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H.B. No. 1099

A BILL TO BE ENTITLED

AN ACT

relating to migrant labor housing facilities.

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

SECTION 1. Chapter 147, Health and Safety Code, is transferred to Chapter 2306, Government Code, redesignated as Subchapter LL, Chapter 2306, Government Code, and amended to read as follows:

SUBCHAPTER LL [~~CHAPTER 147~~]. MIGRANT LABOR HOUSING FACILITIES

Sec. 2306.921 [~~147.001~~]. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Facility" means a structure, trailer, or vehicle, or two or more contiguous or grouped structures, trailers, or vehicles, together with the land appurtenant.

(2) "Migrant agricultural worker" means an individual who:

(A) is working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry; and

(B) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment.

(3) "Migrant labor housing facility" means a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant

1 families or three or more seasonal, temporary, or migrant workers,  
2 whether rent is paid or reserved in connection with the use of the  
3 facility.

4 (4) "Person" means an individual, association,  
5 partnership, corporation, or political subdivision.

6 Sec. 2306.922 [~~147.002~~]. LICENSE REQUIRED. A person may  
7 not establish, maintain, or operate a migrant labor housing  
8 facility without obtaining a license from the department.

9 Sec. 2306.923 [~~147.003~~]. LICENSE APPLICATION; APPLICATION  
10 INSPECTION. (a) To receive a migrant labor housing facility  
11 license, a person must apply to the department according to rules  
12 adopted by the board and on a form prescribed by the board.

13 (b) The application must be made not later than the 45th day  
14 before the intended date of operation of the facility.

15 (c) The application must state:

16 (1) the location and ownership of the migrant labor  
17 housing facility;

18 (2) the approximate number of persons to be  
19 accommodated;

20 (3) the probable periods of use of the facility; and

21 (4) any other information required by the board.

22 (d) The application must be accompanied by the license fee.

23 Sec. 2306.924 [~~147.004~~]. INSPECTION. The department shall  
24 inspect the migrant labor housing facility not later than the 30th  
25 day after the date of receipt of a complete application and the fee.

26 Sec. 2306.925 [~~147.005~~]. FAILURE TO MEET STANDARDS;  
27 REINSPECTION. (a) If a migrant labor housing facility for which a

1 license application is made does not meet the reasonable minimum  
2 standards of construction, sanitation, equipment, and operation  
3 required by rules adopted under this subchapter [~~chapter~~], the  
4 department at the time of inspection shall give the license  
5 applicant the reasons that the facility does not meet those  
6 standards. The applicant may request the department to reinspect  
7 the facility not later than the 60th day after the date on which the  
8 reasons are given.

9 (b) If a facility does not meet the standards on  
10 reinspection, the applicant must submit a new license application  
11 as provided by Section 2306.923 [~~146.003~~].

12 Sec. 2306.926 [~~147.006~~]. LICENSE ISSUANCE; TERM; NOT  
13 TRANSFERABLE. (a) The department shall issue a license to  
14 establish, maintain, and operate a migrant labor housing facility  
15 if the facility meets the standards of construction, sanitation,  
16 equipment, and operation required by rules adopted under this  
17 subchapter [~~chapter~~].

18 (b) The license expires on the first anniversary of the date  
19 of issuance.

20 (c) The license issued under this subchapter [~~chapter~~] is  
21 not transferable.

22 Sec. 2306.927 [~~147.007~~]. LICENSE POSTING. A person who  
23 holds a license issued under this subchapter [~~chapter~~] shall post  
24 the license in the migrant labor housing facility at all times  
25 during the maintenance or operation of the facility.

26 Sec. 2306.928 [~~147.008~~]. INSPECTION OF FACILITIES. An  
27 authorized representative of the department, after giving or making

1 a reasonable attempt to give notice to the operator of a migrant  
2 labor housing facility, may enter and inspect the facility during  
3 reasonable hours and investigate conditions, practices, or other  
4 matters as necessary or appropriate to determine whether a person  
5 has violated this subchapter [~~chapter~~] or a rule adopted under this  
6 subchapter [~~chapter~~].

7 Sec. 2306.929 [~~147.009~~]. FEE. The board shall set the  
8 license fee in an amount not to exceed \$250 [~~\$100~~].

9 Sec. 2306.930 [~~147.010~~]. SUSPENSION OR REVOCATION OF  
10 LICENSE. (a) The department may suspend or revoke a license for a  
11 violation of this subchapter [~~chapter~~] or a rule adopted under this  
12 subchapter [~~chapter~~].

13 (b) Chapter 2001[~~, Government Code~~] and department rules  
14 for holding a contested case hearing govern the procedures for the  
15 suspension or revocation of a license issued under this subchapter  
16 [~~chapter~~].

17 (c) A hearing conducted under this section must be held in  
18 the county in which the affected migrant labor housing facility is  
19 located.

