

BILL ANALYSIS

C.S.H.B. 1460
By: Haggerty
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Manufactured Housing Act was originally created by the Texas Legislature in the mid-1970s and codified into the Occupations Code in 2003. During this time the industry has experienced significant change along with amendments to both the Texas Code and the pre-emptive Federal Manufactured Housing Standards Act.

CSHB 1460 proposes several changes to Chapter 1201 of the Occupations Code. The proposed amendments will provide greater consumer protections through increased enforcement authority granted to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, more stringent procedures required to transfer ownership and clarifying responsibilities of businesses licensed by the Department. CSHB 1460 also further clarifies how property taxes are to be recorded and may be collected with respect to manufactured homes that are designated as personal property. There are also many non-substantive changes to Chapter 1201 made throughout the bill to clarify in statute regulatory agency and licensee practices concerning licensing, installations, consumer disclosures and disciplinary procedures.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs Manufactured Housing Division Board in SECTION 3, 4, 5, 9, 13, 16, 20, 24, 26, 29, 33, 43, 63, and 80 of this bill.

ANALYSIS

SECTION 1. Amends Section 1201.003, Occupations Code, by amending Subdivisions (5), (13), (20), (23-a) and adding Subdivisions (1-a), (17-a), (18-a) and (25) to clarify definitions needed to support proposed amendments to Chapter 1201 of the Occupations Code as follows:

Subdivision (1-a) adds the definition of "Affiliate;"

Subdivision (5) is amended by redefining "Business use;"

Subdivision (13) is amended by redefining "Lease-purchase;"

Subdivision (17-a) adds the definition of "New manufactured home;"

Subdivision (18-a) adds the definition of "Related person;"

Subdivision (20) is amended by redefining "Salesperson;"

Subdivision (23-a) is amended by redefining "Statement of ownership and location;" and

Subdivision (25) adds the definition of "Used manufactured home"

SECTION 2. Amends Section 1201.008, Occupations Code, by adding Subsection (e) providing that the owner of a manufactured home that is legally placed inside the jurisdiction of a municipality is allowed to change homes at that location provided that the replacement home is a newer model and is at least a large as the original home.

SECTION 3. Amends Section 1201.053(a), Occupations Code, requires the administrative rules used by the department in regulating licensees must be adopted by the Manufactured Housing Division Board.

SECTION 4. Amends Section 1201.054(b) and (d), Occupations Code, by clarifying the procedure by which a member of the public may request a hearing, the time frame required to provide notice on rules proposed by the board and gives the board authority to adopt emergency rules in compliance with Chapter 2001 of the Government Code.

SECTION 5. Amends Section 1201.058, Occupations Code, giving the Manufactured Housing Division Board authority to establish reasonable fees to cover any purpose under this chapter; a discounted fee may be granted for electronic filing; a ten dollar fee for each purchase, exchange or lease-purchase will be imposed and the fees will be deposited in the trust fund; states when fees are earned by the department and not subject to refund; and the director may in appropriate circumstances and, in accordance with rules adopted by the board, approve the refund of fees.

SECTION 6. Amends Section 1201.101(d),(f) and (g), Occupations Code, requiring that a person acting as an installer must have an installers license; allows a broker as possible party who can sponsor a salesperson and clarifies which persons and in what circumstances the advertising restrictions of Subsection (g) do not apply.

SECTION 7. Amends Section 1201.102(a),(b) and (c), Occupations Code, by authorizing a licensed installer to employ and supervise an unlicensed person to assist the installer with his functions and maintains a list of unlicensed persons employed; authorizes the director to prohibit a person who is not a licensed installer from performing installation functions without the supervision of a licensed installer; allows a license holder to engage the use of other state licenses, including installation or connection of air conditioning, plumbing or electrical systems, that are not licensed by this Chapter; removes a person who holds a retailer's license or a broker's license or who is a related person of that license holder from having to apply for a salesperson's license.

SECTION 8. Amends Section 1201.103, Occupations Code, by amending Subsection (a) and (d) and adding Subsection (c-1) to specify what must be included when filing an application with the director for a manufacturer, retailer, broker, rebuilder or installer license.

