

1-1 By: Haggerty, Quintanilla (Senate Sponsor-Armbrister) H.B. No. 2438
1-2 (In the Senate - Received from the House April 29, 2005;
1-3 May 2, 2005, read first time and referred to Committee on Business
1-4 and Commerce; May 13, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 13, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2438 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the acquisition and regulation of manufactured homes.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 1201.101(f), Occupations Code, is
1-13 amended to read as follows:

1-14 (f) A person may not act as a salesperson of manufactured
1-15 housing unless the person holds a salesperson's license [~~is a~~
1-16 ~~license holder~~]. A retailer or broker may not employ or otherwise
1-17 use the services of a salesperson who is not licensed. A licensed
1-18 salesperson may not participate in a sale of a manufactured home
1-19 unless the sale is through the retailer who sponsored the
1-20 salesperson's application as required by Section 1201.103(d).

1-21 SECTION 2. Section 1201.103(d), Occupations Code, is
1-22 amended to read as follows:

1-23 (d) An applicant for a salesperson's license must:

1-24 (1) file with the director an application that
1-25 provides [providing] any information the director considers
1-26 necessary and that is sponsored by a licensed, bonded retailer; and
1-27 (2) pay the required fee.

1-28 SECTION 3. Section 1201.106(a), Occupations Code, is
1-29 amended to read as follows:

1-30 (a) An applicant for a license or a license holder shall
1-31 file a bond or other security under Section 1201.105 for the
1-32 issuance or renewal of a license in the following amount:

1-33 (1) \$100,000 for a manufacturer;
1-34 (2) \$50,000 for a retailer;
1-35 (3) \$30,000 for a rebuilder;
1-36 (4) \$50,000 [~~\$20,000~~] for a broker; or
1-37 (5) \$10,000 for an installer.

1-38 SECTION 4. Section 1201.107, Occupations Code, is amended
1-39 by adding Subsection (d) to read as follows:

1-40 (d) If a retailer or broker offers for sale or participates
1-41 in any way in the sale of a manufactured home at a location other
1-42 than an undivided parcel of real property where more than one
1-43 manufactured home is located and offered for sale, exchange, or
1-44 lease-purchase by a retailer or broker to the public, the retailer
1-45 or broker must:

1-46 (1) identify the bond on file with the department in
1-47 conjunction with that person's license; and

1-48 (2) provide contractually in the sales transaction
1-49 that the identified bond applies to the sale.

1-50 SECTION 5. Sections 1201.113(a), (b), (e), and (g),
1-51 Occupations Code, are amended to read as follows:

1-52 (a) The board shall recognize, prepare, or administer
1-53 certification and continuing education programs for salespersons
1-54 [~~persons~~] regulated under this chapter.

1-55 (b) A person who holds a salesperson's license [~~holder~~] must
1-56 participate in certification and continuing education programs as
1-57 provided by Subsection (e).

1-58 (e) A salesperson must complete eight hours of
1-59 certification and continuing education programs not later than the
1-60 90th day after the date the salesperson's initial license is
1-61 issued. To renew a salesperson's license, a salesperson [~~Persons~~]
1-62 regulated under this chapter [~~and directly involved in the sale of~~
1-63 ~~manufactured housing~~] must complete an additional eight hours of

2-1 certification and continuing education programs for each renewal
2-2 ~~[each year]~~. The programs must be presented by a board-approved
2-3 organization or educational institution and must include
2-4 instruction in applicable [address] state and federal law,
2-5 ~~[applicable to all manufactured housing retailer practices and~~
2-6 ~~relevant]~~ consumer protection regulations, and ethical standards.

2-7 (g) The board shall suspend the license of a salesperson
2-8 ~~[person]~~ regulated under this chapter who does not complete the
2-9 programs as required by this section. The board shall reinstate the
2-10 license on the salesperson's [person's] completion of the programs.

2-11 SECTION 6. Section 1201.114(a), Occupations Code, is
2-12 amended to read as follows:

2-13 (a) A manufacturer's, retailer's, broker's, or installer's
2-14 license is valid for one year. A salesperson's license is valid for
2-15 two years. A license [and] may be renewed as provided by the
2-16 director. A person whose license has been suspended or revoked or
2-17 whose license has expired may not engage in activities that require
2-18 a license until the license has been reinstated or renewed.