20 Sec. 2306.931 [~~147.011~~]. ENFORCEMENT; ADOPTION OF RULES.

21 (a) The department shall enforce this subchapter [~~chapter~~].

22 (b) The board shall adopt rules to protect the health and  
23 safety of persons living in migrant labor housing facilities.

24 (c) The board by rule shall adopt standards for living  
25 quarters at a migrant labor housing facility, including standards  
26 relating to:

27 (1) construction of the facility;

- 1           (2) sanitary conditions;  
2           (3) water supply;  
3           (4) toilets;  
4           (5) sewage disposal;  
5           (6) storage, collection, and disposal of refuse;  
6           (7) light and air;  
7           (8) safety requirements;  
8           (9) fire protection;  
9           (10) equipment;  
10          (11) maintenance and operation of the facility; and  
11          (12) any other matter appropriate or necessary for the  
12 protection of the health and safety of the occupants.

13           (d) An employee or occupant of a migrant labor housing  
14 facility who uses the sanitary or other facilities furnished for  
15 the convenience of employees or occupants shall comply with the  
16 rules adopted under Subsection (b) or (c).

17           (e) The board by rule shall adopt minimum standards for  
18 issuing, revoking, or suspending a license issued under this  
19 subchapter [~~chapter~~].

20           Sec. 2306.932 [~~147.012~~]. INJUNCTIVE RELIEF.       (a)     A  
21 district court for good cause shown in a hearing and on application  
22 by the department, a migrant agricultural worker, or the worker's  
23 representative may grant a temporary or permanent injunction to  
24 prohibit a person, including a person who owns or controls a migrant  
25 labor housing facility, from violating this subchapter [~~chapter~~] or  
26 a rule adopted under this subchapter [~~chapter~~].

27           (b) A person subject to a temporary or permanent injunction

1 under Subsection (a) may appeal to the supreme court as in other  
2 cases.

3 Sec. 2306.933 [~~147.013~~]. CIVIL PENALTY. (a) A person who  
4 violates this subchapter [~~chapter~~] or a rule adopted under this  
5 subchapter [~~chapter~~] is subject to a civil penalty of \$200 for each  
6 day that the violation occurs.

7 (b) The county attorney for the county in which the  
8 violation occurred, or the attorney general, at the request of the  
9 department, shall bring an action in the name of the state to  
10 collect the penalty.

11 SECTION 2. (a) On the effective date of this Act, all  
12 powers and duties of the Health and Human Services Commission and  
13 the Department of State Health Services relating to the inspection  
14 and licensing of migrant labor housing facilities are transferred  
15 to the Texas Department of Housing and Community Affairs. The  
16 Health and Human Services Commission, the Department of State  
17 Health Services, and the Texas Department of Housing and Community  
18 Affairs shall coordinate the transfer.

19 (b) The transfer does not affect the validity of any  
20 liability incurred, a license issued, a penalty assessed, a rule  
21 adopted, a proceeding, investigation, or remedy begun, a decision  
22 made, or other action taken by the executive commissioner of the  
23 Health and Human Services Commission, the commissioner of state  
24 health services, or the Department of State Health Services in  
25 connection with the inspection and licensing of migrant labor  
26 housing facilities.

27 (c) All rules, policies, procedures, and decisions of the

1 executive commissioner of the Health and Human Services Commission,  
2 the commissioner of state health services, or the Department of  
3 State Health Services relating to the inspection and licensing of  
4 migrant labor housing facilities are continued in effect as rules,  
5 policies, procedures, and decisions of the governing board of the  
6 Texas Department of Housing and Community Affairs or the executive  
7 director of that department, as appropriate, until superseded by a  
8 rule or other appropriate action of the board or the executive  
9 director of the department.

10 (d) Any action or proceeding before the executive  
11 commissioner of the Health and Human Services Commission, the  
12 commissioner of state health services, or the Department of State  
13 Health Services relating to the inspection and licensing of migrant  
14 labor housing facilities is transferred without change in status to  
15 the governing board of the Texas Department of Housing and  
16 Community Affairs or the executive director of the department, as  
17 appropriate, and the board or the executive director of the  
18 department assumes, without a change in status, the position of the  
19 executive commissioner or the commissioner in any action or  
20 proceeding to which the executive commissioner or commissioner is a  
21 party.

22 (e) The Texas Department of Housing and Community Affairs  
23 shall adopt fees, rules, and standards as required by Subchapter  
24 LL, Chapter 2306, Government Code, as transferred and redesignated  
25 by this Act, not later than January 1, 2006.

26 (f) The Texas Department of Housing and Community Affairs  
27 shall survey and research the quantity, availability, need, and

1 quality of migrant labor housing facilities in this state and shall  
2 produce reports of its findings to the legislature not later than  
3 September 1, 2006.

4 SECTION 3. This Act takes effect September 1, 2005.