SECTION 9. Amends Section 1201.104, Occupations Code, provides by stating the educational requirements necessary to obtain a license under this Chapter and adds the requirement of passing an examination prior to the issuance of an initial license issued under this Chapter. This section also requires the board to adopt rules regarding the content of the instruction and requires the course to be live.

SECTION 10. Amends Section 1201.105, Occupations Code, by clarifying the security requirements for a licensee under this Chapter and establishes the board's authority reject a bond issued by a company in poor financial condition.

SECTION 11. Amends Section 1201.106, Occupations Code, by amending Subsection (a) and adding Subsection (a-1) to establish new security amounts required for an installer license and empowers the board with the authority to require an additional security when a previous licensee is applying for a new license after leaving the state with un-reimbursed expenses from a previous license.

SECTION 12. Amends Section 1201.108, Occupations Code, clarifies when a change of ownership or location does not require a new bond as well as how and under what time frame a licensee must notify the department of an ownership or location change.

SECTION 13. Amends Subchapter C, Chapter 1201, Occupations Code, by adding Section 1201.1125 to create a probationary license in the case of new Installers. A probationary license will convert to a permanent license only after the completion of a set number of installations by the prospective licensee. The number of inspections will be determined by the board in the administrative rules. Additionally, establishes provisions to allow the board to adopt rules which allow the director to issue renewal installer's and salesperson's licenses as well as issue probationary licenses in the even the director determines the installer or salesperson should receive a probationary license. In the event an installer or salesperson is issued a probationary license they are allowed an appeals procedure to contest the director's issuance of a probationary license.

SECTION 14. Amends Section 1201.113, Occupations Code, establishes new criteria for conducting continuing licensee education under this Chapter.

SECTION 15. Amends Section 1201.114, Occupations Code, requires all licenses issued under this Chapter, other than a probationary license, are valid for two years.

SECTION 16. Amends Subchapter C, Chapter 1201, Occupations Code, by adding Section 1201.118 to require the board to adopt rules that provide a greater level of scrutiny for individuals applying to be licensed under this Chapter when they have been previously licensed under this Chapter but have had their previous license suspended or revoked, have been found to have operated without a license when one was required, cause the trust fund to incur unreimbursed payments or claims, or failed to fulfill the terms of a final order.

SECTION 17. Amends Section 1201.1505, Occupations Code, allows a retailer to require a deposit on a specially ordered manufactured home.

SECTION 18. Amends Section 1201.151, Occupations Code, changes the language of the heading to read "REFUNDS."

SECTION 19. Amends Section 1201.151, Occupations Code, by amending Subsection (a) and adding Subsection (e) to require that a retailer is responsible for the return of a consumer's money when that consumer requests a refund of a deposit.

SECTION 20. Amends Section 1201.1521, Occupations Code, stating that the consumers "right of rescission" only applies to a transaction between a retailer and a consumer. Additionally, adds Subsection (b) to allow a consumer to formally waive their "right of rescission" in the case of a "bona fide" emergency, subject to rules adopted by the board.

SECTION 21. Amends Section 1201.158, Occupations Code, requires a licensed salesperson can work for only one sponsoring licensee at a time.

SECTION 22. Amends Section 1201.159, Occupations Code, by amending Subsection (a) and adding Subsection (c) and (d) to clarify the disclosures a broker must give and in which circumstances a broker may assist in the process of a sale, exchange, or lease-purchase of a manufactured home.

SECTION 23. Amends Section 1201.161(a), and (d) and adding Subsection (e), Occupations Code, by stating that a licensed retailer or installer only need a permit from the Texas Department of Transportation to transport a manufactured home and allows the department and TxDOT to electronically exchange information required by this Chapter.

SECTION 24. Amends Section 1201.162(a) and (e), Occupations Code, by removing the disclosure language previously codified by this subsection so that the board may provide the same disclosures and additional disclosures as may be necessary on a standardized form prescribed by rules adopted by the board. Additionally, requires the consumer's signature on a copy of the promulgated form as acknowledgement that they have received the notice.

SECTION 25. Amends Section 1201.164, Occupations Code, by deleting "INSTALLMENT" from the header and clarifying the circumstances a retailer must provide a consumer with a fully contract 24 hours before the contract is fully executed. Additionally, codifies the conditions and process needed for a consumer to waive their right of rescission in a personal financial emergency and allows a form to be used for the purposes of Subsection (b) only if the governor declares the area where the manufactured home is to be located a disaster area and until the first year the governor declared the area a disaster area.