2-19 SECTION 7. Section 1201.151(d), Occupations Code, is
2-20 amended to read as follows:

2-21 (d) This section does not apply to:
2-22 (1) a deposit held in escrow in a real estate
2-23 transaction; or

2-24 (2) money stated to be a down payment in an executed
2-25 retail ~~[installment]~~ sales contract.

2-26 SECTION 8. Section 1201.159(a), Occupations Code, is
2-27 amended to read as follows:

2-28 (a) A broker shall ensure that the seller gives the buyer
2-29 the applicable disclosures and warranties that the buyer would have
2-30 received if the buyer had purchased the manufactured home through a
2-31 licensed retailer [may but is not required to be the agent of a
2-32 party involved in the sale, exchange, or lease-purchase of a
2-33 manufactured home for which a statement of ownership and location
2-34 has been issued and is outstanding].

2-35 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,
2-36 are amended to read as follows:

2-37 (a) In addition to the disclosure statement required by
2-38 Section 1201.162, the department shall adopt rules creating a
2-39 one-page form printed in at least 12-point type that addresses
2-40 ~~[addressing]~~ consumer protection disclosures required in chattel
2-41 mortgage transactions and shall prescribe the form for the
2-42 disclosure statement. A consumer protection disclosure statement
2-43 under this subsection may not contain any blank lines and must
2-44 contain only [include] the following:

2-45 (1) a statement of the significant differences between
2-46 chattel mortgages and real estate mortgages;

2-47 (2) an itemization of typical [estimated closing]
2-48 costs associated with a chattel mortgage purchase of a manufactured
2-49 home[, if any]; and

2-50 (3) an example [estimate of the total amount] of
2-51 monthly payments in three typical chattel mortgage transactions,
2-52 including an estimate of the amount of the [+

2-53 ~~[(A)] principal, [and] interest, [payments,~~

2-54 ~~[(B) costs of any] required insurance~~
2-55 premium, [+] and

2-56 ~~[(C) costs for payment of] ad valorem taxes[,~~
2-57 ~~based on the current tax rate of each taxing unit in which the~~
2-58 ~~manufactured home will be located as applied to the sales price of~~
2-59 ~~the manufactured home,~~

2-60 ~~[(4) a statement of the roles of the retailer and any~~
2-61 ~~affiliated parties in the financing of the first retail sale, as~~
2-62 ~~defined by Section 1201.201, and the estimated compensation that~~
2-63 ~~they will receive for providing or arranging the financing, and~~

2-64 ~~[(5) any other disclosures required by state or~~
2-65 ~~federal law, including the Real Estate Settlement Procedures Act of~~
2-66 ~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~
2-67 ~~(15 U.S.C. Section 1601 et seq.)].~~

2-68 (b) A retailer shall provide the consumer protection
2-69 disclosure statement to the consumer ~~[at least 24 hours]~~ before the

3-1 completion of the first credit application ~~[installment contract is~~
 3-2 ~~fully executed, as provided by Section 1201.164]~~.

3-3 SECTION 10. Section 1201.164(a), Occupations Code, is
 3-4 amended to read as follows:

3-5 (a) In a chattel mortgage transaction involving an
 3-6 installment contract, a retailer shall deliver to a consumer at
 3-7 least 24 hours before the contract is fully executed ~~[the~~
 3-8 ~~disclosure statements required by this subchapter and]~~ the
 3-9 contract, with all required information included, signed by the
 3-10 retailer. The delivery of the ~~[disclosure statements and]~~
 3-11 installment contract, with all required information included,
 3-12 signed by the retailer constitutes a firm offer by the retailer.
 3-13 The consumer may accept the offer not earlier than 24 hours after
 3-14 the delivery of the contract [documents]. If the consumer has not
 3-15 accepted the offer within 72 hours after the delivery of the
 3-16 contract, the retailer may withdraw the offer.

