 municipality, the version of the International Residential Code  
25 applicable to residential construction in the municipality under  
26 Section 214.212, Local Government Code; and

27                   (2) for residential construction located in an

1 unincorporated area, the version of the International Residential  
2 Code applicable to residential construction in the municipality  
3 that is the county seat of the county in which the construction is  
4 located.

5 SECTION 2. (a) This Act takes effect September 1, 2003.

6 (b) A person is not required to be registered under this  
7 Act, before March 1, 2004.

8 SECTION 3. For the purposes of implementing new Chapter  
9 1203, the governor may appoint two persons who are regularly  
10 engaged in the homebuilding industry in Texas to fill the two  
11 positions on the Texas Homebuilder Commission under new Section  
12 1203.021(1) and the appointees may continue to serve after March 1,  
13 2004, provided that the appointees are registered under this Act  
14 not later than May 1, 2004. New Section 1203.025(1)-(3) shall not  
15 apply to the two commissioners who are required to be registered  
16 under this Act until May 1, 2004.

17 SECTION 4. The governor may assign to the persons the  
18 governor appoints as commissioners under this Act the length of the  
19 appointees initial terms, which will expire at staggered times as  
20 required by new Section 1203.022.