SECTION 26. Amends Section 1201.203, Occupations Code, by clarifying the board's authority, rather than the director's authority, to adopt rules and forms necessary under this Chapter.

SECTION 27. Amends Section 1201.204, Occupations Code, by requiring a retailer to submit the original Manufacturer's Certificate along with the application for the initial statement of ownership and location.

SECTION 28. Amends Section 1201.205, Occupations Code, by making clarifications concerning the information required on a statement of ownership and location form.

SECTION 29. Amends Section 1201.2055, Occupations Code, by amending Subsection (b) and adding Subsections (i) and (j) to state the requirement that an application for the issuance of a new statement of ownership and location must be executed before a notary, and the process by which the holder or service of a mortgage loan involving real property and a manufactured home may apply for a statement of ownership and locations when the title company or attorney who closed the loan failed to complete the conversion of the manufactured home to real property in accordance with this Chapter; requires the board to adopt rules to require evidence that the mortgage loan holder or service applying for a real property transaction has complied with the necessary requirements.

SECTION 30. Amends Section 1201.206, Occupations Code, by amending Subsections (b), (c), (d) and (f) and adding Subsections (g), (h) and (i) to clarify the process and timing requirements a retailer must comply with when submitting an application for a statement of ownership and location. This section also states the process a retailer must follow when accepting a used manufactured home as part of the consideration for the sale of another manufactured home. Additionally, if a manufactured home has not been added to a retailer's inventory, the seller must file with the department a statement form the tax-assessor-collector that there are no personal property taxes on the manufactured home that have accrued within the 18-month period preceding the date the seller acquired the used manufactured home. This section also establishes that an additional fee may be assessed for any transfer of ownership that is not reported within 60 days of the date of the transfer.

SECTION 31. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.2061 stating how notices of installation must be filed with the department and that the department must provide the tax assessor-collector with monthly installation reports.

SECTION 32. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.2062 by providing that if a person acquires a manufactured home and the owner of record and an intervening owner of a lien cannot be located to assist in documenting the chain of title, the department can issue a statement of ownership and location to the person claiming ownership if they provide a supporting affidavit describing the chain of title and any reasonable proof that the director may require.

SECTION 33. Amends Section 1201.207, Occupations Code, by establishing that as soon as practicable after June 30th of each year, the department shall discontinue the issuance of statements of ownership and location until all tax liens filed with the department before June 30 in relation to manufactured homes are processed and recorded or rejected. Initial applications for statements of ownership and location as well as applications that include all necessary tax receipts will be processed as usual. This section also provides that once a statement of ownership and location has been issued, that record may not be altered or additional liens recorded for any period prior to the transfer of ownership without written permission from the current owner of record or a court order or determines that an exception is necessary in accordance with rules adopted by the board. If the transfer involves a new home purchased from a licensed retailer, the new owner is considered to be a bona fide purchaser for value without notice and is entitled to ownership of that home free and clear of all previous liens that may have been in existence.

SECTION 34. Amends Section 1201.2075, Occupations Code, by clarifying the process of converting a home from personal property to real property.

SECTION 35. Amends Section 1201.2076, Occupations Code, by clarifying the process of converting a home from real property back to personal property.

SECTION 36. Amends Section 1201.208, Occupations Code, by clarifying the existing language concerning the licensee's responsibility to pay sales and use tax and adds that unpaid sales and use tax shall be paid from the trust fund for an amount not more than the maximum amount available from the bond security posted by the licensee; authorizes the trust fund to file

with the license holder's surety a claim for reimbursement in the amount deducted from the trust fund.

SECTION 37. Amends Section 1201.210, Occupations Code, by amending Subsection (c) and adding Subsection (d) to clarify that unless the owner of a home appeals the revocation or suspension of their statement of ownership and location within 30 days of the notice, the notice becomes final without the need for a hearing.

SECTION 38. Amends Section 1201.214(b), Occupations Code, by making a non-substantive change.