3-17 SECTION 11. Section 1201.2055, Occupations Code, is amended
 3-18 by amending Subsection (d) and adding Subsections (e), (f), (g),
 3-19 and (h) to read as follows:

3-20 (d) If ~~[the department issues a statement of ownership and~~
 3-21 ~~location to]~~ an owner elects [who has elected] to treat a
 3-22 manufactured home as real property, the department shall issue to
 3-23 the owner a certified copy of the statement of ownership and
 3-24 location that on its face reflects that the owner has elected to
 3-25 treat the manufactured home as real property at the location listed
 3-26 on the statement. Not later than the 60th day after the date the
 3-27 department issues a certified copy of the statement of ownership
 3-28 and location to the owner, the owner must:

3-29 (1) file the certified copy in the real property
 3-30 records of the county in which the home is located; and

3-31 (2) notify the department that the certified copy has
 3-32 been filed.

3-33 (e) A ~~[the]~~ manufactured home is not considered to be real
 3-34 property until a certified copy of the statement of ownership and
 3-35 location has been filed and the department has been notified of the
 3-36 filing as provided by Subsection (d).

3-37 (f) If the department is notified under Subsection (d), the
 3-38 department in a timely manner shall note in its records that a real
 3-39 property election has been perfected. If the department is not
 3-40 notified as described by Subsection (d), the department shall note
 3-41 in its records that a real property election has not been perfected
 3-42 and that the home remains personal property [in the real property
 3-43 records of the county in which the home is located].

3-44 (g) After the department notes in its records that a real
 3-45 property election has been perfected [certified copy has been filed
 3-46 in the real property records of the county], the home is considered
 3-47 to be real property for all purposes [in the form of an improvement
 3-48 to the underlying real property on which the home is located. If a
 3-49 real property election has been made but a certified copy of the
 3-50 statement of ownership and location has not been filed as required
 3-51 by this subsection, the home continues to be treated as personal
 3-52 property until the certified copy is filed].

3-53 (h) The provisions of this chapter relating to the
 3-54 construction or installation of a manufactured home or to
 3-55 warranties for a manufactured home apply to a home regardless of
 3-56 whether the home is considered to be real or personal property.

3-57 SECTION 12. Section 1201.206(d), Occupations Code, is
 3-58 amended to read as follows:

3-59 (d) Not later than the 30th day after the date of each [At a]
 3-60 subsequent sale or transfer of a [the] home that is considered to be
 3-61 personal property, the seller [purchaser] or transferor
 3-62 [transferee] shall provide to the department a completed
 3-63 application [apply] for the issuance of a new statement of
 3-64 ownership and location.

3-65 SECTION 13. Section 1201.207(a), Occupations Code, is
 3-66 amended to read as follows:

3-67 (a) The department shall process any completed application
 3-68 for the issuance of a statement of ownership and location not later
 3-69 than the 15th [10th] working day after the date the application is

4-1 received by the department. If the department rejects an
4-2 application, the department shall provide a clear and complete
4-3 explanation of the reason for the rejection and instructions on how
4-4 to cure any defects, if possible.

4-5 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,
4-6 is amended by adding Section 1201.2076 to read as follows:

4-7 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL
4-8 PROPERTY. The department may not issue a statement of ownership and
4-9 location for a manufactured home that is being converted from real
4-10 property to personal property until:

4-11 (1) each lien on the home is released by the
4-12 lienholder;

4-13 (2) each lienholder gives written consent, to be
4-14 placed on file with the department; or

4-15 (3) the department has inspected the home and
4-16 determined that it is habitable.

4-17 SECTION 15. Section 1201.209, Occupations Code, is amended
4-18 to read as follows:

4-19 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR
4-20 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.
4-21 The department may not refuse to issue a statement of ownership and
4-22 location and may not suspend or revoke a statement of ownership and
4-23 location unless:

4-24 (1) the application for issuance of the statement of
4-25 ownership and location contains a false or fraudulent statement,
4-26 the applicant failed to provide information required by the
4-27 director, or the applicant is not entitled to issuance of the
4-28 statement of ownership and location;

4-29 (2) the director has reason to believe that the
4-30 manufactured home is stolen or unlawfully converted, or the
4-31 issuance of a statement of ownership and location would defraud the
4-32 owner or a lienholder of the manufactured home;

4-33 (3) the director has reason to believe that the
4-34 manufactured home is salvaged, and an application for the issuance
4-35 of a new statement of ownership and location that indicates that the
4-36 home is salvaged has not been filed;

4-37 (4) the required fee has not been paid;

4-38 (5) the state sales and use tax has not been paid in
4-39 accordance with Chapter 158, Tax Code, and Section 1201.208; or

4-40 (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~
4-41 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~
4-42 ~~that section existed on the date the lien was filed,~~] and the lien
4-43 has not been extinguished.

