

By: Lucio

S.B. No. 683

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 the licensing inspection shall give the
5 license 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. (a)
27 The department shall conduct one or more reasonable investigations

1 of a migrant labor housing facility if a report is filed providing
2 evidence that the facility has violated this subchapter or a rule
3 adopted under this subchapter.

4 (b) An authorized representative of the department, after
5 giving or making a reasonable attempt to give notice to the operator
6 of a migrant labor housing facility, may enter and inspect the
7 facility during reasonable hours and investigate conditions,
8 practices, or other matters as necessary or appropriate to
9 determine the existence and extent of the alleged violation
10 ~~[whether a person has violated this chapter or a rule adopted under~~
11 ~~this chapter].~~

12 Sec. 2306.929 ~~[147.009]~~. FEES ~~[FEE]~~. (a) The board shall
13 set the license fee in an amount not to exceed \$250 ~~[\$100]~~.

14 (b) The board shall set an enforcement inspection fee in an
15 amount not to exceed \$150 for an inspection under Section 2306.928.
16 The department shall use a fee collected under this subsection to
17 enforce this subchapter or a rule adopted under this subchapter.

18 Sec. 2306.930 ~~[147.010]~~. SUSPENSION OR REVOCATION OF
19 LICENSE. (a) The department may suspend or revoke a license for a
20 violation of this subchapter ~~[chapter]~~ or a rule adopted under this
21 subchapter ~~[chapter]~~.

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

26 (c) A hearing conducted under this section must be held in
27 the county in which the affected migrant labor housing facility is

1 located.

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

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

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

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

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

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

26 (e) The board by rule shall adopt minimum standards for
27 issuing, revoking, or suspending a license issued under this

1 subchapter [~~chapter~~].

2 (f) The board by rule shall provide a procedure for a person
3 to report a violation of this subchapter or a rule adopted under
4 this subchapter. A report under this subsection is confidential
5 and may be used only by the department to enforce this subchapter.

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

13 (b) A person subject to a temporary or permanent injunction
14 under Subsection (a) may appeal to the supreme court as in other
15 cases.

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

20 (b) The county attorney for the county in which the
21 violation occurred, or the attorney general, at the request of the
22 department, shall bring an action in the name of the state to
23 collect the penalty.

24 (c) The department shall use money from penalties collected
25 under this section to enforce this subchapter or a rule adopted
26 under this subchapter.

27 SECTION 2. (a) On the effective date of this Act, all

1 powers and duties of the Health and Human Services Commission and
2 the Department of State Health Services relating to the inspection
3 and licensing of migrant labor housing facilities are transferred
4 to the Texas Department of Housing and Community Affairs. The
5 Health and Human Services Commission, the Department of State
6 Health Services, and the Texas Department of Housing and Community
7 Affairs shall coordinate the transfer.

8 (b) The transfer does not affect the validity of any
9 liability incurred, a license issued, a penalty assessed, a rule
10 adopted, a proceeding, investigation, or remedy begun, a decision
11 made, or other action taken by the executive commissioner of the
12 Health and Human Services Commission, the commissioner of state
13 health services, or the Department of State Health Services in
14 connection with the inspection and licensing of migrant labor
15 housing facilities.

16 (c) All rules, policies, procedures, and decisions of the
17 executive commissioner of the Health and Human Services Commission,
18 the commissioner of state health services, or the Department of
19 State Health Services relating to the inspection and licensing of
20 migrant labor housing facilities are continued in effect as rules,
21 policies, procedures, and decisions of the governing board of the
22 Texas Department of Housing and Community Affairs or the executive
23 director of that department, as appropriate, until superseded by a
24 rule or other appropriate action of the board or the executive
25 director of the department.

26 (d) Any action or proceeding before the executive
27 commissioner of the Health and Human Services Commission, the

1 commissioner of state health services, or the Department of State
2 Health Services relating to the inspection and licensing of migrant
3 labor housing facilities is transferred without change in status to
4 the governing board of the Texas Department of Housing and
5 Community Affairs or the executive director of the department, as
6 appropriate, and the board or the executive director of the
7 department assumes, without a change in status, the position of the
8 executive commissioner or the commissioner in any action or
9 proceeding to which the executive commissioner or commissioner is a
10 party.

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

15 (f) The Texas Department of Housing and Community Affairs
16 shall survey and research the quantity, availability, need, and
17 quality of migrant labor housing facilities in this state and shall
18 produce reports of its findings to the legislature not later than
19 September 1, 2006.

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