SECTION 39. Amends Section 1201.216(a), Occupations Code, by clarifying that once a manufactured home is elected to be treated as real property or changed to business use or for salvage, the home is no longer a manufactured home for purposes of regulation under this Chapter or for the purposes of recording of liens, including tax liens.

SECTION 40. Amends Section 1201.217, Occupations Code, by amending Subsection (b) and (c) and adding Subsection (f) to modify the notices required in order to declare a home abandoned and establishes that when the home owner and the land owner are in any way connected the home may not be declared abandoned.

SECTION 41. Amends Section 1201.219(a), (b) and (c), Occupations Code, by clarifying the process an inventory lien is perfected on manufactured homes. Additionally, this section specifies information that must be submitted to the department when filing a tax lien and the information the department must display in its records. This section also provides that despite the possible existence of inventory liens, a buyer in the ordinary course is entitled to receive their statement of ownership and location free and clear of all such liens.

SECTION 42. Amends Section 1201.220, Occupations Code, by clarifying the information to be included in the monthly reports sent to county tax assessors regarding the transfer and installation of homes within their taxing jurisdiction

SECTION 43. Amends Section 1201.251, Occupations Code, by amending Subsection (a) and adding Subsection (d) to require the board, rather than the director, has the authority to adopt standards and requirements for the installation and construction of manufactured homes under this Chapter. This section also allows the board to form and consult an advisory committee made up of industry representatives concerning proposed administrative rules that may be required to administer this Chapter.

SECTION 44. Amends Section 1201.253, Occupations Code, by modifying how the director publishes notice and conducts a public hearing prior to adopting, amending or approving a new standard or requirement.

SECTION 45. Amends Section 1201.255, Occupations Code, by making non-substantive changes clarifying that unless a home is properly installed it may not be occupied for any reason. Additionally, if the site of installation appears that it may be an unsuitable location for installation, the home may not be installed there unless the home owner signs a department form assuming responsibility for the risk of installing the home on the site.

SECTION 46. Amends Section 1201.301(b), Occupations Code, by expanding the inspection authority of the department to include the facilities of any licensee.

SECTION 47. Amends Section 1201.302, Occupations Code, by changing the heading of the section to included state agencies and local governmental units.

SECTION 48. Amends Section 1201.302(a), Occupations Code, by making a non-substantive change clarifying that the board has the authority to sub-contract home inspections.

SECTION 49. Amends Subchapter G, Chapter 1201, Occupations Code, by adding Section 1201.306 to allow the department to use or permit the use of a device or procedure for the

inspection of an installation of a manufactured home that has been reviewed and approved by a licensed engineer.

SECTION 50. Amends Section 1201.351(a) and (b), Occupations Code, by eliminating cosmetic defects as Manufacturer warranty responsibility. This section also clarifies when a Manufacturer warranty begins under various sale situations.

SECTION 51. Amends Section 1201.352, Occupations Code, by renaming the header to read: "RETAILER'S WARRANTY ON NEW HOME" and clarifying the warranty responsibilities of a retailer with regard to installation, cosmetic defects and requires that the retailer must deliver to the consumer, within 30 days of that actual installation, a copy of the warranty given to the retailer from the licensed installer.

SECTION 52. Amends Section 1201.353, Occupations Code, by making non-substantive changes to the current statute adding installers to the list of licensees to be put on notice when there is a need for warranty service. This section also states when a license holder is deemed to have been given notice after the department mails or electronically mails the notice to the license holder.

SECTION 53. Amends Section 1201.354, Occupations Code, by making a non-substantive change that adds installers to the list of licensees required to take action under a warranty.

SECTION 54. Amends Section 1201.355, Occupations Code, by amending Subsection (a) and (b) and adding Subsection (d) to make a non-substantive change that adds installers to the list of licensees who may be subject to or request a consumer complaint home inspection by the department. This section also allows the department to perform an inspection at any time if the department determines there is a condition of the home that may present an imminent threat to public health or safety; requires the department to obtain an inspection search warrant if required by other law.

SECTION 55. Amends Section 1201.356, Occupations Code, by amending Subsections (a), (b) and (c) and adding Subsections (f), (g) and (h) to add installers to the list of licensees subject to department orders to resolve a legitimate consumer complaint and establishes an order of responsibility when both a licensed installer and a licensed retailer are jointly and severally liable to resolve the complaint.