4-44 SECTION 16. Sections 1201.216(a) and (b), Occupations Code,
4-45 are amended to read as follows:

4-46 (a) If the owner of a manufactured home notifies the
4-47 department that the owner intends to treat the home as real property
4-48 or to reserve its use for a business purpose or salvage, the [The]
4-49 department shall indicate on the statement of ownership and
4-50 location for the [a manufactured] home that:

4-51 (1) the owner of the home has elected to treat the home
4-52 as real property or to reserve its use for a business purpose or
4-53 salvage; and

4-54 (2) except as provided by Section 1201.2055(h), the
4-55 department no longer considers the home to be a manufactured home
4-56 for purposes of regulation under this chapter [whether the home has
4-57 been sold, exchanged, or lease-purchased to a purchaser for the
4-58 purchaser's business use. For a home sold, exchanged, or
4-59 lease-purchased as described by this subsection, the department
4-60 shall issue a new statement of ownership and location that
4-61 indicates that the home is reserved for business use].

4-62 (b) On application and subject to Sections 1201.2076 and
4-63 1201.209, the department shall [may] issue for the structure
4-64 described in the application a new statement of ownership and
4-65 location restoring the structure's designation as a manufactured
4-66 [for the] home only after an inspection and determination that the
4-67 structure [home] is habitable as provided by Section 1201.453.
4-68 [The statement must indicate that the home is no longer reserved for
4-69 business use.]

5-1 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,
5-2 is amended by adding Section 1201.217 to read as follows:

5-3 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner
5-4 of real property on which a manufactured home owned by another is
5-5 located may declare the home abandoned as provided by this section
5-6 if the home has been continuously unoccupied for at least four
5-7 months and any indebtedness secured by the manufactured home is
5-8 also delinquent.

5-9 (b) Before declaring a manufactured home abandoned, the
5-10 owner of real property on which the home is located must send a
5-11 notice of intent to declare the home abandoned to the owner of the
5-12 home and all lienholders at the addresses listed on the home's
5-13 statement of ownership and location on file with the department.
5-14 Mailing of the notice by certified mail, return receipt requested,
5-15 postage prepaid, to the persons required to be notified by this
5-16 subsection constitutes conclusive proof of compliance with this
5-17 subsection.

5-18 (c) On receipt of a notice of intent to declare a
5-19 manufactured home abandoned, the owner of the home or a lienholder
5-20 may freely enter the real property on which the home is located to
5-21 remove the home.

5-22 (d) If the manufactured home remains on the real property
5-23 for at least 45 days after the date the notice is postmarked:

5-24 (1) all liens on the home are extinguished; and

5-25 (2) the real property owner may declare the home
5-26 abandoned and may apply to the department for a statement of
5-27 ownership and location listing the real property owner as the owner
5-28 of the manufactured home.

5-29 (e) A new statement of ownership and location issued by the
5-30 department under this section transfers, free of any liens, if
5-31 there is evidence of United States Postal Service return receipt
5-32 from all lienholders, title to the manufactured home to the real
5-33 property owner.

5-34 SECTION 18. Section 1201.219(b), Occupations Code, is
5-35 amended to read as follows:

5-36 (b) Except as provided by Subsection (a), a lien on a
5-37 manufactured home is perfected only by filing with the department
5-38 the notice of lien on a form provided by the department. The
5-39 recordation of a lien with the department is notice to all persons
5-40 that the lien exists. Except as expressly provided by Chapter 32,
5-41 Tax Code, a lien recorded with the department has priority,
5-42 according to the chronological order of recordation, over another
5-43 lien or claim against the manufactured home.

5-44 SECTION 19. Section 1201.221(a), Occupations Code, is
5-45 amended to read as follows:

5-46 (a) On written request, the department shall provide
5-47 information held by the department on:

5-48 (1) the current ownership and location of a
5-49 manufactured home; and

5-50 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that
5-51 home for which notice has been filed with the department.

5-52 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,
5-53 are amended to read as follows:

5-54 (c) Before the signing of a binding retail installment sales
5-55 contract or other binding purchase agreement, the retailer must
5-56 give the consumer a copy ~~[or a general description]~~ of:

5-57 (1) the manufacturer's warranty; ~~and~~

5-58 ~~[(2) the retailer's warranty.]~~

5-59 ~~[(d) At the time of the initial installation at the~~
5-60 ~~consumer's homesite, the retailer shall deliver to the consumer:~~

5-61 ~~[(1) the manufacturer's warranty,]~~

5-62 (2) the retailer's warranty;

5-63 (3) the warranties given by the manufacturers of
5-64 appliances or equipment included with the home; and

5-65 (4) the name and address of the manufacturer or
5-66 retailer to whom the consumer is to give notice of a warranty
5-67 service request.

5-68 SECTION 21. Section 1201.357, Occupations Code, is amended
5-69 by adding Subsection (c) to read as follows:

6-1 (c) If the manufacturer or retailer is unable to provide
 6-2 warranty service in accordance with the department order under
 6-3 Section 1201.356 as a result of an action of the consumer, the
 6-4 manufacturer or retailer must make that allegation in the written
 6-5 statement required by Subsection (a). The department shall
 6-6 investigate the allegation, and if the department determines that
 6-7 the allegation is credible, the department shall issue a new order
 6-8 specifying the date and time of the proposed corrective action. The
 6-9 department shall send the order to the consumer and the
 6-10 manufacturer or retailer, as applicable, by certified mail, return
 6-11 receipt requested. If the consumer refuses to comply with the
 6-12 department's new order, the manufacturer or retailer, as
 6-13 applicable:

6-14 (1) is discharged from the obligations imposed by the
 6-15 relevant department orders;

6-16 (2) has no liability to the consumer; and

6-17 (3) is not subject to an action by the department for
 6-18 failure to provide warranty service.

6-19 SECTION 22. Section 1201.361, Occupations Code, is amended
 6-20 to read as follows:

6-21 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary
 6-22 installations not covered by the retailer's warranty described by
 6-23 Section 1201.352 and for the installation of all used manufactured
 6-24 homes, the installer shall give the manufactured home owner a
 6-25 written warranty that the installation of the home was performed in
 6-26 accordance with all department standards, rules, orders, and
 6-27 requirements.

6-28 (b) The warranty must conspicuously disclose the
 6-29 requirement that the consumer notify the installer of any claim in
 6-30 writing in accordance with the terms of the warranty. Unless the
 6-31 warranty provides for a longer period, the installer has no
 6-32 obligation or liability for any defect described in a written
 6-33 notice received from the consumer more than two years after the date
 6-34 of the installation.

6-35 SECTION 23. Section 1201.405, Occupations Code, is amended
 6-36 by adding Subsection (e) to read as follows:

6-37 (e) In determining the amount of actual damages under this
 6-38 section, the director shall make an independent inquiry as to the
 6-39 damages actually incurred, unless the damages have been established
 6-40 by a contested jury trial.

6-41 SECTION 24. Section 1201.451(a), Occupations Code, is
 6-42 amended to read as follows:

6-43 (a) Except as otherwise provided by this subchapter, a
 6-44 person may not sell, exchange, or lease-purchase a used
 6-45 manufactured home without the appropriate transfer of good and
 6-46 marketable title to the home ~~[unless the sale, exchange, or~~
 6-47 ~~lease-purchase is to:~~

6-48 ~~[(1) a purchaser for the purchaser's business use, or~~

6-49 ~~[(2) a rebuilder for the purpose of rebuilding a~~
 6-50 ~~salvaged manufactured home].~~

6-51 SECTION 25. Section 1201.455, Occupations Code, is amended
 6-52 to read as follows:

6-53 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)
 6-54 Except as otherwise provided by this subchapter, a person may not
 6-55 sell, exchange, or lease-purchase a used manufactured home to a
 6-56 consumer for use as a dwelling without providing a written warranty
 6-57 that the home is and will remain habitable until the 60th day after
 6-58 the later of the installation date or the date of the purchase
 6-59 agreement.