SECTION 56. Amends Section 1201.357, Occupations Code, by adding installers to the list of licensees subject to dispute resolution and possible disciplinary action for failing to respond in accordance with a department order.

SECTION 57. Amends Section 1201.358, Occupations Code, by renaming the header to read 'FAILURE TO SHOW GOOD CAUSE; ADDITIONAL ORDERS ISSUED BY DIRECTOR' and making non-substantive changes adding installers to the list of licensees subject to license suspension or revocation for failing to respond in accordance with a department order.

SECTION 58. Amends Section 1201.361, Occupations Code, by clarifying the responsibilities of delivering the installation warranty to a consumer. This section also states an installer has no warranty liability for a new manufactured home a year after the date of acquisition of a home that has already been installed or the date of installation.

SECTION 59. Amends Subchapter H, Chapter 1201, Occupations Code, by adding Section 1201.362 to authorize the director to order the license holder who performed an installation not in conformance with the requirements of this Chapter to correct the defect, or, if the license holder is no longer licensed, the director may use another licensed installer to correct the defect and reimburse the licensed installer from the trust fund.

SECTION 60. Amends Section 1201.401, Occupations Code, by designating the Homeowners' Recovery Trust Fund as a dedicated fund to be held in trust and used for a specific purpose.

SECTION 61. Amends Section 1201.402(a), Occupations Code, by making a non-substantive change regarding the administration of the trust fund.

SECTION 62. Amends Section 1201.404(b), Occupations Code, by deleting attorney's fees as reimbursable from the trust fund where a consumer complaint is involved.

SECTION 63. Amends Section 1201.405, Occupations Code, by adding Subsections (f) and (g), clarifying what consumer complaint expenses may be reimbursed out of the trust fund and establishes the authority of the board to adopt rules for the administration of the trust fund.

SECTION 64. Amends Section 1201.406, Occupations Code, by establishing a procedure in which a consumer will be reimbursed from the trust fund for an unresolved complaint against a licensee

SECTION 65. Amends Section 1201.407, Occupations Code, by clarifying the process by which a licensee may dispute a determination liability and responsibility made by the department.

SECTION 66. Amends Section 1201.409(a) and (b), Occupations Code, by making non-substantive changes with regard to the reimbursement of the trust fund by deleting language that required reimbursement that resulted from an act or omission of the license holder who filed the bond or other security.

SECTION 67. Amends Section 1201.410, Occupations Code, by renaming the header to read: "CONSUMER INFORMATION" and by allowing the posting of notices concerning consumer's rights to recover from the trust fund on the department's website as well as hard copies for members of the public that submit a request for the information.

SECTION 68. Amends Section 1201.451(b), Occupations Code, by changing the time frame for the seller to file the application to transfer the ownership of a manufactured home from 30 to 60 days. This section also states that if a seller fails to file an application, the purchaser may apply directly for the statement of ownership and location.

SECTION 69. Amends Section 1201.457(b), Occupations Code, by making non-substantive changes to the language concerning the sale of a home that is not to be used as a dwelling.

SECTION 70. Amends Section 1201.459, Occupations Code, by allowing local tax authorities to apply for a state seal to establish an identification number for a manufactured home when needed and requires the tax authorities to actually affix the seal to the manufactured home.

SECTION 71. Amends Section 1201.461, Occupations Code, by adding Subsections (g) and (h), clarifying how a local government may inspect, require corrective action or other requirements on a salvaged home that is within their jurisdiction. This section also states it is a punishable Class B misdemeanor as well as subject to other penalties and sanctions for a license holder to sale, exchange, lease-purchase or install a salvaged home that has not been repaired as required by this Chapter.

SECTION 72. Amends Section 1201.503, Occupations Code, by clarifying how to legally alter a new home after it has been inspected and labeled at the manufacturer's facility.

SECTION 73. Amends Section 1201.506(a), Occupations Code, by requiring licensed retailers and brokers to comply with applicable provisions of the Finance Code.

SECTION 74. Amends Section 1201.509, Occupations Code, by prohibiting a retailer for refusing to refund a consumer's deposit, except as provided in Section 1201.151.