6-60 (b) Unless, not later than the 65th ~~[60th]~~ day after the
 6-61 later of the installation date or the date of the sale, exchange, or
 6-62 lease-purchase agreement, the consumer notifies the seller in
 6-63 writing of a defect that makes the home not habitable, any
 6-64 obligation or liability of the seller under this subchapter is
 6-65 terminated. The warranty must conspicuously disclose that notice
 6-66 requirement to the consumer.

6-67 SECTION 26. The heading to Section 1201.457, Occupations
 6-68 Code, is amended to read as follows:

6-69 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE

7-1 OR SALVAGE.

7-2 SECTION 27. Section 1201.457(b), Occupations Code, is
7-3 amended to read as follows:

7-4 (b) The purchaser of a used manufactured home for business
7-5 use or the purchaser of a salvaged manufactured home may not sell,
7-6 exchange, or lease-purchase the home for use as a dwelling or
7-7 knowingly allow any person to occupy or use the home as a dwelling
7-8 unless the director issues a new statement of ownership and
7-9 location indicating that the home is no longer reserved for
7-10 business use or salvage. On the purchaser's application to the
7-11 department for issuance of a new statement of ownership and
7-12 location, the department shall inspect the home and, if the
7-13 department determines that the home is habitable, issue the
7-14 statement of ownership and location.

7-15 SECTION 28. Subchapter Z, Chapter 2306, Government Code, is
7-16 amended by adding Section 2306.591 to read as follows:

7-17 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.
7-18 (a) For a manufactured home to be approved for installation and use
7-19 as a dwelling in a colonia:

7-20 (1) the home must be a HUD-code manufactured home, as
7-21 defined by Section 1201.003, Occupations Code;

7-22 (2) the home must be habitable, as described by
7-23 Section 1201.453, Occupations Code; and

7-24 (3) ownership of the home must be properly recorded
7-25 with the manufactured housing division of the department.

7-26 (b) An owner of a manufactured home is not eligible to
7-27 participate in a grant loan program offered by the department,
7-28 including the single-family mortgage revenue bond program under
7-29 Section 2306.142, unless the owner complies with Subsection (a).

7-30 SECTION 29. Section 1.04, Tax Code, is amended by adding
7-31 Subdivision (3-a) to read as follows:

7-32 (3-a) Notwithstanding anything contained herein to
7-33 the contrary, a manufactured home is an improvement to real
7-34 property only if the owner of the home has elected to treat the
7-35 manufactured home as real property pursuant to Section 1201.2055,
7-36 Occupations Code, and a certified copy of the statement of
7-37 ownership and location has been filed with the real property
7-38 records of the county in which the home is located as provided in
7-39 Section 1201.2055(d), Occupations Code.

7-40 SECTION 30. Section 32.014, Tax Code, is amended to read as
7-41 follows:

7-42 Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the
7-43 owner of a manufactured home has elected to treat the home as real
7-44 property [is listed together with the land on which the
7-45 manufactured home is located] under Section 25.08, the tax lien
7-46 shall be attached [attaches] to the land on which the manufactured
7-47 home is located.

7-48 (b) If the owner of a manufactured home does not elect to
7-49 treat the home as real property with [is listed separately from] the
7-50 land on which the manufactured home is located, the tax lien on the
7-51 manufactured home does not attach to the land on which the home is
7-52 located.

7-53 (c) In this section, "manufactured home" has the meaning
7-54 assigned by Section 1201.003, Occupations Code.

7-55 (d) [If a manufactured home is listed together with the land
7-56 on which the manufactured home is located, a taxing unit with
7-57 jurisdiction to impose taxes on the land may place a lien on the
7-58 manufactured home to secure payment of those taxes to the same
7-59 extent that it can place a lien on the land. If a home is moved from
7-60 its location and a new statement of ownership and location is not
7-61 issued under Section 1201.207, Occupations Code, a taxing unit with
7-62 jurisdiction to impose taxes on the land on which the manufactured
7-63 home was located retains the right to record and enforce liens on
7-64 that home to secure the payment of taxes, regardless of where the
7-65 home is currently located.