SECTION 75. Amends Subchapter K, Chapter 1201, Occupations Code, by adding Section 1201.513 allowing a retailer to legally sell a home that has been taken as a trade-in.

SECTION 76. Amends Section 1201.551, Occupations Code, by allowing for the suspension or revocation of a license for repeated violations regarding the filing of applications for statements of ownership and location. This section also allows the director to suspend or revoke a license if the license holder's surety refuses to pay a final claim paid from the trust fund.

SECTION 77. Amends Section 1201.552, Occupations Code, by allowing a licensee to request an administrative hearing within 30 days of an order to suspend, revoke or deny a license.

SECTION 78. Amends Section 1201.553, Occupations Code, by making non-substantive changes regarding the request for judicial review of any action by the board.

SECTION 79. Amends Section 1201.605, Occupations Code, by providing the director with enforcement authority against any license holder that fails to comply with this Chapter. This section also clarifies the schedule of fines for licensees and allows the director some discretion in determining the amount of an administrative penalty based on the criteria listed in this subsection. This section also states the process of notice and finalization of administrative penalties assessed.

SECTION 80. Amends Subchapter M, Chapter 1201, Occupations Code, by adding Sections 1201.607 through 1201.611 to clarify how an order issued by the director becomes final if the order is not appealed before the 30th day after the order was issued; sets out appeal procedures; details the criteria for inspection of a licensee's records, allowing the use of "sting" operations and subpoenas in accordance with department rules when such actions are deemed to be necessary; makes unlicensed activity covered by this Chapter a Class B misdemeanor for a first offense and subsequent convictions shall be punished as Class A misdemeanors; allows the director to issue cease and desist orders when he or she has reason to believe such an action is necessary to protect consumers and force compliance with this Chapter; establishes the procedures for issuing and protesting such orders; allows for an appeal process; details how administrative penalties and sanctions are to be applied by the board in their enforcement of the rules they adopt; details how penalties assessed are to be paid and the procedure to follow when a licensee is financially unable to pay; states proceeds collected under this provision are to be deposited in the trust fund; the director may impose an administrative penalty or seek injunctive relief against a person in violation of a cease and desist order; the director may suspend a license holders licenses if they are violating a cease and desist or fails to pay an administrative penalty; specifies what happens when a persons license is suspended; specifies how a license holder can appeal an order of suspension; states that a person with a suspended license cannot be a related person as it is defined in this Chapter unless the person obtains prior written permission from the director; and addresses the process and procedure for assessing sanctions and penalties under this Chapter and how those sanctions and penalties are to be paid and sets out procedures for judicial review or appeals.

SECTION 81. Amends Section 2306.0724, Government Code, by amending Subsection (d) and adding Subsection (e) to allow the department to assess administrative penalties under Subsection (e) on housing sponsors who fail to file reports in a timely manner. In determining the administrative penalty, the department is required to consider: seriousness of the violation; history of previous violations; amount necessary to deter future violations; efforts made to correct the violation and any other matters that justice may require.

SECTION 82. Amends Section 2306.186, Government Code, by amending Subsection (k) and adding Subsection (m) to allow the department to assess administrative penalties under Subsection (m) on development owners who fail to contract for third-party needs assessments and make identified repairs as required by this section, in determining the administrative penalty the department is required to consider: seriousness of the violation; history of previous violations; amount necessary to deter future violations; efforts made to correct the violation and any other matters that justice may require.

SECTION 83. Amends Section 2306.6022(b), Government Code, by allowing the department to provide copies of its policies and procedures on request as well as posting them on its website.

SECTION 84. Amends Subchapter AA, Chapter 2306, Government Code, by adding Section 2306.6024 to allow the Manufactured Housing Division to participate in Standards of Conduct, Equal Employment Opportunity and State Employee Incentive Programs in conjunction with the Texas Department of Housing and Community Affairs for cost savings initiatives.

SECTION 85. Amends Section 11.432, Tax Code, by amending Subsection (a) and adding Subsection (b-1) to allow a photo static copy of the department's record of ownership as it is displayed on their website to serve as adequate proof of ownership when filing for a homestead exemption for property taxes. This section also clarifies that a home owner is entitled to claim a homestead exemption regardless of whether the home is being treated as personal or real property.