7-66 [(e)] This section prevails over Chapter 1201, Occupations
7-67 Code, to the extent of any conflict.

7-68 SECTION 31. Section 32.015(a), Tax Code, is amended to read
7-69 as follows:

8-1 (a) On payment of the taxes, penalties, and interest for a
 8-2 year for which a valid tax lien [~~filed before September 1, 2001,~~
 8-3 has been recorded on the title records of the department, the
 8-4 collector for the taxing unit shall issue a tax certificate showing
 8-5 no taxes due or a tax paid receipt for such year to the person making
 8-6 payment. When the tax certificate showing no taxes due or tax paid
 8-7 receipt is filed with the department, the tax lien is extinguished
 8-8 and canceled and shall be removed from the title records of the
 8-9 manufactured home. The collector for a taxing unit may not refuse
 8-10 to issue a tax paid receipt to the person who offers to pay the
 8-11 taxes, penalties, and interest for a particular year or years, even
 8-12 though taxes may also be due for another year or other years.

8-13 SECTION 32. Section 32.03, Tax Code, is amended by amending
 8-14 Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to
 8-15 read as follows:

8-16 (a) Except as provided by Subsection (a-1), a [A] tax lien
 8-17 may not be enforced against personal property transferred to a
 8-18 buyer in ordinary course of business as defined by Section 1.201(9)
 8-19 of the Business & Commerce Code for value who does not have actual
 8-20 notice of the existence of the lien [~~or, if the personal property is~~
 8-21 ~~a manufactured home, who does not have constructive notice of the~~
 8-22 ~~existence of the lien].~~

8-23 (a-1) A tax lien against a manufactured home may not be
 8-24 enforced unless it has been recorded with the Texas Department of
 8-25 Housing and Community Affairs as provided by Section 1201.219,
 8-26 Occupations Code:

8-27 (1) before October 1, 2005; or

8-28 (2) not later than six months after the end of the year
 8-29 for which the tax was owed.

8-30 (a-2) A person may not transfer title of a manufactured home
 8-31 until all tax liens perfected on the home have been extinguished or
 8-32 satisfied and released. This subsection does not apply to the sale
 8-33 of a manufactured home in inventory.

8-34 (b) A bona fide purchaser for value or the holder of a lien
 8-35 recorded on the manufactured home statement of ownership and
 8-36 location [~~document of title~~] is not required to pay any taxes that
 8-37 have not been recorded with the Texas Department of Housing and
 8-38 Community Affairs [~~imposed in a tax year that begins before January~~
 8-39 ~~1, 2001, or penalties or interest on those taxes except for each~~
 8-40 ~~year for which a valid tax lien was duly filed and recorded under~~
 8-41 ~~Section 32.015, as that section existed on the date the lien was~~
 8-42 ~~filed, and each year for which the owner of the manufactured home~~
 8-43 ~~had constructive notice of the taxes under Section 32.015(e), as~~
 8-44 ~~that section existed before September 1, 2001. The effect and~~
 8-45 ~~priority of a tax lien that attaches to secure the payment of taxes~~
 8-46 ~~imposed on a manufactured home in a tax year that begins on or after~~
 8-47 ~~January 1, 2001, are those established by Sections 32.01 and~~
 8-48 ~~32.05]. In this section, "manufactured home" has the meaning~~
 8-49 assigned by Section 32.015(b).

8-50 SECTION 33. The following laws are repealed:

8-51 (1) Sections 1201.164(b), 1201.165, 1201.206(a),
 8-52 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),
 8-53 Occupations Code;

8-54 (2) Sections 32.03(c)-(j), Tax Code; and

8-55 (3) Section 623.093(d), Transportation Code.

8-56 SECTION 34. This Act takes effect immediately if it
 8-57 receives a vote of two-thirds of all the members elected to each
 8-58 house, as provided by Section 39, Article III, Texas Constitution.
 8-59 If this Act does not receive the vote necessary for immediate
 8-60 effect, this Act takes effect September 1, 2005.

8-61 * * * * *