SECTION 86. Amends Section 31.072, Tax Code, by adding Subsection (i), requiring a tax collector, upon request from a manufactured home owner, to establish a property tax escrow account to provide for the payment of property taxes collected by the collector on the property owner's manufactured home.

SECTION 87. Amends Section 32.03, Tax Code, by amending Subsections (a-1), (a-2) and (b) and adding Subsections (b-1), (b-2) and (b-3) to delete obsolete language that refers to filing deadlines granted in previous legislation but that have long since expired. The section also clarifies how all future tax liens are to be filed and that unless the tax liens are properly filed they may not be enforced on a buyer in the ordinary course of business that purchased the home from a licensed retailer. This section also clarifies that ownership of a home may not be transferred unless all timely filed tax liens have been extinguished or satisfied as well as all taxes that have accrued over the within the 18 months immediately prior to the desired transfer but are not yet subject to filing with the department. Additionally, unless a tax lien has been timely filed with the department, a tax unit and their agents are prohibited from using a tax warrant in an attempt to foreclose and collect taxes never filed with the department. This section also adds text to clarify that a taxpayer has the right to designate which tax year will be credited with a particular tax payment. Once a tax payer pays all of the amounts owing for a designated year, the taxing unit must issue a receipt indicating that all taxes that particular year have been paid. Language has also been added to this section that will allow a taxing unit 150 days from the date taxes would have become delinquent to add a home omitted from its tax roll for either or both of the previous two years to be added back and taxed according. This section allows a taxing unit to estimate and collect payment for current year taxes that have accrued but have not been assessed in order to allow a transfer of ownership to occur. If the estimate does not cover all taxes once they are actually assessed the new owner may be held liable for the unpaid balance.

SECTION 88. Repeals the following sections of the Occupations Code: Section 1201.054(c); Section 1201.059; Section 1201.112; Section 1201.163; Section 1201.214(c) and (d), Section 1201.408 and repeals Section 2306.6023 of the Government Code.

SECTION 89. Change in law made to provisions of the Tax Code only applies to an ad valorem tax year that begins on or after January 1, 2008.

SECTION 90. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill was a legislative council "type only" draft and the substitute is a legislative council "form" draft. There are numerous substantive changes between the original filed version and the committee substitute, including many new sections. A list of new sections in the committee substitute, which none of the language was included in the originally filed version, are listed as follows: Sections 4, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 29, 32, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 58, 59, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 81, 82, 83, 84, 88, and 89.

There are also changes due to combining previously filed section language with new language. In Section 1 there are additions and changes to the definitions of: "affiliate," "business use," "lease-purchase," "related person," "salesperson," and "statements of ownership and location." Section 5 includes additional language regarding fees, the board's authority to establish fees, refund of fees and discounts in fees. Section 11 changes the bond requirement for an installer

from \$50,000, as it was previously stated in Section 13 of the filed version, to \$25,000 in the committee substitute. Additionally, Section 11 empowers the board to require additional bond amounts if a previous licensee is re-applying after leaving previously un-reimbursed expenses. Section 30 of the committee substitute changes the timing requirements for a retailer submitting an application for a statement of ownership and location from 45 days, as previously stated in the filed version in Section 18, to 60 days. Section 33 combines previous language from several sections and includes new language to allow the department to delay processing statements of ownership and location every June 30th, in order to process and record tax liens filed by taxing authorities prior to the June 30th statutory deadline. Section 80 also combines previous language from several sections and includes new language addressing how orders, penalties and sanctions are issued by the director; how orders, penalties and sanctions are appealed by licensees; allows for the use of “sting” operations and subpoenas by the director when deemed necessary; places criminal levels of punishment on unlicensed activity; and how penalties are supposed to be paid.

There were several sections struck from the original filed version of HB 1460. The list of struck provisions from the filed version of HB 1460 are as follows: Section 4, the definition of “manufactured home” or “manufactured housing;” Section 7, the definition of “Fund”; Section 33, with changes to the Finance Code allowing for an exemption to Finance Code Section 347.254 when a consumer establishes an escrow account with a tax-collector; and Section 34, with changes to the Finance Code restricting the recovery of a land owner to only a consumer or use of a possessory lien when seeking recovery for unpaid lot rent.